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Floor Debate  
February 23, 2011

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-third day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Wallman. Would you all please rise.

SENATOR WALLMAN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Wallman. I now call to order the thirty-third day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Communication from the Governor to the Clerk. (Read re LB19, LB23, LB28, LB29, LB30, LB46, LB47, LB59, LB68, LB72, LB74, LB75, LB76, LB111, LB122, LB134, LB154, LB157, LB157A, LB163, LB163A, LB208, LB211, LB212, LB241.) Senator Krist has selected LB284 as his priority bill for this session. Enrollment and Review reports LB237, LB164, and LB257 to Select File, some having Enrollment and Review amendments. That's all that I have, Mr. President. (Legislative Journal pages 621-622.) [LB19 LB23 LB28 LB29 LB30 LB46 LB47 LB59 LB68 LB72 LB74 LB75 LB76 LB111 LB122 LB134 LB154 LB157 LB157A LB163 LB163A LB208 LB211 LB212 LB241 LB284 LB237 LB164 LB257]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to the first item under Select File, 2011 committee priority bills.

CLERK: Mr. President, first bill, LB383 on Select File. No Enrollment and Review. Senator Council would move to amend the bill, Mr. President, with AM331. (Legislative Journal page 603.) [LB383]

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PRESIDENT SHEEHY: Senator Council, you're recognized to open on AM331 to LB383. [LB383]

SENATOR COUNCIL: Thank you, Mr. President. As we all know, LB383 was introduced as a means of reducing General Fund expenditures to address the budget deficit. No one disputes the fact that we have to take measures to cut the budget deficit and that as a result many items that have been funded by...through government, will have to be impacted in some way. I understand that and I understand the reasoning behind LB383. But I don't believe that this action is necessary, particularly at this time in the legislative session and particularly in view of the legislative history of the state aid to municipalities and counties. As was discussed at great length during General File debate on LB383, municipalities and city...counties are receiving state aid as a result of action taken by this Legislature removing from their authority the ability to generate taxes from certain other sources. In particular, at that time it was the creation of sales tax exemptions that reduced the amount of sales tax revenue that the cities and counties could rely on in setting their budgets. It was and is, and by virtue of AM331 should continue to be, a property tax relief mechanism. And that was the intent originally of state aid to cities and counties was to provide a way of ensuring that property taxes would not have to be increased as a result of the elimination of sales tax exemptions. And here we are again with a variety of bills being considered by this Legislature to eliminate the ability of cities, in particular, to generate revenue from other taxing sources, and at the same time this bill, LB383, would eliminate the state aid that the very purpose of which was to provide property tax relief. There was discussion also on General File debate that the residents of the state of Nebraska will continue to receive property tax relief if we maintain the current funding in the Property Tax Credit Fund. I submit to you that the most effective, efficient, and fair way to provide property tax relief to residents of the cities and counties in the state of Nebraska is to provide the opportunity from cities and counties to continue to grant property tax relief through the current state aid mechanism as well as maintaining the Property Tax Credit Fund. So what AM331 does is just reduce the appropriation to the General Fund for the Property Tax Credit Fund by the amount required to continue to provide state aid to cities and counties. AM331 simply says that this body recognizes the significance and importance of providing property tax relief and that this body wants to provide not only a means by which the state can provide property tax relief, but also continue the mechanism by which cities and counties can provide property tax relief. And in looking at the Property Tax Credit Fund and how those funds have been distributed over the years that it has been in place, I think many of you know that millions of those dollars are distributed to landowners who don't reside in the state of Nebraska. And I'm not suggesting that there's any problem with that, but if we want to have a greater impact on economy of this state I would believe, and I hope that you believe, that the best way is to make sure that the residents in the state of Nebraska can receive any type of tax credit or any reduction in their property taxes and then be able to utilize those dollars to further fuel our economy. That if we're providing homeowners and businesses that are based in the state to receive

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property tax relief, the expectation is they would use those savings to make purchases, to invest in their businesses, and to further fuel the economy of the state of Nebraska. I believe the better form of property tax relief is to provide the aid to the cities and counties to allow them to keep their property tax rates lower or not have to increase their property tax rates as opposed to the grant of the property tax credit in the form that it currently is. And with the reduction of \$44 million, it would not have that significant an impact on the amount of direct property tax relief that homeowners and business owners in the state of Nebraska would receive. I think this is a reasonable compromise on the question of how to best provide for property tax relief and how to best provide for the General Fund reductions that we all know and appreciate need to be made. I would urge the body to give serious consideration to AM331 as being a compromise measure to address the budget shortfall and to maintain the basic level of property tax relief that has been accorded to Nebraska residents under both the city and the county state aid mechanism as well as the Property Tax Credit Fund mechanism. And that's all that AM331 does is reduce the General Fund appropriation to the Property Tax Credit Fund by \$22 million during each year of the biennium. This will also provide an opportunity during the biennium for us to give serious consideration to what the future policy of the state is or should be with regard to providing aid to cities and counties. And with that, Mr. President, I would just urge favorable consideration of AM331. Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Council. (Visitors introduced.) Members, you have heard the opening to the Council amendment AM331 to LB383. Members requesting to speak are Senator Flood, followed by Senator Louden and Senator Council. Senator Flood, you're recognized. [LB383]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. I rise in continuing support of LB383 and in opposition to AM331 as offered by Senator Council. I can appreciate her concerns. We had quite a discussion on General File. What she is proposing with this amendment is to take money from the Property Tax Credit Fund, which is about \$115 million a year, which is spread across every taxpayer in this state on real estate taxes, and to move that money into a county aid program. The time for the discussion about the property tax credit program is during the budget. While I appreciate what Senator Council is asking the Legislature to consider, we have to take a stand, the same stand we took on General File, as a Legislature and decide how we're going to cut government. And I know it's tough and I know we're hearing from them, but I had a conversation in the last couple of days with a nursing home in my district, and they said a 5 percent provider cut is going to make it very difficult to continue to serve Medicaid patients. And I had the good fortune to say: Well, the Appropriations Committee actually moved that to 4 percent, which I appreciate. But does that go to 8 percent? Does that go to 10 percent? How high does that provider rate go if we're not willing to make these decisions at this point in the session? That's a big cut. Not replacing the stimulus dollars is going to be a hardship no doubt on K-12 education. I reiterate and reincorporate by reference all of the same concerns that I

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raised on General File about the effect of not pushing forward LB383. Counties, cities, NRDs will feel the pinch. But in comparison to the government services offered through the Medicaid program, through K-12 education, they will not compare. That being said, I feel very strongly that AM331 should not be supported by this Legislature and that LB383 is not only a priority, it's a necessary step as we prepare for a very difficult budget. Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Louden. [LB383]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the Legislature. This amendment that Senator Council has come up with I thought was probably a very good idea. What it does is it delays the \$22 million a year for the next two years. And I have no problem with that. We have some shortfalls and we have to do something for the budget, and so we will delay some of this spending that goes out to these cities and counties. Now as we did that, you want to remember, you're pushing this on property tax. Whenever you do away with some of the aid to counties and that sort of thing, it's going to go on your property tax. As some of them said it won't make that much difference, but when you have these rural counties out there, you have a lot of these small rural counties that it is a big deal for those counties to receive some of that state aid money. Some of the more well-to-do counties probably take up a lot more of the money than some of your smaller counties. As I have had it graphed and looked before, those with 35-cent mill levy were only going to get about \$3 million out of the \$22 million. So there is a problem with the way that's done. But that isn't the question before us now. The question is: what to do about the \$22 million? The problem I have with LB383...and if you look on the front page where it says you're going to repeal certain sections, the 71-5326, the 77-27,136, and the 77...those sections there, if you'll look in there, that does away with any state aid to counties, cities, or NRDs forever. That takes it out of statute. It's over. It's done with. And if that's what you want to get the state out of any state aid to back to some of these counties that don't have these retail sales and some of that where they can receive any sales tax monies that they spend themselves, you have these smaller counties, rural counties out there, that spend money in your large cities and different areas, but they don't have any retail sales in their own counties so they consequently don't get any of that money back. So that's the reason I would support AM331 as we go forward with LB383. I guess as far as the LB383 idea, I don't have a problem with that. I was the only one that voted against it in the Revenue Committee mostly because I didn't think we had enough discussion on it in the Revenue Committee. And I thought some of this stuff should have been done in the Revenue Committee and some of these ideas should have been brought forward. But I sure would want to point out to you that when you look on the front page of that and where it says you're repealing those sections, be sure you realize what you're doing. This is forever. This is taking it out of statutes and that's the end of it. Now here a few years ago we had one of the senators that introduced a bill to do away with variable rate on the gas tax, and that didn't get out of committee. So you have to be careful about what

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you do when you start tinkering with some of these formulas that are in place. So with that, I would support the amendment AM331 and I think this is something that we would probably...would...probably should go forwards with. With that, thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Council, you're recognized. [LB383]

SENATOR COUNCIL: Thank you, Mr. President. And I appreciate the comments of both Speaker Flood and Senator Louden, and with regard to Speaker Flood's comments that the Property Tax Credit Fund, this body's consideration of what should occur with that fund, if anything, should await the time that the body is addressing the budget. Well, I respectfully submit that because we're talking about property tax relief being provided through the Property Tax Credit Fund, that if that should wait until we discuss the budget, that LB383 should wait until we discuss the budget. There is no question that we have to deal with the budget deficit. No one disputes that fact. But when we say, well, is it between cities and counties and provider rates being reduced? Well, why can't it be between provider rates being reduced and the Property Tax Credit Fund being reduced? Or are those provider rates being maintained and the Property Tax Credit Fund being reduced? Those are all discussions that we will certainly have at the time that we discuss the budget. But here at this point in time we're saying in terms of property tax relief that this must be addressed at this point in time in our budget process. And I respectfully disagree that this decision must be made at this time. I believe that this decision should be made, if it's going to be made, at the same time that we do discuss the Property Tax Credit Fund and whether that fund should be maintained at its current \$115 million a year. And \$115 million a year goes a long way towards providing appropriate provider rate reimbursement. It goes a long way to providing additional funds for state aid to education. It goes quite a way to addressing many of the other health and human services issues. So if those kinds of decisions can wait until we discuss the budget, then LB383 should fall in that category as well, particularly in light of the fact that there are still bills pending that would remove additional sources of revenue generation for cities in particular. So we're prepared to cut off state aid, and apparently not at this point in time willing...and we're not going to make any commitment one way or the other what are we going to do with those funding sources that are on the table to be drastically reduced or, in many cases, eliminated. And the Property Tax Relief Fund established by virtue of the state aid to cities and counties was designed to serve that exact purpose, that this body recognized that we can't continue to remove the means by which cities and counties generate revenue to operate. We can't continue to remove those sources and not expect the residents in those counties and cities not to have to bear the brunt of potential property tax increases. The Property Tax Credit Fund should be considered. Its funding levels should be considered at the same point in time as we are... [LB383]

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PRESIDENT SHEEHY: One minute. [LB383]

SENATOR COUNCIL: ...addressing whether or not to remove one of the few statutory means by which cities and counties are urged to provide local property tax relief. And I know many of my colleagues believe that if the state aid is eliminated that the property taxpayers can be protected if the cities and counties just run themselves more like businesses. Well, you know, we need to consider and keep that thought in mind as we're going forward in terms of our budget deliberations. And I would submit again that at a minimum this is not the time for us to consider eliminating one of the few ways by which cities and counties are able to provide property tax relief when the state removes their means of generating revenue. [LB383]

PRESIDENT SHEEHY: Time, Senator. [LB383]

SENATOR COUNCIL: And I would urge your support. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Council. (Doctor of the day and visitors introduced.) Continuing with floor discussion on the Council amendment AM331 to LB383, members requesting to speak: Senator Harms, followed by Senator Council. Senator Harms. [LB383]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition to AM331. And I've listened to this debate. This is the second time around on this particular debate on this bill. And I'm going to tell you, colleagues, this is the time for us to make the decisions. If you would have been in the Appropriations Committee with us, you would understand the problems we've had, and we can't stall these issues on. And I'd have to say to the cities and the counties: Where is your plan? Have you been preparing...what kind of plan do you have to look at the services you have? How many of these services can you continue to give and how many of these services can actually be merged within the cities? Cities and counties, colleagues, have just not done the long-range planning. They've not made the decisions they should have made. And now the time has come. Now the time has come for them to make the tough decisions. You know, if they don't know what to do, then they can bring in a consultant to give them some assistance. There are people who make a good living off of these issues and helping people lay out this plan. And I would just tell you that we need to move forward. If we wait on LB383, colleagues, it just delays it at the end. And if we find at the end that we have a little more cash, we can always make that adjustment, but this is the time to make the decisions. This is just the beginning of the debate and the argument that's going to take place on about every agency that we have. And I would urge you just at some time come down in the Appropriations Committee and listen to the debate and the discussions and the feelings that people have had. This has been tough for us to get here and this is not the time to walk away from this. This is the time to step up and say, you know what, counties and cities and whoever you are, what other agencies you are?

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You're going to have to prepare just like we are. You're going to have to make the cuts. You're going to have to make the sacrifices. And we said at the very beginning of this budget process that this was going to be painful. And I would argue on the debate whether they're going to raise their taxes. I don't think they will. I don't think they've gone through the process of planning. Show me the numbers. Show me the plan that you put together, and let me know just exactly how you're going to deal with the issues. I don't think they have done that, colleagues. And I would urge you to rise against AM331 and pass LB383. Thank you, Mr. President. [LB383]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Harms. Senator Council, you are recognized. This is your third time. [LB383]

SENATOR COUNCIL: Thank you, Mr. President. And I certainly respect the position of my colleague, Senator Harms, but again I respectfully disagree with that position. Just as we can easily say cities and counties haven't planned despite this body's best efforts, I'm sure that there are those out there who say we haven't planned very well, and if we had planned very well, we wouldn't be looking at a nearly \$1 billion budget deficit. So I think the same contention could be advanced with regard to whether this body properly prepared and took all of the action that it could have taken to reduce its spending. And while we're talking about the appropriations process and the budget process, you know, I absolutely appreciate it, what the Appropriations Committee has to go through. But while going through that process, it appears at this point in time that the Property Tax Credit Fund is a fund that...it's not going to be touched. It has some special sacredness around it and that at this point in time we are prepared to say, okay, when it comes to these tough budget decisions, when it comes to these tough program and services cuts that cities and counties may have to make, well, we're saying to the cities and counties: "Tough. You know, you're going to have to do that and you're going to have to make those cuts. The people you serve are going to have to suffer what are the effects of that." And then we, the big, wonderful Big Brother state are going to come and directly provide property tax credit. And we're going to be the ones viewed as the white knights running in to correct this. We're going to maintain our position of being able to say to taxpayers, "Well, look, we provided you with some relief here. We didn't...we're not proposing to raise your state income taxes. We're not proposing any increase in sales tax. And by God, we're still going to give you this; we are going to give you this. The state of Nebraska is going to give you this property tax credit." And we get to have the benefit of being viewed in the eyes of the public while we are putting cities and counties in a position where they will have to bear the brunt of our decision to rather than provide them with a mere \$22 million a year out of \$115 million so that they can share in the provision of property tax relief. That's how I look at this picture that if the Property Tax Credit Fund is that important that to be maintained then when we start making these arguments about provider service rates and state aid to education and other health and

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human services programs, then we need to be mindful of the fact that we're going to decide to do that if we have to cut provider rates. You're cutting provider rates when you have revenue available in the Property Tax Credit Fund to avoid making those cuts. So, yeah, these are tough times. Yes, there are tough cuts that are going to have to be made. But priorities must be set, and if a priority of this body is property tax relief, then here is, through AM331, a perfect opportunity to not only provide, continue to provide direct property tax relief through the tax credit but also to provide a means of cushioning the effects... [LB383]

SENATOR GLOOR: One minute. [LB383]

SENATOR COUNCIL: ...of removing revenue generating sources from cities and counties, so. And keep that in mind. And if there are measures introduced, for example to increase the local option sales tax rate, please don't be quick to say "no" if you vote to advance LB383 without AM331. If you're going to remove the ability to raise funds through occupation tax, stop and think before you move to advance LB383 without AM331. Again, I believe that if this is not the time to address AM331, this is not the time to advance LB383. [LB383]

SENATOR GLOOR: Thank you, Senator Council. The Chair recognizes Senator Krist. [LB383]

SENATOR KRIST: Thank you, Chair. I'm conflicted because I see the intent of Senator Council's amendment but I see the resolve that we all need to have in LB383. The Speaker made a point and said that we should be dealing with the issue in Senator Council's amendment during the budgetary process. So I once again will say that we are in tax reform mode, one budget bill at a time, and we're doing it piecemeal on this floor. And the decision that you'll have to make when you vote on AM331 is when you do away with this piece of legislation with this intent, it's not going to come back unless we bring it back at some later date. I do understand the intent of Senator Council's amendment. At this point though I believe that it is more important for us to show resolve on this particular issue, and that is my conflict. I hope that all of you will realize as we go through this process one step at a time, one cut at a time, one hatchet at a time, that we are looking at the options we are leaving our cities with. And I know you are. But I have to stand and remind you of what we are doing because it really does put the onus, the burden back down at a level within our governments and within our local control issues that they may not be able to respond to as well as we give them credit for. I'll listen to see if there's any more debate. I will again look at AM331 and hopefully will have time before the vote. But I urge this body's resolve in the intent of LB383 and to deal with your own conflict. Thank you, Mr. President. [LB383]

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

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SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Looking into the queue, I'm more interested I think in AM334 that Senator Council put out because I think it generally hits the mark in regards to what conversations we've had on this floor regarding LB383 on General File, which is if we choose to prioritize intergovernmental cooperation, if we choose as a Legislature to continue longstanding property tax relief, then I think AM334, the next amendment in the queue, actually helps suffice that more than AM331. I do applaud Senator Council's effort on AM331. I think, though, at the end of the day, robbing Peter to pay Paul for property tax relief is not the intention I think of what this longstanding policy has been with the Legislature as well as the policy that was created before my time here in 2007 when many of you in this Legislature passed one of the largest, if not the largest, tax cut in state history. With that being said, I think at the end of day, just knowing from the vote count on LB383 from General File, it appears that the will of this body is to eliminate this property tax relief program. And while in all due respect to my friend and colleague, Senator Harms, I do think and I do feel that local governments will raise their property taxes. As Senator Nordquist mentioned, I know on General File, raising taxes is not an easy decision that anyone makes. Whether you're at the state level, whether you're at the municipal or county level, raising taxes is a difficult issue. And I would be willing to bet that city councilmembers, county commissioners, mayors, all have to weigh serious considerations in regards to the potential services being cut, as well as their governmental operations, before they look to do this. But in the instance of the city of Lincoln, just I believe in today's paper, Mayor Beutler, a former state senator of over 20 years, has stated that loss of state aid to the city of Lincoln leaves them in a predicament that there is few and far between choices they have. So I firmly believe, and this is just once again the research that has shown a longstanding policy of this body and of this state government that we provided local aid to governments for a reason, and that reason has been consistently to offset the need to increase property taxes to deliver the most critical services that Nebraskans believe their local governments should provide. LB383 eliminates that. LB383 does not provide local governments any time or additional time to regroup, to reconsider, to possibly undergo I think a long-term planning process that, I agree, all government entities should start to engage in if they haven't done already. It eliminates the aid immediately. And I believe that LB383, there's an opportunity for us as a Legislature to take a step back; take a step back and say we don't want to, on February 23, 2011, move another step closer to eliminate a property tax relief program that Nebraskans have respected and have desired from the state government for their local governments for over 30 years, and instead, we can move down this path later in the session. We have yet to see a budget bill come to this floor from the Appropriations Committee. In fact, we recently just released the preliminary budget which means we still have two months to decipher potential budget cuts, other potential actions that can be taken within the budget process before we have to do anything on LB383. So, colleagues, I believe we're going to continue to have a debate on LB383 for the rest of the morning. [LB383]

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SENATOR GLOOR: One minute. [LB383]

SENATOR MELLO: And I think and to some extent what Senator Krist just elaborated on is that we are building a budget, randomly through pieces of legislation right now, without being able to see the entire picture as a Legislature. Because at the end of the day the Legislature creates the budget; the Legislature passes the budget. It is the role of our branch of government to do. Thus, why not let other pieces of legislation come out of committee? Why not let's see what the Appropriations Committee finalizes as its budget bills for the Legislature? Then look to discuss LB383 sometime late April or early May, after we've taken that critical step of looking to pass a budget on first round. Thank you, Mr. President. [LB383]

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

SENATOR HAAR: Mr. President and members of the body, I'm sorry I had to be off the floor for a few minutes. I have a question for Senator Council if she would have...? [LB383]

SENATOR GLOOR: Senator Council, will you yield? [LB383]

SENATOR COUNCIL: Yes, Mr. President. [LB383]

SENATOR HAAR: Okay. So AM331 would take the money out for this biennium but would leave the concept in place of restoring that if...would you explain that to me a little bit more? [LB383]

SENATOR COUNCIL: Yes. All AM331 does, Senator Haar, is as opposed to eliminating state aid to cities and counties, it continues state aid for this biennium, funding that program through a reduction in the amount of the Property Tax Credit Fund. [LB383]

SENATOR HAAR: Okay. And for these two years then that would mean the \$22 million per year? [LB383]

SENATOR COUNCIL: Yes. [LB383]

SENATOR HAAR: Which basically gives them nothing. Is that correct? [LB383]

SENATOR COUNCIL: Pardon? [LB383]

SENATOR HAAR: Which basically gives them nothing for these two years then? [LB383]

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SENATOR COUNCIL: No. It puts them at the position they would be at if you don't advance LB383. [LB383]

SENATOR HAAR: Okay. [LB383]

SENATOR COUNCIL: That's the amount of state aid to cities and counties is \$22 million a year. [LB383]

SENATOR HAAR: Okay. And we would...and your amendment would leave it at that amount. [LB383]

SENATOR COUNCIL: Yes, sir. [LB383]

SENATOR HAAR: Okay. Thank you very much. And then a question for Senator Krist if... [LB383]

SENATOR GLOOR: Senator Krist, would you yield to a question? [LB383]

SENATOR KRIST: I'd be glad to. [LB383]

SENATOR HAAR: Okay. Thank you. I listened very carefully when you talk. [LB383]

SENATOR KRIST: Thank you. [LB383]

SENATOR HAAR: And so the dilemma, as you see it too, is to just cut out the aid for several years versus a new policy where, actually, property tax reduction by the state for the cities and the counties happens. Is that...? [LB383]

SENATOR KRIST: My concern is that LB383 presents a resolve for this body to basically cut that money going down to the lower levels of government. Yet when we look at actually making those cuts that are in place right now, it would take a bit of a monumental effort to recreate all those programs, I think, in 2012, 2013, down the road. My dilemma is that AM331, and following on AM334 which is up and coming, do present some options to us. And my dilemma is, do I follow through with that resolve and tell all below this level that we are making the cut? And I'm still convinced that I think the resolve that we need to show is ultimately LB383--if that explains it. [LB383]

SENATOR HAAR: That we're setting actually new policy here on the state level. [LB383]

SENATOR KRIST: We're doing it, one...we're...yes, we're changing tax reform and budget policy one bill at a time here on the floor. That's been my consistent line since

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we started this session. [LB383]

SENATOR HAAR: Okay. Thank you very much. [LB383]

SENATOR KRIST: You're welcome. [LB383]

SENATOR HAAR: And when I look at these issues too, I mean one of the things we have to be doing during this session is not just cutting budgets across the board but we have to be setting new policy in place. And so I kind of share some of those same dilemmas that we're trying to decide whether we just cut temporarily...we leave in place, we cut temporarily, or we just say this is a new policy, we're not going to be providing that aid ever again. Maybe it's recreated at some point in the future but not now. Thank you very much. [LB383]

SENATOR GLOOR: Thank you, Senator Haar. Senator Harms, you are recognized. [LB383]

SENATOR HARMS: Thank you, Mr. President and colleagues. I want to just bring to your attention a little bit in regard to the Planning Committee and some of the things we found when we did our long-range plan for this body in regard to state and local policy, and particularly with units of government. And I want to read this to you and then I'll comment on it. And I quote: Nebraska is high in the number of local governments in the state, particularly special districts and counties. Some have argued that the lead of duplication and diseconomies of scale, there does appear to be the county economics of scale in the provision of some government services. This brings me back to the same argument I had earlier, that we have not addressed the issue of city and county governments, and this will force the issue to come forward. They have to begin to do the planning. They've not had the discussion across the great state of how they can merge some of these services. They've not had the discussion in regard to how they're going to address this issue. This will force that to take place. This will create an environment that says: You have too much local government, you have too much county government; it's time to cut it back. The argument that I hear all across the state of Nebraska from people are saying, John, you have too much government. We have declining number of people living in some of these counties throughout the state. It's time to address the issue. And what I'm saying to you: this will bring that forward. And if you look at that long-range plan that we did under the units of government, there's a lot of data and statistics that talks about this issue, colleagues. And so I would urge you just to think about this seriously. And I stand before you to say: do not support LB383...or the AM331, but support the underlying bill. Thank you, Mr. President. [LB383]

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

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SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I think something to consider is when we discuss local governments and local government planning it might be difficult for local governments to plan when they have an unstable relationship with potential partners. And I think what we're seeing right now is there is an unstable relationship with the state of Nebraska for local governments to potentially plan for a very tough fiscal future with the effects that come with LB383. I think something that could be beneficial to this body, I think, and to our partners in local government would be to provide an avenue, and I believe Senator Loudon addressed this on General File and I'll be looking to possibly work on an amendment to try to deal with this on Select File, to allow local governments still the possibility in the future to make their case to fund this property tax relief program. Right now, currently, LB383 eliminates it completely out of statute. I don't believe in the logic that has been used to say that we have to just eliminate all the statutory language saying we've got to be honest with local governments, we can't be stringing them along; we've got to be honest and just...we've got to cut the cord, so to speak, and let them go along their way and we'll go along our way, and if a Legislature in the future so chooses to change that, that they can make a new statute and they create a new program. I think this longstanding 30-year-plus property tax relief program doesn't need to be completely eliminated. I don't believe that we need to pass LB383 to pass a balanced budget as a state. But it appears the votes are against that. It's something that I'll look to do an amendment on Select File to keep the existing language of the program. Why? Because it should be the Legislature's prerogative to choose property tax relief in any given budget cycle. If we choose to provide more property tax relief in two years than we choose to do this biennial budget, that should be an opportunity that's available to us without having to pass new statutes, new laws to do it. And with an amendment to keep the language that would allow that in place for aid to local governments, that is an opportunity that we as a Legislature can choose to do. I believe that when we took almost \$1.5 billion, two years ago, in federal funds from the stimulus bill, we specifically discussed planning of how we get this one-time money and how we will have to deal with the future when this money disappears. Did we give this conversation, similarly to local governments, two years ago, "We're going to take away your Property Tax Relief Funds that we give you, in two years from now, so you better start planning for the future?" No, we didn't. Instead, we took the federal funds and divvied them out the way we felt (inaudible). I believe that there's the opportunity available to this Legislature to take a step back to reevaluate the implications of LB383 in a bigger scale, not just, "This solves our budget problems; good luck to everyone else." That is not thoughtful policy. It's not the way that this body over the last 30 years has developed its policy with local governments. The era of cooperation is needed right now, less the era of instability, which is... [LB383]

SENATOR GLOOR: Time, Senator. [LB383]

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

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SENATOR GLOOR: I'm sorry. One minute. [LB383]

SENATOR MELLO: (Laugh) Thank you, Mr. President, for that. The opportunity is there for us to be able to solidify a more stable relationship with local governments. And ideally, if this body chooses to move LB383 today or tomorrow on Select File, that's the will of the body. I believe we can wait to delay that to have that conversation ultimately till the end of April and May; thus, bringing our local governments to the table and discussing what I believe, Senator Harms, I agree with, and 99 percent of the time regarding planning and the need for long-term planning for the future of our local governments and our state governments. But we can't do it today on Select File in a three-hour debate. We need time to be able to bring local governments together to sit down and discuss the ramifications of LB383, the potential aftermaths of LB383, and what ultimately will happen to the local property taxpayers, because that is at the crux of this issue is increase in property taxes will happen because of our actions on LB383. [LB383]

SENATOR GLOOR: Time, Senator. [LB383]

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

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

SENATOR COOK: Thank you, Mr. President. Good morning, colleagues. I would like to weigh in, in strong support of Senator Council's AM331 to LB383, and offer just a couple of observations since we started in together, I think 33 days ago. As you're aware, I represent Legislative District 13 in the city of Omaha and Douglas County up to the Washington County line. And pardon me for noticing, but we've had two revenue bills go through that in my opinion and in my observation disproportionately impact my district. That would be the proposal...or the changes to the original proposal for...related to the wheel tax that would have benefitted the city of Omaha, they had already factored that into their budget, and now with this proposal. So I just wanted to...again, understanding the constraints under which we're operating, I have a concern as we go forward that certain audiences will enjoy a disproportionate impact on the way they budget, or in the case of individuals, if you're talking about provider rates or cuts to food assistance or similar cuts, those individuals will enjoy a disproportionate impact from the cuts that we all agree are necessary. And with that, I will yield the balance of my time to Senator Council. [LB383]

SENATOR GLOOR: Thank you, Senator Cook. Three minutes 20 seconds, Senator Council. [LB383]

SENATOR COUNCIL: Yes, thank you, Mr. President. Thank you, Senator Cook, for

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yielding this time, because I believe it necessary to respond to a couple of points that have been raised by some of my colleagues. Senator Harms referred to a Planning Committee document, and unfortunately, since I'm on Senator Cook's time, I can't ask him to yield to a question, but I'm going to pose the question in hopes that he would use his own time to respond. I don't know when the Planning Committee document you referenced to was produced. I don't know what the intent of that document was. But what I do know is that apparently the recommendations in that document were not considered worthy of serious policy implementation by the introduction of any measures that would force cities and counties to do that which the Planning Committee suggests. And when I say that, I say that in the context that cities and counties are creatures of the state. If we believe that there is too much county government, we can act upon the Planning Committee's recommendation and introduce legislation to reduce or eliminate county governments. If that's the intent and objective then I don't disagree with you. That needs...that debate needs to be...to occur, and appropriate action needs to be taken. But this measure is being presented and developed solely in the context of addressing our budget issues. And in response to our budget issues, we want to now say, "Well, cities and counties, you're going to have to get your act together. We didn't give you any warning, but you should have known if we have budget issues that we have to address, then you can expect to be impacted and you need to be planning right now; where, we didn't plan." If the Planning Committee says these are the things we ought to be looking at, these counties that have populations of less than 1,000 and have city governments and county governments and natural resource districts,... [LB383]

SENATOR GLOOR: One minute. [LB383]

SENATOR COUNCIL: ...yes, all three of those are creatures of the state. And if we're really serious about forcing that reduction in government to occur, we don't do it during the...our efforts to address our budget issues. We do it in the context of true long-range state planning on the direction that this state should be going in terms of addressing this issue. And I need to remind the body that when we are talking about the Property Tax Credit Fund as I understand it, my brief review of the legislative history was that the fund was created with the understanding that the tax credit would be available when we could afford to do it. Clearly, we can't afford to do it. [LB383]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Council. Senator Louden. [LB383]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. As this state aid to counties all came about, once upon a time there was just jail reimbursement, and that didn't work out because they usually run out of money along about the middle of June and that was the end of the jail reimbursement. And for awhile,

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the counties were supposed to keep track on what they were owed and that never got any place. So here, a year or so ago, I think we came up with this bill of this county aid that we had there, and out of that deal came every county was supposed to get \$30,000. Now that wasn't to go into effect, I think, until here in July. But anyway, that legislation has never had a chance to work. But when we talk about what counties are doing and we have to say, "Well, we're going to cut the aid to them and they have to learn how to do business in a better, more economical way and efficient way," I would take issue with that. Now perhaps there's some metropolitan counties that I'm not familiar with, perhaps they have problems out there. But when I look at the counties in western Nebraska and central Nebraska, you take Arthur, Blaine, Banner, Hooker, Logan and Loup and Thomas and McPherson Counties, all they get for state aid here is about \$40,000. Now that includes the flat \$30,000 they were supposed to get. That's a big deal for those counties out there. And when you look at their mill levies and stuff, they're probably doing it as cheap as anybody. In fact, Sioux County out there has got one of the cheaper mill levies. I think they're down around 20 cents. But those people don't do anything for anybody, I mean your roads, and they do the bare necessities. So when it comes to efficient county government, I would not put everyone, every county, in the same category. Most of those counties that I've just mentioned here, when you go to the courthouse there's two people in the courthouse that run the courthouse to take care of business. There isn't a bunch of offices full of people in there, and they've worked their ways around to where they have to be more efficient. I won't name the county but I know there's one or two counties that if they had someone picked up for drunk driving and that person would ask for a jury trial, they would turn them loose because they don't want to pay for it and can't afford to have a trial in their county. This is what you're working against. And when you do away with this state aid, it is a big deal for some of those rural counties that don't have any retail sales in there or don't receive any sales tax to amount to anything. Counties after counties, down through the central part of the Nebraska that have very little retail sales, their whole valuation is property tax. And that's how they fund it, they fund their schools. A lot of those counties don't even receive any TEEOSA funding for their schools. So I would take issue with the fact that when we say these counties have to have a more efficient way of running their business, perhaps there are some. I won't deny that. But there are many of them that are...and these are the counties that I'm trying to work for to do something so that they do receive some state aid and have some funding. These are the ones that really need it. And I would think that Senator Council's bill,...or amendment that just pushes it on to for the two years would be the ideal thing to do at the time being. We can do our budget work, see where we come out, and go from there. The other alternative would be to just table LB383 here for a period of time to see where we are actually at, because this is a serious deal. This is taking policy. When you repeal that in statutes that we worked on to get state aid to counties... [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

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SENATOR LOUDEN: ...and cities and NRDs, that took a lot of work and took several years to get that into legislation. And now you want to wipe it out with one stroke of the pen. I don't think this is the right thing to do and I certainly support Senator Council's amendment. Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Wightman. [LB383]

SENATOR WIGHTMAN: Thank you, Mr. President, colleagues. I do support and continue to support LB383. I would urge your opposition to AM331. Certainly all of us have received pressure from the cities and counties within our own districts to at least leave the language intact, and yet I feel that this would be a dangerous precedent. If we do that, it seems to me at this point we've got to make a decision as to whether we're going to continue to do this. And certainly another Legislature down the road can have a different opinion than we have, and if they want to reimplement that, obviously that's going to be their prerogative and they can do it. I believe that budgeting is best done by the body that sets the tax levies and the priorities. Generally speaking, although we've passed funds down to the cities and counties, we really haven't set any parameters or priorities on how they spend that money. I think the cities and counties are going to struggle but I think they'll get by without the aid that has been provided in the past. There is little accountability required on the part of the state Legislature or the part of the state, period, with regard to how the funds are spent. So, as a result, I believe it is best that we remove the language, and we had that debate on General File on LB383; remove the language from the present law that we provide aid to cities and counties, and we'll leave it to a future Legislature to determine whether or not they may wish to reimplement that. So I do urge your rejection of AM331. Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Karpisek. [LB383]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I do rise in support of AM331. Members, I understand the point of LB383 and I understand our budget shortfall. And we have to do something, I understand that. I'm not in favor of taking this language completely out of statute. To me, I feel that it's just too big of a step. Senator Wightman is correct: another Legislature might feel different. So why take it out? Why go that extra step? I hear that government is too big also, but I hear about it from the national level way down to the cities, including the state. And we're working on that obviously. But to say that the locals aren't doing their best or aren't trying their hardest, I don't think is correct. Many of us in here have been mayors, city council, school board members. We understand. All of us have done something else. And it's a hard, hard job. I don't know why we want to go that far as to take it out. I do understand that; I don't agree with it. This is a tough, tough issue. I am not on Appropriations Committee and I am glad for that. I think that committee could be possibly the hardest job in this body. However, I think that we're talking about this issue without talking about

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the rest of the budget. Obviously, if we don't take this out...or all of it, it does affect everything else, but it's hard to talk about all that out of order. We will talk about the budget when it comes up. But if this has already passed, it's already gone, so that already is a done deal. I guess we could...there could be an amendment to put it back on when we talk about the budget; I don't think that's the correct way to go about it. And I will be honest: I don't understand the whole Appropriations...the way they do things. To me it seems very complex, and I'm sure it is (laugh) very complex and very hard and I appreciate their work. I don't like having to take the money out for the cities and counties. But I could understand if we were not completely taking it out of statute, I could agree with it. But taking it completely out of statute, to me, right now, is too big of a step, too far. I know cities and counties will adjust. They adjust all the time. Fortunately, this isn't a huge part of their budget, but it is not a huge part of our budget either. I think we get thinking about the big counties and forget sometimes about the smaller counties and the smaller cities that have to work on a very small budget. Road graders cost the same in Omaha as they do in...I don't know, Crawford. Fire packs cost the same. All these things that cities and counties need to have all cost the same amount. When there's a small amount coming in, it's hard to keep services going. I talked about infrastructure yesterday on my bill. It's a huge cost to cities. And they're going to have to fix some of the things. We already... [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

SENATOR KARPISEK: We already see so much flight from these rural areas. If we can't keep those places up, we're going to see more and more and more. I think education is the number one part to keep people out in the rural areas, and I appreciate Senator Adams' and the Education Committee's hard work to try to keep that as level as we can. Cities and counties are trying. They're feeling the pinch just as much as we are and then this is just on top of it. Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Wallman. [LB383]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. A former state senator told me once, "When you get money in here, keep it in here." But we gave property tax relief, which I was for, and I still am for property tax relief. Are we hurting cities and counties here? Sure, we are. We say, on one hand, we're for rural Nebraska. On the other hand, are we? Makes you wonder. So it's pretty early in the budget crisis, I think...and we are probably in a crisis. I'm not going to dispute that at all and I appreciate Senator Council's amendment. And we are definitely called the big bully in this building. We tell people what to do, how to do things, and then take their money, whether it be education, healthcare, provider rates, you name it. So does that bother me? Sure it does. My constituents have told me this. And I'll have a meeting in March because they won't have enough money to do some county projects. So we'll...I think they're out of luck. So I'd yield the rest of my time to Senator Council. Thank you, Mr.

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President. [LB383]

PRESIDENT SHEEHY: Senator Council, you are yielded 3 minutes 40 seconds.  
[LB383]

SENATOR COUNCIL: Yes, thank you, Mr. President. Thank you, Senator Wallman. You know, as I sit here and listen to the debate, I have to refrain from boiling it down to its probably most elementary level. But you have to get to that. I mean this is a needs and a wants debate. On the one hand, we need to reduce General Fund expenditures, no question about it. And I don't think there's any disagreement that cities and counties need to look at how they provide services and whether they're doing it in the most effective and efficient manner that needs to occur. Well, we want to provide property tax relief to residents of the state of Nebraska, and one of the ways we fulfilled that want was through providing state aid to cities and counties. Another way that we address that want and fulfill that want is through the Property Tax Credit Fund. So I'm asking that we consider and weigh the wants in the same balance. Is there a need to have a property tax credit? I suggest that there's not. Do we want to provide a property tax credit? Yes. But if we're discussing that in the context that everything else goes into, and that is, what do we need to efficiently run state government? And our priorities? Our priorities in terms of expenditures should be directed to our needs and not our wants. So I guess, in essence, I'm at a point where I'm arguing more now about how do we provide property tax relief? And the point of AM331 was, in my opinion, and is probably not shared by others, a fair and effective way to provide property tax relief, because later in this session, there are going to be those who argue that we need to eliminate this revenue source that's currently available to cities and counties. There will be others who will say we need to eliminate this revenue source to cities and counties. But we still don't want them... [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

SENATOR COUNCIL: ...to have to increase their property tax. And, in fact, we're telling them we don't expect you to increase your property tax, but we remove all of the tools that are available to them to address their local issues in a local manner. And all I'm suggesting to you is if that is the policy decision of this body to not provide state aid to cities and counties, then we cannot remove the tools that they use to fund their operations. And if I am not mistaken, that's the very reason, 30 years ago, we enacted this legislation to provide aid to cities and counties, because we knew it wasn't fair to take away their revenue without providing some measure... [LB383]

PRESIDENT SHEEHY: Time, Senator. [LB383]

SENATOR COUNCIL: Thank you. [LB383]

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PRESIDENT SHEEHY: Thank you, Senator Council. Members requesting to speak on the Council amendment AM331: Senator Mello, followed by Senator Ken Haar. Senator Mello, this is your third time. [LB383]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And as many of you who are on your computer in the morning get e-mails I'm sure throughout the debate, one e-mail just literally came across our e-mails, which I am sure all of you have received, which sometimes it's troubling. And it's not a practice I normally use in regards to quoting an e-mail or a study, particularly without reading the whole study first, but I got an e-mail just as we were having this debate, from the Tax Foundation, which I know is an entity that many organizations in the state, primarily business organizations, as well as I've heard the executive branch utilize this entity multiple times, the Tax Foundation, of all entities, just released their state and local tax burdens as we are having this debate. And where does Nebraska rank on state and local? I emphasize the local tax burdens. We rank fifteenth out of fiftieth. We're not quite as bad as California, New York, Minnesota, Wisconsin, but we're only five behind those large states that have terrible local tax burdens. And what are we doing on LB383? We're making that tax burden worse. We are making local tax burden even worse by removing one of the key property tax relief programs that would help reduce our local tax burden because we want to help plug our budget in a faster way. It's a bit concerning. And as I say, I don't normally quote reports without reading the whole report first. But hearing it from multiple other sources, whether it's the chamber of commerce, whether it's other business or tax entities in the state, I've heard them utilize the Tax Foundation numbers before, and the Tax Foundation numbers recently released this morning says that Nebraska is not doing well in its state and local tax burden. LB383 does not help us with that study. It does not help us deal with our state and local tax burden. It only makes it worse. Senator Wightman, a friend of mine, a colleague on the Appropriations Committee, made some very valid points, points I believe that I tried to make on General File, which is: some of us believe that local government, those closest to the people, make the best decisions. They're the ones who are able to deliver the day in, day out services that Nebraskans want and expect. By eliminating the language in LB383, we not only eliminate the property tax relief component of the program...or eliminate the funding, but we eliminate the concept of the program in its entirety. Where I believe an amendment that I'll be putting in the queue next will keep that language intact with the expectation that the Legislature, in two years from now, can choose to put parameters of how we would like local governments to partner with the state in regards to where we would like to see that aid go to ensure greater property tax relief. I think there's a consensus in this body that we believe local government makes good decisions, that local government takes responsibility and goes through multiple scenarios before they have to make the extreme difficult decision to increase taxes. But as a partner in this process, as the state is, we can assist them. We can keep language in statute, which we know anyone who has passed a law in this body, anyone who has attended a public hearing before or has introduced legislation knows how difficult it is to insert new state statute where instead it

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might be a significantly easier path for us to reform existing state statute, to put ramifications or parameters in regards to what we would like to see program X, Y, or Z accomplish. That is what we do. That is how we make government better, how we make it more efficient,... [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

SENATOR MELLO: ...more transparent. Taking with what Senator Wightman said, there's no reason that we should eliminate the entire statutory language regarding this property tax relief program. Let us reform it. Let us put parameters on it to ensure that local governments accomplish what we want them to accomplish then. Bring them to the table. Have them be a willing partner in this debate, in this collaboration called democracy. Why is it that we have to shun them aside, offer them our wishes and good luck, and say it's your decision now to figure out how to deliver the services that we expect you to deliver, but with less money and less authority? Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Ken Haar. [LB383]

SENATOR HAAR: Thank you, Mr. President and members of the body. The purpose of floor debate is to make us think, and so I've been listening carefully. And in this session we're certainly about reinventing government, and that's because the pressure has been put on us because of the revenue shortfalls, there's no question about that. And this amount of money to the states and the counties, this year we can't afford it. But Senator Council has brought up some interesting points. The intent, if we look back to the original intent of the Legislature, what...and I'm going to ask her for a little bit more on that in a minute. But one of the questions that has come into my mind as we look to reinvent government: Do we make the best decisions when we're under pressure or the worst decisions when we're under pressure? And I'm beginning to see AM331 as the opportunity to do what we have to do this session but, as we reinvent this, to take some time to rethink whether the message we want to send is that we're not going to do this at any time in the future; to go back and look at the intent of the Legislature 30 years ago and explore that. That was also a Legislature during the time when people could serve for longer. They really understood more of what was going on in state government, in my opinion. So I just think that's an interesting question: Do we make the best decisions under pressure? I know we have to make decisions, but do we make the best decisions under pressure or the worst under pressure? And this is one of those times. And, Senator Council, I'd like to give the rest of my time to you to talk about that original intent. [LB383]

PRESIDENT SHEEHY: Senator Council, you're yielded 3 minutes. [LB383]

SENATOR COUNCIL: Yes, thank you, Senator Haar. And if you're talking about the

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original intent of state aid to cities and counties, the original intent was to provide a buffer, a cushion for cities and counties, because the state, 30 years ago, decided to provide some additional sales tax exemptions. And by providing these additional sales tax exemptions, it was going to cut significantly into the revenue that cities and counties could generate through the sales tax to fund their governmental operations. And as a means of protecting against the potential for an increase in property taxes that those cities and counties would have to resort to, the Legislature provided state aid to cities and counties as a buffer, a cushion for the loss of revenue expected to result from the legislative body's removal of sales tax revenue by granting these exemptions. And that's why, in part, I've been discussing LB383 in that context. LB81 has already moved through Select File and removed the possibility for cities to generate revenue through wheel tax, a bill that had been on the books for decades. The body has already decided to remove that, with the exception of the three-mile zoning limit in Omaha. There are bills pending to remove other revenue sources that cities, in particular, rely upon. And so in the context of the original intent of the aid to counties and cities bill, here we are doing it again. And not only are we looking at removing their revenue sources, but LB383... [LB383 LB81]

PRESIDENT SHEEHY: One minute. [LB383]

SENATOR COUNCIL: ...says, we're going to do it and we're not going to provide you with the cushion that you've relied upon for the last three decades. And AM331 just says, look, we really want to provide property tax relief, but we also recognize that we have General Fund expenditure reductions that need to be made. All I'm saying is if that's what we want to do, then we can do that without impacting a "need to do," and that is by reducing the General Fund appropriation to the Property Tax Credit Fund to provide the funds for the aid to cities and counties. That's all AM331 does, Senator Haar. Thank you for the time. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Council. Thank you, Senator Haar. Members requesting to speak on the Council AM331 to LB383: Senator Krist, followed by Senator Schilz, Senator Flood, Senator Langemeier, Senator Ken Haar. Senator Krist. [LB383]

SENATOR KRIST: Question. [LB383]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do see a sufficient number. The question before the body is, shall debate cease on AM331 to LB383? All those in favor vote yea; opposed, nay. Senator Krist. [LB383]

SENATOR KRIST: (Microphone malfunction)...house. [LB383]

PRESIDENT SHEEHY: There has been a request for a call of the house. The question

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before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB383]

CLERK: 35 ayes, 0 nays, Mr. President, to place the house under call. [LB383]

PRESIDENT SHEEHY: The house has been placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Ashford, Senator Christensen, Senator Fulton, the house is under call. Senator Krist, once all members are present and accounted for, how would you like to continue? [LB383]

SENATOR KRIST: Call-in votes. Proceed. [LB383]

PRESIDENT SHEEHY: Members, we will continue to proceed. The motion before the body at this time is, shall debate cease on AM331 to LB383? Senator Krist will allow call-in. [LB383]

CLERK: Senator Ashford voting yes. Senator Carlson voting yes. [LB383]

PRESIDENT SHEEHY: Record, Mr. Clerk. [LB383]

CLERK: 26 ayes, 8 nays, to cease debate, Mr. President. [LB383]

PRESIDENT SHEEHY: The motion to cease debate is adopted. Senator Council, you're recognized to close on AM331. [LB383]

SENATOR COUNCIL: Thank you, Mr. President. And colleagues, I appreciate the opportunity to engage in this debate around AM331. And I, while I certainly urge you and hope that you would advance AM331, after hearing the debate, I introduced AM331 fully expecting that this body would not advance it. And, in fact, the debate that has occurred will allow me to, hopefully, make the case for why there should be support for AM334, which is the amendment to follow. There has been a very healthy and thorough discussion about what we need to do in state government. But I also think we ought to give serious consideration and place the same type of standard when we debate subjects that are merely what we want to do. And so as we move forward in this serious budget time, that we take into consideration advancement of LB383 without AM331 when we are looking at future bills that deal with the ability of cities and counties to generate the revenue they need, that we keep this in perspective, what this action will do to those cities and counties. You know, it's one thing to expect cities and counties to engage in long-range strategic planning to look at ways of cutting their expenditures without sacrificing the services that they provide, and we want to have them to do that. But to do it in, I think, a reasoned, well-thought-out manner is the way to proceed, not to

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do it in response to a crisis, a crisis that, quite frankly, you know, if you could make the arguments that cities and counties need to have been better planners, you could make the same argument that this Legislature should have been better planners. We knew that when federal funds would be exhausted, that we were going to have all of these various cliff effects that we are experiencing now. And I'd ask you to think back--what proactively did we do to prepare for that? And in this instance, if the will of the body is to eliminate state aid to cities and counties, then please be cognizant of the impact of that when we're considering other budget measures and also be cognizant of that when we're talking about whether property tax relief is a priority of this state. And if we determine that it is a need, you know, it needs to be balanced against the other needs that have much greater and direct impact on the residents of the state of Nebraska. And with that, Mr. President, I would urge a positive vote to advance AM331. I would request a call of the house and a roll call vote in normal order. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Council. You have heard the closing of AM331 to LB383. The question before the body is on the advancement. There's been a request for a roll call. Mr. Clerk. [LB383]

CLERK: (Roll call vote taken, Legislative Journal pages 622-623.) 6 ayes, 35 nays, on the amendment, Mr. President. [LB383]

PRESIDENT SHEEHY: AM331 is not adopted. At this point I'd like to take a personal privilege to say happy birthday to Senator Flood. He's 36 years old today. And we await our special Speaker treats. So happy birthday, Senator Flood. The call is raised. Items for the record, Mr. Clerk. The call is raised. [LB383]

CLERK: Thank you, Mr. President. Your Committee on Agriculture, chaired by Senator Carlson, reports LB107 and LB305 to General File. Senator Nordquist has an amendment to LB474 to be printed. And Senator McCoy has selected LB22 as his priority bill for this session. That's all that I have, Mr. President. (Legislative Journal pages 623-624.) [LB107 LB305 LB474 LB22]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Next amendment. [LB383]

CLERK: Mr. President, Senator Council would move to amend LB383 with AM334. (Legislative Journal pages 604-606.) [LB383]

PRESIDENT SHEEHY: Senator Council, you're recognized to open on AM334 to LB383. [LB383]

SENATOR COUNCIL: Yes, thank you, Mr. President. And as I indicated in my closing on AM331, I appreciated the debate that occurred with respect to that amendment, because I think it certainly sets up the debate over AM334. When the state provided

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state aid to cities and counties, it provided it on the basis of a formula. And when state aid to cities and counties was originally enacted, there was also provision, statutory provision, for cities and counties, but counties in particular, to receive reimbursement for the cost they incurred for housing inmates who were the responsibility of the state of Nebraska under the statutory provisions regarding individuals who are incarcerated and where they are relegated to in terms of custody. And as Senator Louden mentioned during the debate on AM331, this body decided to eliminate jail reimbursement and provide instead, in the very state aid formula that by the defeat of AM331 we have eliminated...the elimination of state aid to cities and counties also served to eliminate reimbursement to cities and counties for housing inmates that are the responsibility of the state of Nebraska. Now, many times during debate on LB383 we've talked about government operating like a business. And I agree; government should operate like a business. And a business that receives goods and services is expected to pay for those goods and services. In the case of the incarceration of individuals who are technically in the custody of the state, by eliminating state aid to cities and counties, we are eliminating the payment to these cities and counties of their costs of incarcerating individuals who are the state's responsibility. So if we're not going to provide state aid, if we're not going to continue the agreement that was struck with the cities and counties, that instead of the former jail reimbursement mechanism, that it would be wrapped into their...the state aid that these counties receive...that we should and must, I believe, restore the reimbursement to them of the costs of incarcerating individuals that are not their responsibility to hold in custody. All that AM334 does is simply restore the former county jail reimbursement payment program. And under that program, as it formerly existed, the last appropriation that was authorized was no more than \$3.9 million annually. AM334 contains those same provisions. Again, all that AM334 does is if we want government to operate like a business, then the state ought to operate like a business. They receive services by the counties who house inmates that should be in the state's custody. They should be reimbursed their costs for doing that. And with that, colleagues, I would urge your support of AM334. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Council. You've heard the opening of the Council AM334 to LB383. Members requesting to speak: Senator Flood, followed by Senator Ken Haar, Senator Dubas, and Senator Louden. Senator Flood. [LB383]

SPEAKER FLOOD: Good morning, Mr. President. There are no treats this morning, unless you want some of Senator Pirsch's candy, stop by. I do want to, seriously, comment on AM334. And this is...Senator Council in her second amendment brings up a sore point for me, not the topic that she specifically referenced but this whole idea of state responsibility and state prisoners. Now, granted, the county association and sheriffs across the state were able to get jail reimbursement into the statute, legislatively created. But here's what they want you to believe. When a suspect is arrested by the county or the city or the municipality and the jurisdiction, they're transferred to the county jail. So if they don't bond out, they await sentencing: they await their trial,

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hopefully within six months with no continuances, and then they are...they're arraigned, they're...they have a trial or they enter a plea, they're convicted and then subsequently sentenced. This idea of jail reimbursement is that if, upon sentencing, they are transferred to the custody of the state Department of Corrections, then retroactively they are a state prisoner. They weren't a state prisoner; they were confined in the county jail because they didn't bond out. And the state constitution says you shall not have unreasonable bail. They were confined in the county jail because it was to benefit, for whatever reason, the public safety and to guarantee their reappearance in court. This state prisoner stuff was manufactured by the Legislature, and, quite frankly, it was to offset some of the costs. Now, the counties are going to tell you: We need this money. Well, tell me why we have jails being built all over this state that exceed the capacity we have for prisoners. We are in a jail-building environment right now, where everybody's got to have the nicest jail. Do they often cooperate on a regional basis? No, they do not. And the idea is, we are going to bring as many prisoners as we can in; we're going to jack up the rate; and we are...or we're going to have a competitive rate; and then we're going to pay for our jail. The hard part about this discussion is that we got away from jail reimbursement. And Senator Cornett and Senator Heidemann worked their tails off an entire summer to come up with a county aid program that we subsequently adopted. Today is a different day. We find ourselves in a situation where we don't have the money. And I don't know how we look anybody in the face and say, we'll be back in two years and we'll work to restore your money. Not when you've got state aid to schools, Medicaid, healthcare, pension liabilities; you know, there are a number of things down the road. But I specifically object to the idea that there is a state responsibility created when we arrest somebody. If that's the case, why don't we have state prosecutors? We have county attorneys, paid for by the counties. And when they file their case, we say: state of Nebraska versus Michael J. Flood; we don't say: county of Madison. What about a couple of years ago when we tried to take the district court clerks and put them under the state Supreme Court? Counties said: Oh, no, no, no; you can't touch that; don't you dare touch the district court clerk; we want that to be a county office. We were proposing to come in and pay for it. And today they argue property tax relief. [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

SPEAKER FLOOD: We were going to take that from them, put it under the state Supreme Court; and they said: No, don't touch the district court clerks. You can't have it both ways. This jail reimbursement discussion has been one that has been here for several years, and, quite frankly, I object to the idea that we have a state responsibility. When the sheriff drives the prisoner to the Department of Corrections under an order from the court, that's a state responsibility. And, quite frankly, the counties are getting off pretty good, because we incarcerate somebody for life imprisonment for 30-50 years; they get them for six months to a year and a half, maybe, in some cases. The state is doing its part. And the more prisoners they send us, the more we have to accommodate for their care and custody and control in the state Department of Corrections. I'm not

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buying it. I, respectfully, don't support AM334. And I want to move LB383. Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Dubas. [LB383]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. County jail reimbursement is a classic example of the state not living up to a promise made. As Senator Flood just said, this has been an issue that, you know, has been around since even before I joined the Legislature. Senator Cornett, Senator Heidemann led the charge to make sure that we could fulfill that obligation that we said we would make, as far as jail reimbursement. I supported her efforts when I joined the Legislature, because I knew one of my counties in particular really had an expectation of that money, were hoping it would come, were basing budget decisions on the hope that that money would come. But that reimbursement never came; we were never successful. We held out an expectation to local government that we would provide aid, and we did not uphold our end of that expectation. It's this issue, this topic that we're talking about right now, that led me to reluctantly but ultimately give my support to LB383. No more false hope to counties or local governments. No more unfulfilled promises. We owe them honesty. I know that the decisions we make here have a direct impact on our local governments. I've attended their meetings; I know the decisions that they make. Their decisions are no easier at the local level than ours are at the county level, or at the state level, excuse me. But for us to hold out any degree of hope or promise that the money will come, knowing full well that it's not going to come...even in this amendment, it talks about if the appropriations aren't there, the reimbursement would be adjusted accordingly. So we're still giving ourselves wiggle room, in the amendment, to not do what we ultimately said we were going to do. So at the end of the day, as difficult as this decision is for every single one of us in this room, again, it comes down to me for no more false hope and no more unfulfilled promises. Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Louden. [LB383]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I've looked over Senator Council's amendment, working around, I guess, to where we would have some state aid for the jail fees...as I look back, in 2003 is when some of that came about. I think in 2003 we cut it down to where there would only be \$3 million allowed for jail expenses for the whole state. Before that I don't remember what it was, because that was about the first year I was down here. But that was the year when the state was having to cut expenses again, and that was one of the expenses that got cut. Now, over the years, that's been bantered around, and it was never raised. It was always supposed to be raised since we got some money, but it never did happen. And finally here a few years ago we came up with this aid to counties, gave them all a flat \$30,000 and then a formula for the rest of the money they would receive on a valuation basis, compared to the rest of the valuation of the counties across the state. Now, I guess

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Senator Flood talked about those laws were county laws, it was county people that usually arrested those people. And as I mentioned before, I know of counties that anything short of murder they don't prosecute. And they'll tell the county attorney, they'll tell the sheriff: Let them go. They're not going to spend that money; they can't afford it. So I'm asking, with...if this amendment isn't passed and where we've done away with county aid, or aid to counties, will these counties be allowed to turn those prisoners loose? What will the issue be there? Some of them can't afford to have law enforcement. It talks about the jail expense. Many of those counties out there, when they do arrest somebody, they have to haul them 120-130 miles in order to put them in a jail, because they...as their regulations have come about, about all they have is just some holding areas, and they can't incarcerate anybody for any length of time. Already we have Sheridan County and Dawes County working back and forth together with their jail situations, because Dawes County can't incarcerate any female prisoners. So they have to take them to Rushville. The next option is to take them to Scottsbluff, where they have a regional center there now. And that usually runs, oh, around 120-130 miles, one way. So this can get expensive if you don't do something about that. So when you talk about having law and order and stuff, where are we going to draw the line now? Are we going to...what can happen if those counties decide not to prosecute people and decide to let them go? With that, I would ask if Senator Council would yield for questions. [LB383]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Louden? [LB383]

SENATOR COUNCIL: Yes, Mr. President. [LB383]

SENATOR LOUDEN: Senator Council, as I've asked, I'm wondering if it's possible that these counties can release those prisoners without...if the state isn't going to pay for them and the state isn't going to take them for a period of time, which is usually what happens. They have to be incarcerated in the counties for a period of time before the state has room. Can the county just plainly turn them loose? [LB383]

SENATOR COUNCIL: Well, I don't think the counties have the authority to do that, particularly if they're being held pursuant to a judicial order that the person not be released unless he or she posts bail. I think they would be in violation of...if the people are there because they are unable to post bail, that would be in contravention of a judicial order... [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

SENATOR COUNCIL: ...that they be held unless they post bail. [LB383]

SENATOR LOUDEN: ...then, if they can't afford to operate some of that system anymore, then what do they do with those prisoners? [LB383]

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SENATOR COUNCIL: Well, they do, unfortunately, Senator Louden, what they've been doing: they continue to house them; they bear the expense. And then other services and programs of the county potentially suffer. [LB383]

SENATOR LOUDEN: Now, can they direct the county attorney not to prosecute on some of these instances, anything short of a heinous crime? [LB383]

SENATOR COUNCIL: I have no basis that they could in any way...and that's a point with regard to Senator Flood. They are operating pursuant to the state criminal code, and the state criminal code says these are criminal offenses for which you will be prosecuted. So I don't see any basis for them to refuse to arrest, because they have an oath to abide by... [LB383]

PRESIDENT SHEEHY: Time, Senator. [LB383]

SENATOR COUNCIL: ...and support the laws and the Constitution of the state of Nebraska. [LB383]

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

PRESIDENT SHEEHY: Thank you, Senator Louden. Thank you, Senator Council. Senator Cornett, you're recognized. [LB383]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. I urge the body to vote against this amendment. As Senator Dubas has said, the state has not lived up to this obligation in the past. We have made promises after promises to our counties, and we have not fulfilled those promises. The underlying bill ends those false promises. And that is why, primarily, I agreed to introduce it, is we are taking a step back from saying one thing and doing another. I urge the body to support the underlying bill and vote no on the amendment. Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Cornett. Senator Council. [LB383]

SENATOR COUNCIL: Yeah, thank you, Mr. President. And, again, I appreciate all of the debate on this subject, and I respect my colleagues' divergent opinions, although I respectfully disagree. And I guess I didn't understand Senator Dubas' comments to be in opposition to AM334, and I guess if Senator Dubas would yield, I would just like clarification, because I understood your statements to be: there was an agreement struck. And there's a difference between "abiding by" and "agreement," as opposed to withdrawing support or changing policies. Am I correct in... [LB383]

PRESIDENT SHEEHY: Senator Dubas, would you yield? [LB383]

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SENATOR DUBAS: Yes, I will. I guess I'm not quite tracking where your question is going. I mean, the...if I thought we would fund jail reimbursement, I would support this amendment. But I know that we're not going to, because we haven't in the past. And I've had my counties come to me and say: We need that money. And, I mean, Senator Flood raises some other questions about: when does the county really take charge of that prisoner, when does the state? And I know those are other issues, but I've gone to bat for my counties, saying, hey, as a state we're saying we owe them reimbursement, but yet we're not giving it to them. So I guess, ultimately, that's why I probably won't, I won't support the amendment, because I know we won't live up to that obligation. [LB383]

SENATOR COUNCIL: Okay. So then...and I will tell you and my colleagues that the amendment is just word for word what the former jail reimbursement statutory provision was. And I noted that, too, how it was drafted. And I guess the question I'm asking you is: Would you, then, be supportive if it was more definitive in terms of the obligation of the state, to provide at least the amount that's stated in the legislation, which is up to no more than \$3.9 million annually? [LB383]

SENATOR DUBAS: Well, there's a part in the amendment that also states if we don't have the appropriations, then we prorate things. And I think that's where we've gotten into troubled waters in the past; because then the state has said, hey, we don't have the money, so we're either not going to give you anything or we're going to give you pennies on the dollar. So in principle, I support providing counties jail reimbursement. [LB383]

SENATOR COUNCIL: Okay, and... [LB383]

SENATOR DUBAS: But I think it goes to other questions as to when that determination is made. [LB383]

SENATOR COUNCIL: Okay, and my question was, if the amendment provided for...expressly for an appropriation of \$3.9 million annually, then those proration provisions would kick in; and that's the question I'm asking: If the amendment went that far as to specifically provide for an appropriation of \$3.9 million for county jail reimbursement, then the other provisions in the amendment with respect to how you prorate it when those funds are becoming exhausted, would that be something that you would be supportive of? [LB383]

SENATOR DUBAS: You know, in the past, yes, I would have. But in light of where we're at in the entire budget discussion and with other questions that have been raised about county jail reimbursement and when we decide whether they're a county or a state prisoner, I think that would bring other issues into the debate. So in the past, yes, I

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would have supported it. In the light of things right now, no, I wouldn't. [LB383]

SENATOR COUNCIL: Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator. Senator Pirsch, you're recognized. [LB383]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. Looking back historically from whence this came, state aid was put in place, I understand, I think, beginning in the late sixties as the state took away certain taxing powers, personal property tax powers of, I think, TV and fridges in the sixties and then through the seventies as well with livestock, farm machinery, business equipment, farm inventory, those types of things. And so...but as time has progressed, it seems as if the basis, especially in the later years here, there's just been a disattachment between what the original deal was back in the sixties and seventies and what those payments are in the minds of, I think, legislators, come to represent today. I'm not sure that there is a tie anymore. And I think Senator Dubas brings up a good point, which is I'm not sure it's a good foundation upon which localities who are looking for a steady, reliable source of funding year after year after year upon which to build their programs, which don't exist for year one and go away for year two. And I don't know that this source of funding would ever be good for either party, because it is always at the whim of the state, and it's dependent upon what the state's fortune is that particular year. And so when you're looking at it for a steady and reliable stream of income, this just doesn't seem to be that type of an animal. And it doesn't, quite frankly, likely look ever to be that type of an animal. Legislatures of days of yore obviously cannot bind future Legislatures, and we cannot today bind future Legislatures. And so I think it would always be incredibly shifting sands that localities would attempt to be building a house on if we were to go forward with this. So I do want to weigh-in and agree with Senator Dubas on that point. It is, in a sense, some false hope that we would offer localities and perhaps unfair in that sense. And so I think that it, you know, insofar as there is no longer a nexus between...a strong nexus between what the intended intent of the Legislatures in the sixties and seventies is now and what the actual allocation of the monies that have in recent years gone forward, I guess I would be supportive of the underlying concept in this bill. Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. (Visitors introduced.) Continuing floor discussion on the Council AM334 to LB383, members requesting to speak: Senator Ken Haar and Senator Council. Senator Haar. [LB383]

SENATOR HAAR: Mr. President and members of the body, I will support LB383 and vote against AM334. But the point I raise to make right now is that--the tool in the toolbox for local government. We've got to set clear expectations from this body so that local governments know what they can expect and not expect. I'm going to use a very personal example from my home. My wife does the cooking; she's a very good cook.

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We'd die if I did the cooking. But I'm the fix-it guy. And I have a tool bucket at home that's got all my tools in it, and when something has got to be fixed, I grab that tool bucket, and I go. And I know what's in that tool bucket, and I expect what's in that tool bucket. And every so often I'll take my tool bucket and there's something missing, like a hammer. And it's been used for some other purpose like putting up a picture or whatever. But I can't do my job if I don't know what's in my tool bucket. And I think the same is...we're going to have to make some clear choices here. First of all, if we're not giving local, county and city governments some of these funds that we did in the past, first of all, we've got to recognize that local government is not inferior. It's actually government closer to the people. And we've got to be careful, then, that we don't say, you've got to cut your size of your government, or you've got to do this, or you've got to do that. If we're taking away our sources of funding, then I think we have to recognize local government as being closer to the people and let them make some of those decisions. And we can't tie their hands. We can't take tools out of their tool bucket and force them to do things if we're saying, you're close to the people, you make the decisions. So I will vote for LB383, against AM334, and recognize that LB383 is really a reinvention of government; we're saying to city and county government: we are not going to do this anymore. Now, future bodies could come back and make this happen; but then when we get to some bills down the road, we can't say, we're going to tie your hands; we're going to take tools out of your tool bucket; we're going to force you to do this or force you to do that. Because I think that's the second important part of this equation: that if we say we're going to cut back the role of state government in funding city and local government, we'll still do it in terms of grants and all that sort of thing, but if we say we're going to do that, then we have to give local government, that government which is closest to the people, the tools that they need to accomplish what their citizens need and want. Thank you very much. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Council, you're recognized. [LB383]

SENATOR COUNCIL: Thank you, Mr. President. When I hit my light, I hit it for the purpose of asking Senator Pirsch if he would yield to a question, but I don't see him in the Chamber, because I wasn't clear as to the point he was making. It wasn't clear to me whether he was...believed that the state should be providing a steady stream of revenue to counties to cover their costs of housing state prisoner or whether he was saying that we can't promise them a steady stream. And if it's the latter, well, that's a reality with respect to anything that one legislative body does during a session, because any subsequent Legislature can eliminate that stream; and we've done it thus far in this session, and we'll do it in future sessions. The fact that this body, if it's so inclined, would support AM334 and if it was amended on Select File to do that which I understood Senator Dubas thinks is more appropriate, which would be an actual, firm amount to be appropriated rather than leaving it dependent upon how much we appropriate...but even then, it's the same situation. It could be amended to say: and

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the...an appropriation of \$3.9 million shall be made from the General Fund for 2011-12 and 2012-13. And when we get to the budget, we could very well reduce that appropriation or eliminate it. That is a reality; that is a fact in this body, that that's how legislation is enacted; that is how long legislation is effective, from one legislative session to the next. So anything we do, I mean, if this body wanted to, it could repeal the Nebraska Advantage Act. It could do whatever we believe is in the best interest of the state and the policy that a particular legislative body believes is appropriate. But in this situation...and Speaker Flood and I will respectfully disagree. You know, the point that is made, that I want to make, is counties don't have criminal codes. The state has a criminal code. And it is the counties' enforcement of the state criminal code that results in people being arrested and placed into custody and some being sentenced and some being placed on probation. Municipalities do have the authority to have municipal criminal offenses; and the way our system is set up, the cities cannot sentence their...their offenses cannot result in sentences that are greater than a year, because they bear the responsibility for the cost of incarcerating people for less than a year. So, you know, whether you like it or not, the fact is that county governments are enforcing state laws. And I think there is a basis for their position that once they arrest someone for a violation that is set forth in the state criminal code, that that person, if they're ultimately sentenced, is a state prisoner. So reasonable minds can differ over that issue. But the fact is that there was a trade-off when this body... [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

SENATOR COUNCIL: ...wanted to eliminate state reimbursement of county jail expenses. The deal was, there would be provision made in the state aid to counties and municipalities formula to account for that. By defeating AM331, you've eliminated that. So while, you know, we expect the counties and the cities to make plans and preparations and we want them to run like a business, we choose to exempt ourself from that same requirement to operate like a business. If you believe that counties are providing a service to the state by housing these prisoners, then why shouldn't the state, like any other business, be expected to pay for that service? And that is all that AM334... [LB383]

PRESIDENT SHEEHY: Time, Senator. [LB383]

SENATOR COUNCIL: Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Council. Seeing no additional requests to speak, Senator Council, you're recognized to close on AM334 to LB383. [LB383]

SENATOR COUNCIL: Yes, thank you, Mr. President. I will be brief, because I basically stated the basis of my closing the last time I was on the mike. And that is that counties are providing a service to the state of Nebraska by housing these prisoners and that the

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state then should fulfill its obligation to provide payment for those services. And I need to remind that we don't even pay the counties, when we did provide jail reimbursement, we paid them nowhere close to what it cost them to house these individuals. In Douglas County it costs about \$90 a day to house an inmate. Under the formula and the county jail reimbursement law as it existed, as is reflected in AM334, the state says, well, it may cost you \$90 a day to house them, but we're only going to reimburse you \$35 a day for that. So not only through the elimination of the jail reimbursement are we expecting the counties to absorb costs that should be those of the state, we're not going to provide them any reimbursement, either in the form of county jail reimbursement if AM334 is defeated or in the form of state aid if LB383 is advanced. And, in closing, if we're serious about government operating as a business, then you should vote in favor of AM334, because the state is receiving a service, and the counties need to be paid for it. Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Council. You have heard the closing. The question before the body is on the adoption of the Council AM334 to LB383. All those in favor vote yea. Senator Council. [LB383]

SENATOR COUNCIL: Yes. I would request a call of the house and then a roll call vote. [LB383]

PRESIDENT SHEEHY: There has been a request for a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB383]

CLERK: 28 ayes, 0 nays, Mr. President, to place the house under call. [LB383]

PRESIDENT SHEEHY: The house is under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Conrad, the house is under call. Senator Council, all members are present or accounted for. There has been a request for a roll call vote. Members, the question before the body is on the adoption of AM334 to LB383. Please proceed, Mr. Clerk. [LB383]

CLERK: (Roll call vote taken, Legislative Journal pages 624-625.) 4 ayes, 35 nays, Mr. President, on the amendment. [LB383]

PRESIDENT SHEEHY: AM334 is not adopted. The call is raised. Next item, Mr. Clerk. [LB383]

CLERK: Mr. President, Senator Mello would move to amend with AM490. (Legislative Journal page 625.) [LB383]

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PRESIDENT SHEEHY: Senator Mello, you're recognized to open on AM490 to LB383. [LB383]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM490 is an issue that we discussed on General File with Senator Loudon, which this amendment is slightly different than the amendment we debated on General File, which, if you look through it, removes the word "shall," as currently listed or strikes, I should suppose, the language in LB383, replaces the time frame, which...it says that for fiscal years beginning on or after July 1, 2013, "the Legislature may appropriate funds as aid to counties" in the amount...and it's the same, essentially the same underlying aspect of what...the amendment we discussed on General File. The reason I brought this amendment was, in hearing our conversations throughout General File and today on Select File, that it appears that many in this body still question whether or not we actually want to completely eliminate the concept of providing property tax relief through aid to local governments. And what this amendment does, as we all well know, keeps the existing language in statute, and it provides the Legislature, through the appropriations process, the ability to choose on whether or not we want to continue to provide property tax relief through this existing program. Very cut and dried. Very simple. Allows the Legislature the ability to determine whether or not we may appropriate funds into the future, starting July 1, 2013, for this property tax relief program. It's not, at the end of the day, what I want to see, which is us not eliminating any of the aid to local governments. But it's a compromise that I think that this body has discussed appropriately on the floor both on General File and Select File. I look forward to continuing on that debate with AM490. Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Mello. You have heard the opening of the Mello AM490 to LB383. Mr. Clerk, you have an amendment to the amendment. [LB383]

CLERK: Mr. President, Senator Lathrop would move to amend Senator Mello's amendment with FA5. (Legislative Journal page 626.) [LB383]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on FA5. [LB383]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. My amendment is very simple. Senator Mello, as he's indicated, has an amendment, which is AM490. AM490 would, as Senator Mello has just indicated, allow the Legislature to appropriate funds in two years, in other words, sort of a may-style sunset to what we're doing here today with LB383. My amendment, very simply, would say "shall." We have a history of providing this assistance to counties and cities. It is property tax relief in a real way to the cities and counties. And this would simply say, in two years we're going to go back to providing this aid to the cities and counties. Now, why is that important? I think it puts a fine point on a question that we must answer today. And that question is whether we are doing this exercise, which is passing LB383, because we are in a fiscal

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crisis, or are we changing our policy? That's not a small question. If we are passing LB383 in response to a crisis, a revenue crisis the state is experiencing, then we are passing some of the pain down to the cities and counties and saying to them: We are in a pinch; we need your help; help us out; squeeze, do what you have to do to get through for the next two years, and we'll be back there for you. If it is not in response to our revenue crisis, if it is not...if it is merely a change in policy and we are using the occasion of a revenue pinch or a gap at the state level to change our policy, then we ought to have that discussion too. I will suggest to you, as I did the last time LB383 was up on General File, that this is a property tax increase. And we can call it what we want, and we can spin it any way we care to, and we can develop a message about what LB383 is, and we can actually say LB383 is a...an example of being fiscal conservatives. It's not. We are passing an expense down to the counties. And you cannot count in a year the number of times members in this body will stand up and complain about the federal government giving us some unfunded mandate. And to the cities and the counties, who have been...who have received this aid for years, us taking it away from them is the...essentially an unfunded mandate: You will now take care of these things that we helped you with. And understand that what we are repealing is a property tax relief bill. The whole point in the statute that we are amending is that the state was providing property tax relief. And now that we're taking it away, there is no shortage of speeches that, well, the cities need to learn to do what we're doing. Well, where are they supposed to go? They have no place to go. They have nobody to pass off their responsibility to. And my amendment simply says, we'll get back to you in two years; this is the consequence of a fiscal crisis the state is experiencing; you make temporary adjustments to your budgets, find a way to get through the next two years, and we will get back to you. This is a commitment to get back to the cities and counties in two years because presumably we are expecting revenues to be better in two years and everything will be fine and the crisis will have passed and we'll be in a position to provide the aid and the property tax relief. But I can assure you, if we pass LB383, the cities and the counties are not going to have any choice but to raise property taxes. And in the city of Omaha it's very acute; it's very acute. If we continue to pass down liabilities to the city and take away their ability to raise revenue, we are leaving them no choice but to raise property taxes. And if that's what we want to do, then let's stand up and say it; let's say that we are not going to provide property tax relief. In fact, we are going to impose property tax increases upon people who live in the cities and the counties, so that the state has relieved itself of a commitment they made to the cities and counties years ago. Again, if you agree that LB383 is in response to the fiscal crisis, then vote for my amendment and Mello's amendment. If you think this is a change in the tax policy and that we ought to increase property taxes by cramming this liability back to the cities, then I can understand why you wouldn't support either my amendment nor Mello's. I would encourage you to support both. Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening of FA5 to AM490. Members requesting to speak: Senator Flood, followed by Senator Mello.

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Senator Flood. [LB383]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. I want to rise to state my objection and nonsupport for FA5 to AM490 and AM490 and continue my support for LB383. You've heard on the floor this morning that this is raising property taxes. And get used to it, because you're going to hear it again when we get to K-12 education. And you are going to hear it again as we cut other programs. There is a finite amount of money in this state. We are doing what I think is responsible and we are not saddling the next Legislature with an expectation that we're going to come back and refund county aid, city aid, NRD aid. I've said it before, and I'll say it again. There's going to be other folks in the line. Schools are probably first, because they're a constitutional mandate; Medicaid is going to be back after getting cut 4 percent to 5 percent or who knows how much percent at the end of the year; state operational expenses; and, ultimately, our retirement obligations--troopers, teachers, judges, state employees. One thing we have to remember is that we have very responsible elected officials at county, city, and NRD government. And I represent Madison County, and my county commissioners, while they don't support LB383, have said: We'll make it work; we'll cut back; we won't do that overlay project that we were going to do on that county road; we will make it work; it's \$80,000. City of Norfolk said the same thing; I've talked to councilmen who have said: We will find a way to do this without raising property taxes. Where does it stop? Where does the spending stop? Where do we...why do we bounce around in a vacuum like pinballs and get concerned about cutting down...stopping a program because we don't want to hurt somebody two years down the road. Well, if they could live with the cut for the next two years, they'll find a way to make it work. And the other thing I want to add is, in rural counties, their valuation has shot up sometimes 15 percent to 20 percent a year, astronomical property value increases. And the county board says: We're holding the line on our property tax levy. They have. They've also got increased valuation that pumps more money into the county coffer. I'm not saying that's the case for every city in this state. I think Omaha's property tax values have obviously not been...not seen the growth rate that some of our rural counties have, but I...and I'll acknowledge that. But what we're doing here with AM490 and FA5 is taking us back to General File, where we've considered these very issues before. And the Legislature resoundingly said, no, we're going to terminate this program. I believe we're taking the right steps. I don't want anybody to believe this is the end of your raising property taxes, because the state of Nebraska...you know, on LB545 we heard that argument for hours on end as it related to state aid to schools. Ultimately, we tweaked our final product on General File and advanced a state aid to schools bill. But at the end of the day, let's look at what the mission is here, and the mission is let's be honest to the cities, counties, and NRDs, where's the money going to come from in two years? And "shall" appropriate is much different than "may." [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

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SPEAKER FLOOD: That takes us...that completely reroutes the intent of LB383. I am very opposed to that, as I am AM490. Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Mello. [LB383]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I'm kind of walking through my own mind some of the arguments that Senator Flood just made, which seems to be, using his own analogy, almost a pinball in a vacuum. First off, we heard LB383 was in response to a fiscal crisis, that we had to do this because of the fiscal crisis the state is in. Now the argument is less that we're in a fiscal crisis, but now this is a policy that we have to make because we need to reduce local government spending. I have a tough time being able to get my hands wrapped around both components of those kind of competing arguments. But nonetheless, I feel that FA5 provides a unique perspective. It provides, I mean, it's something that, obviously, I chose not to do with my amendment, but Senator Lathrop provided, I think, a very thoughtful analysis. I think Speaker Flood provided a very thoughtful analysis in regard to what FA5 actually does, which is it takes us back out of, I think, this fiscal crisis mentality that we're in and says we will fund, we shall fund property tax relief in two years. It sets the state up for an obligation in two years that we say we're not doing this two years because of the fiscal crisis we're in. But in two years from now, when we're out of this fiscal crisis, we will prioritize property tax relief again. I think it's a noble concept. It's prioritizing what we had prioritized for the last 30 years, which is property tax relief. Now, I don't know where the rest of the body is at right now with FA5. AM490 provides that it's a compromise opportunity for us. It's a compromise opportunity that says, if the Legislature believes that property tax relief is a priority, that we "may" appropriate. FA5 takes it back a little further, which says we "shall." Now, to some extent, for, I guess, point of clarification, so to speak, there are local governments that do raise property taxes. And to say that our decisions over the last two years have not resulted in property tax increases...I think we saw that in the special session. I was one who made an argument of saying that cuts to state aid to education will increase property taxes; there were six school districts in the Douglas/Sarpy County areas that saw a reduction in their TEEOSA funding, due to the special session in 2009, that ultimately raised their property taxes. So for us to say...I would say it's being almost disingenuous for us to say: You're going to hear this argument. But it's not really true; it really doesn't carry a lot of water, because we have seen that. And that's the reality of the decisions that we make as a Legislature, decisions we make as a government. Ultimately, by eliminating all of this aid in two years and by bringing it back through, I think, Senator Lathrop's floor amendment, what we do is accomplish two items, one item, I think, that Senator Harms had discussed, which is that we're requiring local governments over the next two years, tighten their belts, do the appropriate planning, and in two years from now we're going to provide you this funding back, or up to this funding, so to speak, which means that we are requiring, with this amendment, we are requiring local governments to do long-term planning. We're requiring them to come

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back in two years, by adopting FA5 and AM490, you will come back in two years, as local governments, with a strategic way forward of dealing with less appropriations, because you will have had to plan accordingly of how we're going to move forward as a state with reducing the aid for the next few years because of the fiscal crisis that we're in. But in two years from now, we will keep faith with you, keep faith with our intergovernmental cooperative relationship, and re-fund this property tax relief program. [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

SENATOR MELLO: The underlying principle, I think, as I, at least I, am interpreting FA5, is that we are making a commitment in two years to funding a program that we say that when we get out of this fiscal crisis we will be able to fund. And it's because it's a policy decision for the last 30 years that we have funded property tax relief. I think it's a noble concept, and I'm glad Senator Lathrop brought it. It's making me rethink a little bit of why I did AM490, and I hope it makes the rest of the body reconsider this philosophical belief of fiscal policy, which is, in two years from now we will be funding a program that we're not funding this two years. I think it's a noble concept, and I appreciate Senator Lathrop bringing it forward. Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Mello. Members requesting to speak on FA5 to AM490: Senator Krist, followed by Senator Lathrop and Senator Pankonin. Senator Krist. [LB383]

SENATOR KRIST: Thank you, Mr. Lieutenant Governor. I'll only speak once. I have to respectfully disagree, and I will not support FA5 to AM490 or AM490. I will support LB383. And I will say it again: It is resolved; it is a point in time where this body sends a message across the state; we have made a decision not to raise taxes. And we have actually found a way not to do it at our level so far. And we want you at all levels of government to apply the same energy to make sure that you don't raise taxes. I want to disagree a bit with my colleague Senator Lathrop in the fact that I don't think this is a mandate that they have to raise taxes. I look at my own Douglas County, and I look to see that they actually raise salaries in the out-years. And they're projecting spending more money in places where potentially they wouldn't have to if they analyzed the budget and applied the scrutiny that we did at this level many different times, starting with the special session in '09. I don't think that the property value assessment is going to be the key issue. I think that allowing them, as I have said on this mike over and over again and I will continue to say this session, allowing them to have enough tools in the box to proceed and handle their problems at the local level. I've talked to the NRDs; I've talked to several of them. They know that it's coming, and they believe that they will survive this. This is not an issue. I've talked to my own city. They know that they will survive if we don't handcuff them any further down the line. That is the danger of making wholesale tax reform bill by bill. But if we keep it in mind, we can succeed in this session

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at just doing that. I'm not finding fault with local government, whether it be the villages, the small towns, or the counties. I'm asking them to dig down and cut their budgets the same way that we have seen our budgets cut and set the standard here in this Legislature. Do we make promises in '13 that we may or may not be able to keep? That's not our job. Our job is to demonstrate the resolve to make the tough decisions that we need to make now and pass LB383. I'll be here in '13. And I stood on this mike and said early in this process on General: If it's possible to restore some kind of aid, if it's possible to undo what we have just done, and it's the right thing to do, that Legislature will make the right decision. Let's not cop out. Let's proceed with all due speed, at ramming speed, and pass LB383. Let's send a message. Let's live by the message. And understand that this isn't the end of it; this is just the beginning of this session for some tough cuts to come. Thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Lathrop. [LB383]

SENATOR LATHROP: Thank you, Mr. President. And I appreciate the thoughtful remarks of my colleague, Senator Krist. What I'm hearing in response to Senator Mello's amendment and my amendment is: No, this isn't about the crisis; we're using the crisis to make a change in policy; enough is enough. And so if this is about policy, I want to talk to you about that. Because Senator Krist is right, this isn't a mandate to somebody to raise property taxes, and I don't want to suggest that I think it is. But it necessarily is going to happen. This money that we are no longer providing the cities and counties was property tax relief. That's what the point of the statute was; that's what the point of the appropriation has been over the years. And when we take the property tax relief away, they have to fill it in with something. You cannot expect that they are going to completely and forever live without the amount of money that we will no longer provide them in aid. You cannot, if we...if part of this aid is for jail reimbursement, for example, which was something that we had done historically, we can't have fewer prisoners in the county jail in Douglas County; we're going to have them. And you can't say to Douglas County: Have fewer prisoners; make up for the aid that we're not providing you. But what I'm hearing today is, this isn't about the crisis or you get on board and say, let's re-fund this program in two years. What I'm hearing you say is that this is a shift in tax policy. And make no mistake that we can provide this aid to the counties and the cities, and it comes from sales tax and income tax. And when we take it away, they're going to fill in the void with property tax. No, we're not mandating it; they can use their own judgment, and it may take them time; but they're going to have to do it. And if we are shifting the tax burden from income and sales, gathered by the state, to property tax imposed by the counties and the cities, who are we affecting? Because there are different people that pay these taxes, right? Let me talk to you about somebody on a fixed income. Last time, on General File, I talked to you about a guy in my district that I talked to when I knocked doors. And I'll bet you, when you knocked doors, you promised to be sensitive to raising property taxes. Why? It means an awful lot to somebody on a fixed income. How many doors did you knock to get elected when

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you ran into somebody on a fixed income, somebody on Social Security? Okay, just for a second, think about that person before we vote on LB383. The person on a fixed income, Social Security recipient--they now have \$1,200 coming in every month. That's it. They're in the family home. They have groceries to buy. Let's assume their mortgage is paid off. They got property taxes to pay. And they have prescriptions to get or pay for their medical care or whatever it is. I'm telling you that when you raise property taxes or we enact policies that will necessarily lead to an increase in property taxes, we are doing something very important. We are going to move the people who are hanging on by their nails to move into apartments, or they'll move to assisted living, or they'll move to a nursing home, where our Medicaid will end up picking it up in many cases. But do we want a policy where we take and tax people regardless of their income and we tax people... [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

SENATOR LATHROP: ...about where they live, in the home they live in? Or does it make more sense to take care of the same financial obligations by asking those with an income to pay income tax and those who have the money to buy things to pay sales tax? Because eventually this crisis is going to pass the state of Nebraska, and we will have more revenue coming in. Right? So when...what should happen when that takes place? Should we leave the people who are on a fixed income to pay more property taxes? Or should we go back and say: We'll make it right, and we'll take from the people who have incomes and the people who have money to buy things with and use that money to pay for this obligation? It is a fundamental question about tax policy. I come down on the side of the person on a fixed income whose property taxes are going to go up if LB383 passes. And I can understand... [LB383]

PRESIDENT SHEEHY: Time, Senator. [LB383]

SENATOR LATHROP: ...I'll vote for LB383 if we put a two-year limit on it. Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Pankonin, you're recognized. [LB383]

SENATOR PANKONIN: Thank you, Mr. President. I just want to join in a little bit here this morning. I haven't spoken up to this point on LB383, which I'm in favor of. I'm going to be opposed to the amendments this morning. And I want to just give you a little background on myself and what I have seen in this debate. My background, from Louisville, Nebraska, was 8 years on...elected member of the school board, elected to the city council, then elected to mayor of my community. So I've had that perspective from the local government, both the school and the municipality standpoint, and now 5 years down here, 19 years of elected service in total. And one of the things I want to

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note is every community has a little different situation, as Senator Lathrop has pointed out. Every, you know, individuals have different situations. And my community, my little city, owns the local care center, the nursing home with assisted living. When Senator Flood talked earlier this morning about the Medicare cuts, I'm very concerned about that. A 5 percent or even a 4 percent is going to be very difficult and difficult for those people that have lived there. I'm serving on the advisory board, which, since it's not elected, I have checked out that I could do that and serve in this body, and it was permissible. I was amazed when I got back on that group after being mayor how many more people are on Medicare that are in the nursing home and in assisted living. And it is a problem; Senator Lathrop also talked about it. But for those facilities, this is a nonprofit facility that I think is well run. We take pride in our community to have that for our citizens and others in the area. But it is a tough struggle, and it isn't going to take much in the...in Medicare cuts to put that institution in a difficult situation. The other thing I want to note, as a former mayor, was a part of the city council and mayor made some decisions on infrastructure in our community, and when I ran in 2006 was criticized that our property taxes were somewhat higher than some of the other communities in the legislative district. But I also talked about making 50-year decisions on a water plant, having a restored Main Street that many of you have seen and we're very pleased with because the buildings are occupied, and it's a very marketable and going type of community. And so sometimes communities have to make decisions about what these tax rates are going to be; and, hopefully, their citizens through their elected representatives are getting what they want and what they see for a vision for their communities. So every situation is different. I just think, in answer to Senator Lathrop, we are making a tax policy change here that I think is appropriate, a difficult one. I'm hoping in some future year we can re-look at it. But to say that we're going to or we can promise that I think is very problematical. Having served on our Retirement Committee, and Senator Nordquist is doing an excellent job in leadership there, but these problems aren't going to go away. We had a \$1 billion hole that appeared in the decade of the 2000s, a very difficult decade for investment returns; we've had a pop back up of investment returns that is helping. But when you dig as deep a hole as we did in the 2000s and the recession, the '06-'07-'08 years, that it is going to be difficult. I think we're going to face these problems two years from now, four years from now, for many years to come. Obviously, what's happened around the country in these and related issues is apparent to all of us. So I don't think we're going to be out of a fiscal...maybe it's not called a crisis, but it's going to be a difficult situation years going forward. I think the rest of my time in this body will be concerned with it. So I think to make this step now with LB383 is appropriate; it's the start of many tough decisions. Hate to have to do it, but I think it's the appropriate thing to do. [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

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

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PRESIDENT SHEEHY: Thank you, Senator Pankonin. Mr. Clerk, you have an item for the record. [LB383]

CLERK: Well, Mr. President, just an announcement. The Natural Resources Committee is meeting in Exec Session in Room 2022. Natural Resources now in Room 2022. [LB383]

PRESIDENT SHEEHY: Thank you. Continuing with floor debate on FA5 to AM490. Members requesting to speak: Senator Nordquist, followed by Senator Council. Senator Nordquist. [LB383]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in opposition to FA5 and support of AM490 and, ultimately, probably in opposition to the underlying bill, but I think it would be significantly improved with AM490. I want to address a couple of the comments that were made. First about our responsible county officials. I agree that we have responsible county officials in this state. Do I agree with all the decisions they make? Absolutely not. There are probably decisions made in my county, people that I voted to elect that made some bad decisions as county officials. Here's the point that I think we're missing when we talk about property tax relief. We say they can do better; they need to hold the line on spending. Yes, they do. But they are the ones that are in that seat, making that decision. On General File I read a list of a number of counties, including mine, Madison County was on the list, that saw a property tax increase over the last year. Those county officials in the last year were in that seat, making the decisions, some good, some bad, but those officials ultimately chose to raise property taxes. Now we're taking away property tax relief from those counties. It would be foolish for us to think that that doesn't force their hand in the future. We can stand here and say they need to do better, and I hope they do, but they are the ones in the seat, making the decision. I think that somebody said, you know, where is the money going to come from for this? It was a few speakers ago. And that's why I'm opposing FA5 and keeping AM490, which allows us...it says that we "may," we "may appropriate" money for this program. I think that's important. We, every two years, come here, set a budget; we set our priorities at that time based on the funding that's available. It's probably not a good idea to tie our hands and say we "shall"; that's why I'm opposing the floor amendment. But AM490 gives us the ability to choose in two years whether this is a priority that the body wants to fund. We don't make decisions two years out. This gives us the flexibility to come in, see where we're at in two years. And if the body chooses these programs as a priority, we can appropriate that money at that time. Doesn't say we shall. I think that's important. I think it's important for us to remember, when you ask the question, "Where's the money coming from," to think about where we are right now. Our current preliminary budget uses \$260 million of a one-time cash transfer from the Cash Reserve Fund, also significant millions of dollars' worth of transfers from other cash funds, to prop up our current budget, which has many deep cuts in it. So we need to look...we need to have the flexibility in two years to make decisions. And that's what AM490 will do. And I would

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encourage the body to support that, and I would oppose FA5. Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator Council. [LB383]

SENATOR COUNCIL: Yes, thank you, Mr. President. You know, I've been sitting with great interest to the debate over AM490 and the floor amendment and recall on General...at the original General File debate of LB383, discussing these very same issues. In fact, I think, Senator Louden's amendment that was defeated effectively did the same thing that is seeking to be accomplished by AM490, with or without the floor amendment. And I do believe that the discussion needs to occur at this point in time. I've stated before, I appreciate and recognize the need for all levels of government to look to become more efficient in the delivery of services and programs. But I stand troubled when discussing this particular measure that is a trade-off between this and providing adequate provider rates; it's between this and state aid to education--where, in my opinion, that's not necessarily true. And there's this concern that...about false hopes and false promises. Well, that's a reality. But there's also an issue of integrity as well, because the opponents of AM490, with or without the floor amendment, is...well, we're setting cities and counties up for potentially, two years from now, there not being any funds available. But I want to give you the flip side of it. And I guess you could probably tell by the tone of my comments prior to this, is that we prioritize selectively. And what I mean by that is when we set up programs or provide any mechanisms, in some instances the intent is to provide them and maintain them, and in some instances it's with the intent that if we can, we will. And I think that's what...AM490 is intended to convey the intent that if we can, we will. And if you look at the act that established the property tax credit, that's exactly what the body said at that time; it is their intent...because I wasn't here in '07 and '08, so to say whether sufficient funds were available or not. But apparently they were, because funding was found for the Property Tax Credit Act. But that act specifically says that after tax year 2008, the Property Tax Credit Fund Act will be funded if revenue is available. Colleagues, all I've heard since day one is that revenue is not available. So if we're going to hold cities and counties to a particular standard, I think we ought to hold this state to that same standard. If funds...if revenue is not available, they have to become more efficient in their operations, reducing their costs and expenditures, and we should be held to the same standards. When revenue is not available, we shouldn't be in a position where we're advocating to expend funds for things we want to see happen as opposed to things that we need to have happen. [LB383]

PRESIDENT SHEEHY: One minute. [LB383]

SENATOR COUNCIL: And we need to provide services to those who are in an economic position that they're unable to provide for themselves. That's what we need to do. It's not simply we want to do it; we need to do it. So when we're making these fundamental policy decisions, again, we should be operating from a standard that says,

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these are the needs; we prioritize these needs; and if there's anything remaining after we've met these needs, then we'll do it. And that should be the standard that applies across the board. And I think that all that AM490, with or without the floor amendment, does is say, two years from now, if we view that as a need... [LB383]

PRESIDENT SHEEHY: Time, Senator. [LB383]

SENATOR COUNCIL: Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Council. Seeing no additional requests to speak, Senator Lathrop, you're recognized to close on FA5. [LB383]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I know you're all thinking about lunch; we've just got a minute. I'm going to make a motion to withdraw my own amendment here in a second, but I want to let you know why. I think it's an interesting discussion that we're having on AM490 and on FA5, which is, what can we commit to two years down the road? And I hear those of you who stood up and said we can't promise anything in two years, that we shouldn't saddle the next Legislature with an expectation, that we don't make promises in '13 we may or may not be able to keep. And my good friend, very good friend, Senator Nordquist has persuaded me in his opposition to my floor amendment by suggesting we don't know where we'll be at in two years. And I think that's probably right. My floor amendment would mandate it, and that may be a little strong, given the uncertainties two years out. And for that reason I'll withdraw my floor amendment. Thank you. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. FA5 is withdrawn. We'll now return to the Mello AM490 to LB383. Seeing no requests to speak, Senator Mello, you're recognized to close. [LB383]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. In hearing the floor debate on FA5 that's now been withdrawn, and it provides, I think, a more clear perspective of what AM490 will do, which provides the Legislature in two years the ability, if our fiscal picture doesn't improve, the ability to reprioritize property tax relief through providing appropriations to aid to local governments. It's something similar that we did discuss on General File with Senator Loudon; my amendment is slightly different. But I think it's an underlying principle; it's an underlying belief in regard to our fiscal policy as a state in regard to whether or not we want to be provided the opportunity to choose to fund this program in two years if we so choose to, compared to where, I think, FA5, which would have mandated us that we finance, or fund, aid to local governments in two years regardless of where our fiscal picture was. So while at the end of the day I feel that property tax relief is, should be, and has been a significant state priority for the last 30 years, not just to public education but, obviously, to city, counties, and NRDs, I'd make the same argument that AM490 is an opportunity for us to

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take a step back, if we so choose, to finance property tax relief in two years. We have the statutory language to be able to do that. If the Legislature in the appropriations process chooses not to finance property tax relief in two years, then that is the prerogative of the Legislature, and we will deal with those consequences as they come. With that, thank you, Mr. President. [LB383]

PRESIDENT SHEEHY: Thank you, Senator Mello. You have heard the closing. Senator Mello. [LB383]

SENATOR MELLO: Can I get a roll call vote? A call of the house and a roll call vote, Mr. President? [LB383]

PRESIDENT SHEEHY: Members, you have heard the closing of AM490 to LB383. There has been a request for a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB383]

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call. [LB383]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. Senators, please record your presence. The house is under call. Senator Mello, all members are present or accounted for. Members, the question before the body is on the adoption of AM490 to LB383. There's been a request for roll call. Mr. Clerk. [LB383]

CLERK: (Roll call vote taken, Legislative Journal page 626.) 11 ayes, 32 nays, Mr. President, on the amendment. [LB383]

PRESIDENT SHEEHY: AM490 is not adopted. Anything further, Mr. Clerk? [LB383]

CLERK: I have nothing further on the bill, Mr. President. [LB383]

PRESIDENT SHEEHY: Senator Larson, you're recognized for a motion. [LB383]

SENATOR LARSON: Mr. President, I move that LB383 be advanced to E&R for engrossing. [LB383]

PRESIDENT SHEEHY: Senator Mello. [LB383]

SENATOR MELLO: Mr. President, I'd like to request a roll call vote. [LB383]

PRESIDENT SHEEHY: There has been a request for a roll call vote. Members, the question before the body is on the advancement of LB383. Mr. Clerk. [LB383]

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CLERK: (Roll call vote taken, Legislative Journal pages 626-627.) 34 ayes, 9 nays, Mr. President, on the advancement. [LB383]

PRESIDENT SHEEHY: LB383 advances. The call is raised. Mr. Clerk, do you have items for the record? [LB383]

CLERK: I do, Mr. President. Your Committee on Transportation reports LB289 to General File with amendments attached. Senator Utter would offer LR80, new resolution; that will be laid over. Enrollment and Review reports LB210, LB471, and LB159 to General File, some having Enrollment and Review amendments attached. Amendments to be printed: Senator Dubas to LB114; Senator Gloor, LB274; Senator Campbell, LB225; Senator Avery, LB165; and a series of amendments and a motion with respect to LB51. Senator Haar would like to withdraw LB581. Name adds: Senator Bloomfield to LB48; and Senators Bloomfield, Larson, McCoy, Price to LB51. (Legislative Journal pages 627-632.) [LB289 LR80 LB210 LB471 LB159 LB114 LB274 LB225 LB165 LB51 LB581 LB48]

Priority motion: Senator Pahls would move to adjourn until Thursday morning at 9:00 a.m.

PRESIDENT SHEEHY: You've heard the motion to adjourn until Thursday, February 24, at 9:00 a.m. All those in favor say aye. Opposed nay. We are adjourned.