

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

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[LB12 LB24 LB25 LB26 LB34 LB36 LB43 LB61 LB62 LB70 LB77 LB78 LB81 LB94  
LB98 LB108 LB114 LB146 LB160 LB178A LB178 LB179 LB197 LB215 LB225 LB243  
LB264 LB274 LB297 LB303 LB308 LB311 LB326 LB331 LB332 LB334 LB335 LB347  
LB360 LB369 LB383 LB396 LB401 LB410 LB410A LB423 LB430 LB458 LB462 LB490  
LB509 LB528 LB543 LB580 LB697 LR40CA LR98 LR99 LR100]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fortieth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Reverend Donnie Bender, St. Paul's Baptist Church in Omaha, Senator Council's district. Please rise.

REVEREND BENDER: (Prayer offered.)

SPEAKER FLOOD: Thank you, Reverend Bender. I call to order the fortieth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB543...

SPEAKER FLOOD: (Gavel)

CLERK: ...and LB34 to Select File, both having Enrollment and Review amendments. Priority bill designation: Senator Karpisek has selected LB490. I have the report of registered lobbyists this week, Mr. President, as well as the report regarding the reports received in the Clerk's Office and on file and available for member review. Finally, Mr. President, a potential conflict of interest statement filed by Senator Bloomfield. That's all that I have, Mr. President. (Legislative Journal pages 709-710.) [LB543 LB34 LB490]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to the first item on the agenda.

CLERK: Mr. President, the Transportation and Telecommunications Committee chaired by Senator Fischer reports on three appointments to the Motor Vehicle Industry

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

Licensing Board. (Legislative Journal page 697.)

SPEAKER FLOOD: Senator Fischer, you're recognized to open on your confirmation report.

SENATOR FISCHER: Thank you, Mr. President and members. The Transportation and Telecommunications Committee held a confirmation hearing on Monday, February 28, for three appointments to the Motor Vehicle Industry Licensing Board. The three appointees are Blake Dillon, William Reeg, and Fred Stone. The Motor Vehicle Industry Licensing Board is made up of ten board members who are appointed by the Governor and serve for a three-year appointment. The chairman of the board is the director of the Department of Motor Vehicles. The remaining members are: one member of the general public, one new motor vehicle dealer from each of the three Congressional districts, two used motor vehicle dealers, one trailer dealer, one factory representative, and one motorcycle dealer. The first appointee is Blake Dillon. Mr. Dillon is a new appointment to the board to serve as the motorcycle dealer representative. His term is from June 30, 2010, to May 18, 2013. Mr. Dillon is employed by Dillon Brothers motor sports and he is from Omaha. The second is William Reeg who is also a new appointment to the board. He is appointed to serve as the new car dealer from the First Congressional District. His term is from July 23, 2010, to May 18, 2013. Mr. Reeg is from Wayne, Nebraska, and is employed by Arnie's Ford and Mercury in Wayne. The last appointment is Fred Stone. Mr. Stone is a reappointment to the board serving in the general public position. His new term is from July 30, 2010, to May 18, 2013. Mr. Stone is employed by Centurion Incorporated and he lives here in Lincoln. All three appointees appeared in person before the committee at the hearing. The Transportation and Telecommunications Committee recommends these confirmations with a unanimous voice vote. Thank you, Mr. President.

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening on Senator Fischer's Committee's first confirmation report. There are no members wishing to speak. Senator Fischer, you're recognized to close. Senator Fischer waives her opportunity. The question before the body is, shall the confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal pages 710-711.) 38 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SPEAKER FLOOD: Confirmation report is adopted. Mr. Clerk.

CLERK: The second report, Mr. President, involves six appointments to the Nebraska Information Technology Commission. (Legislative Journal page 696.)

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SPEAKER FLOOD: Senator Fischer, you're recognized to open on your confirmation report.

SENATOR FISCHER: Thank you, Mr. President and members. The Transportation and Telecommunications Committee held the confirmation hearing on Tuesday, March 1, for one new appointment and five reappointments to the Nebraska Information Technology Commission. The NITC's mission is to make the state of Nebraska's information technology infrastructure more accessible and responsive to the needs of its citizens, regardless of the location, while making investments in government, education, healthcare, and other services more efficient and cost-effective. The NITC is a nine-member, Governor-appointed commission. The members of the commission are to be approved by a majority of the Legislature. The membership consists of: one member representing elementary/secondary education, one member representing postsecondary education, one member representing communities, five members with strategic planning experience representing the general public, and the Governor or his or her designee. Members serve four terms...or excuse me, members serve four-year terms and are limited to two consecutive terms. There is one new appointee, Dan Shundoff, who will represent the general public and was appointed to a term to run from April 16, 2010, to April 2, 2014. Mr. Shundoff is from Kearney and is a graduate of UNL with a B.A. in psychology. He lists among his interests economic development and technology. Of the reappointments: Patrick Flanagan and H. Michael Huggenberger both represent the general public; Lance Hedquist represents Nebraska communities; Daniel Hoelsing represents elementary and secondary education; and Chancellor Doug Kristensen represents postsecondary education. All were appointed for a term to run from April 16, 2010, to April 2, 2014, and all of these men attended the hearing. The Transportation and Telecommunications Committee recommends these confirmations with a unanimous voice vote. Thank you, Mr. President.

SPEAKER FLOOD: Thank you, Senator Fischer. There are no lights on. Senator Fischer, you're recognized to close. Senator Fischer waives her opportunity. The question before the body is, shall the Transportation and Telecommunications Committee confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal pages 711-712.) 35 ayes, 0 nays, Mr. President, on the adoption of the Transportation Committee confirmation report.

SPEAKER FLOOD: The report is adopted. Mr. Clerk and members, we now move to Final Reading. Please, members, return to your seats in preparation for Final Reading. Secure the Chamber. Members, please take your seats in advance of Final Reading. Unauthorized personnel, please remove yourself from the floor. Mr. Clerk, the first bill is LB12 and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB12]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to dispense with the at-large reading. [LB12]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB12]

CLERK: (Read title of LB12.) [LB12]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB12 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB12]

CLERK: (Record vote read, Legislative Journal page 712.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB12]

SPEAKER FLOOD: LB12 passes. We now proceed to LB24. [LB12 LB24]

CLERK: Mr. President, with respect to LB24, Senator Langemeier, I have AM510 with a note you want to withdraw, Senator. [LB24]

SPEAKER FLOOD: Senator Langemeier, you want this to be withdrawn? [LB24]

SENATOR LANGEMEIER: Yes. [LB24]

SPEAKER FLOOD: Okay. So ordered. [LB24]

CLERK: (Read LB24 on Final Reading.) [LB24]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB24 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB24]

CLERK: (Record vote read, Legislative Journal page 713.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB24]

SPEAKER FLOOD: LB24 passes. We now proceed to LB25. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB24 LB25]

CLERK: 42 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB25]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB25]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

CLERK: (Read title of LB25.) [LB25]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB25 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB25]

CLERK: (Record vote read, Legislative Journal page 714.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB25]

SPEAKER FLOOD: LB25 passes. (Doctor of the day introduced.) Proceeding on Final Reading, Mr. Clerk, we now go to LB26E. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB25 LB26]

CLERK: 40 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB26]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB26]

CLERK: (Read title of LB26.) [LB26]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB26 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB26]

CLERK: (Record vote read, Legislative Journal page 715.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB26]

SPEAKER FLOOD: LB26 passes with the emergency clause attached. Mr. Clerk, LB43. [LB26 LB43]

CLERK: (Read LB43 on Final Reading.) [LB43]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB43 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB43]

CLERK: (Record vote read, Legislative Journal pages 715-716.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB43]

SPEAKER FLOOD: LB43 passes. We now proceed to LB77. The first vote, members, is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB43 LB77]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

CLERK: 40 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB77]

SPEAKER FLOOD: The at-large reading is dispensed with. We now read the title, Mr. Clerk. [LB77]

CLERK: (Read title of LB77.) [LB77]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB77 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB77]

CLERK: (Record vote read, Legislative Journal pages 716-717.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB77]

SPEAKER FLOOD: LB77 passes with the emergency clause attached. Mr. Clerk, LB78. [LB77 LB78]

CLERK: (Read LB78 on Final Reading.) [LB78]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB78 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB78]

CLERK: (Record vote read, Legislative Journal page 717.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB78]

SPEAKER FLOOD: LB78 passes with the emergency clause attached. (Visitors introduced.) Mr. Clerk, we now proceed to LB94. [LB78 LB94]

CLERK: (Read LB94 on Final Reading.) [LB94]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB94 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB94]

CLERK: (Record vote read, Legislative Journal page 718.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB94]

SPEAKER FLOOD: LB94 passes. Mr. Clerk, LB98. [LB94 LB98]

CLERK: (Read LB98 on Final Reading.) [LB98]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB98 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB98]

CLERK: (Record vote read, Legislative Journal pages 718-719.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB98]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB98 passes. Mr. Clerk, we now proceed to LB108. [LB98 LB108]

CLERK: (Read LB108 on Final Reading.) [LB108]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB108 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB108]

CLERK: (Record vote read, Legislative Journal pages 719-720.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB108]

SPEAKER FLOOD: LB108 passes. Mr. Clerk, LB146. [LB108 LB146]

CLERK: (Read LB146 on Final Reading.) [LB146]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB146 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB146]

CLERK: (Record vote read, Legislative Journal page 720.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB146]

SPEAKER FLOOD: LB146 passes. Mr. Clerk, LB178. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB146 LB178]

CLERK: 41 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB178]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB178]

CLERK: (Read title of LB178.) [LB178]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB178 pass? All those in favor vote aye; all those opposed

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

vote nay. Mr. Clerk, please record. [LB178]

CLERK: (Record vote read, Legislative Journal page 721.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB178]

SPEAKER FLOOD: LB178 passes. Mr. Clerk, LB178A. [LB178 LB178A]

CLERK: (Read LB178A on Final Reading.) [LB178A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB178A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB178A]

CLERK: (Record vote read, Legislative Journal page 722.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB178A]

SPEAKER FLOOD: LB178A passes. Mr. Clerk, we now proceed to LB215 where the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB178A LB215]

CLERK: 39 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB215]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB215]

CLERK: (Read title of LB215.) [LB215]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB215 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB215]

CLERK: (Record vote read, Legislative Journal page 723.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB215]

SPEAKER FLOOD: LB215 passes with the emergency clause attached. (Visitors introduced.) Continuing with discussion this morning on Final Reading, LB264, Mr. Clerk. [LB215 LB264]

CLERK: (Read LB264 on Final Reading.) [LB264]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB264 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB264]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

CLERK: (Record vote read, Legislative Journal pages 723-724.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB264]

SPEAKER FLOOD: LB264 passes with the emergency clause attached. Mr. Clerk, LB303. [LB264 LB303]

CLERK: (Read LB303 on Final Reading.) [LB303]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB303 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB303]

CLERK: (Record vote read, Legislative Journal pages 724-725.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB303]

SPEAKER FLOOD: LB303 passes. (Visitors introduced.) Mr. Clerk, we now proceed to LB311. [LB303 LB311]

CLERK: (Read LB311 on Final Reading.) [LB311]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB311 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB311]

CLERK: (Record vote read, Legislative Journal page 725.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB311]

SPEAKER FLOOD: LB311 passes. Mr. Clerk, LB326. [LB311 LB326]

CLERK: (Read LB326 on Final Reading.) [LB326]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB326 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB326]

CLERK: (Record vote read, Legislative Journal page 726.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB326]

SPEAKER FLOOD: LB326 passes with the emergency clause attached. Mr. Clerk, LB331. [LB326 LB331]

ASSISTANT CLERK: (Read LB331 on Final Reading.) [LB331]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SPEAKER FLOOD: Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB331 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB331]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 726-727.) Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB331]

SPEAKER FLOOD: LB331 passes. Mr. Clerk, LB332. [LB331 LB332]

ASSISTANT CLERK: (Read LB332 on Final Reading.) [LB332]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB332 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB332]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 727.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB332]

SPEAKER FLOOD: LB332 passes. Mr. Clerk, we now proceed to LB334. [LB332 LB334]

ASSISTANT CLERK: (Read LB334 on Final Reading.) [LB334]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB334 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB334]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 728.) Vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB334]

SPEAKER FLOOD: LB334 passes with the emergency clause attached. Mr. Clerk, LB347. [LB334 LB347]

ASSISTANT CLERK: (Read LB347 on Final Reading.) [LB347]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB347 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB347]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 728-729.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB347]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SPEAKER FLOOD: LB347 passes. Mr. Clerk, LB396. [LB347 LB396]

ASSISTANT CLERK: (Read LB396 on Final Reading.) [LB396]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB396 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB396]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 729.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB396]

SPEAKER FLOOD: LB396 passes. (Visitors introduced.) We now proceed to LB410. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB396 LB410]

ASSISTANT CLERK: Vote is 38 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB410]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. (Gavel) [LB410]

ASSISTANT CLERK: (Read title of LB410.) [LB410]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB410 pass? All those in favor vote aye; all those opposed vote nay. Record, please, Mr. Clerk. [LB410]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 730.) Vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB410]

SPEAKER FLOOD: LB410 passes. Mr. Clerk, LB410A. [LB410 LB410A]

ASSISTANT CLERK: (Read LB410A on Final Reading.) [LB410A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB410A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB410A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 731.) Vote is 43 ayes, 0 nays, 3 present and not voting, 3 excused and not voting, Mr. President. [LB410A]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SPEAKER FLOOD: LB410A passes. Mr. Clerk, LB462. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB410A LB462]

ASSISTANT CLERK: 38 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB462]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB462]

ASSISTANT CLERK: (Read title of LB462.) [LB462]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB462 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB462]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 732.) Vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB462]

SPEAKER FLOOD: LB462 passes. Mr. Clerk, LB383. [LB462 LB383]

ASSISTANT CLERK: (Read LB383 on Final Reading.) [LB383]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB383 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB383]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 733.) Vote is 36 ayes, 9 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB383]

SPEAKER FLOOD: LB383 passes with the emergency clause attached. Mr. Clerk, we now proceed to LB36. [LB383 LB36]

ASSISTANT CLERK: (Read LB36 on Final Reading.) [LB36]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB36 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB36]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 733-734.) Vote is 41 ayes, 0 nays, 6 present and not voting, 2 excused and not voting, Mr. President. [LB36]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SPEAKER FLOOD: LB36 passes. Mr. Clerk, LB61. [LB36 LB61]

ASSISTANT CLERK: (Read LB61 on Final Reading.) [LB61]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB61 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB61]

CLERK: (Record vote read, Legislative Journal pages 734-735.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB61]

SPEAKER FLOOD: LB61 passes. Mr. Clerk, LB114. [LB61 LB114]

CLERK: (Read LB114 on Final Reading.) [LB114]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB114 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB114]

CLERK: (Record vote read, Legislative Journal page 735.) 41 ayes, 1 nay, 5 present and not voting, 2 excused and not voting, Mr. President. [LB114]

SPEAKER FLOOD: LB114 passes. LB160, Mr. Clerk. [LB114 LB160]

CLERK: (Read LB160 on Final Reading.) [LB160]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB160 pass? All those in favor vote aye; all those opposed vote nay. Record, please, Mr. Clerk. [LB160]

CLERK: (Record vote read, Legislative Journal page 736.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB160]

SPEAKER FLOOD: LB160 passes. Mr. Clerk, LB179. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB160 LB179]

CLERK: 42 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB179]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB179]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

CLERK: (Read title of LB179.) [LB179]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB179 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB179]

CLERK: (Record vote read, Legislative Journal page 737.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB179]

SPEAKER FLOOD: LB179 passes. Mr. Clerk, LB197. [LB179 LB197]

CLERK: (Read LB197 on Final Reading.) [LB197]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB197 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB197]

CLERK: (Record vote read, Legislative Journal pages 737-738.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB197]

SPEAKER FLOOD: LB197 passes. Mr. Clerk, we now proceed to LB225. [LB197 LB225]

CLERK: (Read LB225 on Final Reading.) [LB225]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB225 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB225]

CLERK: (Record vote read, Legislative Journal page 738.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB225]

SPEAKER FLOOD: LB225 passes with the emergency clause attached. Mr. Clerk, LB243. [LB225 LB243]

CLERK: (Read LB243 on Final Reading.) [LB243]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB243 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB243]

CLERK: (Record vote read, Legislative Journal page 739.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB243]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SPEAKER FLOOD: LB243 passes with the emergency clause attached. Mr. Clerk, LB274. [LB243 LB274]

CLERK: (Read LB274 on Final Reading.) [LB274]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB274 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB274]

CLERK: (Record vote read, Legislative Journal pages 739-740.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB274]

SPEAKER FLOOD: LB274 passes. Mr. Clerk, LB308. [LB274 LB308]

CLERK: (Read LB308 on Final Reading.) [LB308]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB308 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB308]

CLERK: (Record vote read, Legislative Journal page 740.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB308]

SPEAKER FLOOD: LB308 passes. Mr. Clerk, LB335. [LB308 LB335]

CLERK: (Read LB335 on Final Reading.) [LB335]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB335 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB335]

CLERK: (Record vote read, Legislative Journal page 741.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB335]

SPEAKER FLOOD: LB335 passes. Mr. Clerk, LB401. [LB335 LB401]

CLERK: (Read LB401 on Final Reading.) [LB401]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB401 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB401]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

CLERK: (Record vote read, Legislative Journal pages 741-742.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB401]

SPEAKER FLOOD: LB401 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills: LB12, LB24, LB25, LB26, LB43, LB77, LB78, LB94, LB98, LB108, LB146, LB178, LB178A, LB215, LB264, LB303, LB311, LB326, LB331, LB332, LB334, LB347, LB396, LB410, LB410A, LB462, LB383, LB36, LB61, LB114, LB160, LB179, LB197, LB225, LB243, LB274, LB308, LB335, and LB401. Continuing with discussion on Final Reading, we now move to the new subheading Final Reading, LB62. Mr. Clerk. [LB401 LB12 LB24 LB25 LB26 LB43 LB77 LB78 LB94 LB98 LB108 LB146 LB178 LB178A LB215 LB264 LB303 LB311 LB326 LB331 LB332 LB334 LB347 LB396 LB410 LB410A LB462 LB383 LB36 LB61 LB114 LB160 LB179 LB197 LB225 LB243 LB274 LB308 LB335 LB401 LB62]

CLERK: Mr. President, I have a motion on the desk. Senator Dubas would move to return the bill for specific amendment, AM611. (Legislative Journal page 700.) [LB62]

SPEAKER FLOOD: Senator Dubas, you're recognized to open on your motion to return LB62 to Select File for a specific amendment. [LB62]

SENATOR DUBAS: Thank you very much, Mr. Speaker and colleagues. LB62, I want to be very clear right from the git-go, I support the bill, I understand what the bill was doing, I understand what the amendment did. Our county boards have a very serious duty to do when they're setting their budgets, just as we do, and so clarifying what their duties are and supporting their duties is definitely important. And if you look back on the history of LB62, you look at the transcript from the hearing, you look at the floor transcript, you know, there was some discussion but most of the discussion centered around the county, the county board, why they felt they needed clarification of the statutes. We have several statutes that deal with county boards' budgeting authority and county officials and their ability to manage their various offices. Section 23-908 definitely gives...and 23-1114 definitely give the county boards that authority to set those budgets and it's, again, very important that we do that. But I also felt that with the bill and in its amended form that it really did kind of tip that scale maybe a little bit more to the advantage of the county boards and basically left county officials with their only recourse, should there be a disagreement in the way the budget was set or in the way that they were spending the money that was budgeted for them. Really, it only gave them one recourse and that recourse was to sue the county, which, in my estimation, nobody wins. Taxpayers definitely don't win because if these cases are taken to court it takes tax dollars to defend the board's decision in court. So I'm sure most of you, if not everybody in here, have received the large amount of e-mails from our county officials, and after looking at what they were saying and looking further at what was going on with this bill and how we were moving forward, just felt that it was important that maybe we

Floor Debate  
March 04, 2011

---

discuss this bill further and discuss and bring the county officials into the dialogue and put their concerns forward. My amendment basically just creates...dictates a mediation process to be a part of this legislation, which would require that if there's a dispute between elected officials and county boards that they would go to a mediation process. And then if...the county official would not be able to move forward with their lawsuit unless the mediation said that they were at an impasse and couldn't find an agreement. I know the mediation process works very, very well. There's a lot of success stories to be told by the use of mediation. Again, I think the amendment is something that we should discuss since it probably wasn't fully discussed in this context, in particular, during the floor debate on LB62. You know, court challenges are very time-consuming, they're very costly, both to the individual and the taxpayers. They also create a great deal of ill will between these elected officials and these are people who were put into office by the same voters. They, I believe, have the same goals in mind. The elected officials are carrying out very specific duties. The county boards are carrying out more broad-based, again budget types of issues in tax collections and those types of things. So it's kind of difficult when you're dealing with subjects such as this and you have people who are on opposing sides of the issue. But you have a great deal of respect for the work that they do and feel that both sides have very valid points and valid issues. So that was, you know, the reason that I felt it was important that we return this bill from Final Reading to Select File so we can have these types of discussions. Again, I want to establish, I understand the board should have that authority to set their budget, but I also feel that our county officials deserve some ability to challenge a decision if they feel that it's directly impacting their ability to carry out those duties. And we do have statutes that very clearly define that, that say, you know, no decisions should be made that would hinder their ability to carry out their duties or, in essence, completely eliminate their office or their duties. I read through the transcript from the hearing. I've read through the transcript from the floor debate. Only one person did testify in opposition to this bill during the hearing and it was someone who had actually just won their court case when they challenged the courts. I know how much we as a body rely on those committee statements, especially if it's an issue or a bill that hasn't been before your particular committee, and when we pull those statements up we look at who came in and testified in support, we look at who came in and testified in opposition, and oftentimes it's those that testify in opposition that may generate questions or concerns from us. But since there was only one person who testified in opposition, it just really didn't raise a lot of concerns or a lot of red flags to committee members. The floor debate, the transcript again was very heavily weighted towards the county boards' position and why it's important that we really firm up the language that is in these statutes, because none of us want the courts to be making our decisions for us as far as how we set our budgets or what have you. So I do believe that LB62 does tip that balance in favor of the county boards. I think my amendment...by returning this bill from Final Reading to Select File and allowing us to have further discussion about that would help put a check and a balance in place between the county officials and the county boards. I'm a firm believer in the mediation process and the research that we've done

Floor Debate  
March 04, 2011

---

into this process shows that, similar to what we do on the floor here when we're working on compromises and trying to find that middle ground that we can all agree on, most people leave with a certain degree of satisfaction. While they haven't gotten everything they've wanted, they felt they've been heard, their thoughts have been taken into consideration and we've reached a decision that, in the end, most people feel comfortable with that they can live on. And I really do want to stress the point, too, of how much these court costs...how much these court challenges cost. There is a cost to mediation, yes, but it's a lot less than going through the court system. And so again, we're talking about taxpayer dollars. And especially in some of our more rural counties, our smaller counties, all counties, all of us at every level of government are being challenged right now as to how we spend our money and not having any room to be spending money on things that aren't directly going to serve our constituency. But if we can find ways to resolve disputes and concerns between these differing entities without having to spend as much money and time, the mediation costs would be shared equally between the county board and the official involved. Right now, if a county official wants to challenge a county board's decision, they can do that through civil courts, but it's money out of their own pocket. And so while a county board has the availability of legal services to be paid for through the taxpayer dollars, the county official does not. They will have to pay for that out of their own pockets. So in a sense, that makes them be much more cognizant of the decision that they're going to make as far as challenging any decision, but it also could prevent them from being able to bring a very legitimate concern forward, simply because they don't have the financial wherewithal to bring that challenge. You know, I again stand in support of the bill. I've talked with Senator Heidemann about my concerns and why I've decided to move forward with this. It's not that I disagree with the bill. We need to be very clear in our statutes about who has the authority to do what, and especially when it comes to setting budgets. [LB62]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute, Senator. [LB62]

SENATOR DUBAS: Thank you very much. I just think it's very important that we have a complete debate and bring the county officials' concerns into this discussion, because I don't think that we did do that during the first two levels of debate on this. And I guess I'll also take this as an opportunity to stress to those who are listening to us and who are concerned about different issues, your viewpoints are important and if we don't hear from you, if something doesn't get on our radar, if we don't hear what your questions or concerns are, things can get overlooked or the right questions may not be asked. So I think it's very important. Appreciate the e-mails that were sent out. My mailbox was full, as I'm sure the rest of yours were. So I would appreciate the body's serious consideration to return this to Select File so that we can have a further discussion about this issue. [LB62]

Floor Debate  
March 04, 2011

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SENATOR GLOOR: Thank you, Senator Dubas. Senators wishing to speak are Heidemann, Sullivan, Wallman. Senator Heidemann, you are recognized. [LB62]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I stand in opposition to the return to Select File motion from Senator Dubas. I have listened to Senator Dubas. I have listened to her concerns. I ask though now, why are we doing this now? This bill was introduced January 6. I do believe that this was the first day of bill introduction. I think there was ample time then for them to start to show their concern. The bill had a public hearing on January 20, which was fairly early in the committee bill hearing process, and at that time it only had one county elected official that did testify, as Senator Dubas has said. After the public hearing, we worked with the Government Committee on their amendment and what we could do to better make this a better bill. And we did agree on this amendment in the end and I want to remind everybody that this bill came out of committee 8 to 0. We had a very good General and Select File debate. During these two rounds of debate, I want to point out that I worked with Senator Lathrop to alleviate all the concerns that we heard at that time. And I appreciate all the work that Senator Lathrop put into this bill and I will admit to everybody on the floor that he helped make the bill better. During these two rounds of General File and Select File debate, I heard very little from any county elected official. I want to point out also that we just passed LB383 and during part of the debate on LB383, if I remember right, I stood up on the floor and said that part of my intent was to support LB383 but to do everything I possibly could to help the counties, cities, and the NRDs to make their process easier and to not put any more burdens on them. I've heard from my county officials that they didn't like LB383 but they do like LB62. If they have to deal with what we have given them, less money to deal with, they need every tool in the toolbox that they possibly can, and LB62 would be that tool in the toolbox. I would say that we've went through the process. And I understand what Senator Dubas' amendment would do. I would urge her then to go through the process and at that time the county elected officials could hopefully take part, and that is to introduce this part in a bill next year that could be introduced, go through the committee process, and then go through General File and Select File and Final Reading debate. I also want to point out that I was informed that the county officials should have been well-aware a long time ago what LB62 was about. This legislation, I was told, was discussed in six of the seven weekly newsletters from NACO. And speaking of NACO, I got an e-mail from them today, states that NACO's official position has been to support LB62 and is still in support of LB62; we have supported LB62 from the beginning and support it as the bill reads for Final Reading. [LB62 LB383]

SENATOR GLOOR: One minute. [LB62]

SENATOR HEIDEMANN: With that, I think we've had the debate. We've worked the process as the process was intended to work. With that, I would urge your vote, no, on the return to Select File. Thank you. [LB62]

Floor Debate  
March 04, 2011

---

SENATOR GLOOR: Thank you, Senator Heidemann. Senator Sullivan, you are recognized. [LB62]

SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. I rise in support of Senator Dubas' amendment, but before I talk specifically about that I would also like to preface my remarks by saying I am not trying to stop this legislation, LB62. I'm not attempting to derail it. Obviously, I was, as Senator Heidemann mentioned, I am on the Government Committee. I was one of the affirmative votes to bring it out. Should I have asked more questions in committee? Yes. Should I have asked more questions on the floor? Yes. I'm asking them now and will continue to ask them before we finish this process. And I also am responding to constituents because I also think that is my responsibility. County officials, did they come late to this process? Yes. Can I explain why? No. But I have received within just the last few days numerous phone calls and e-mails from county officials that have given me pause to at least delve more carefully into LB62 and ask some necessary questions. So as I said, I'm not trying to stop this bill and I'm not trying to use up the precious time that we have here on the legislative floor this session. But I do need and feel compelled to establish what the real legislative intent is. And so to begin this process, I have several questions, and for starters I wonder if Senator Heidemann would yield for some. [LB62]

SENATOR GLOOR: Senator Heidemann, would you yield? [LB62]

SENATOR SULLIVAN: Thank you, Senator. Did he yield? Okay, thank you. First of all, Senator Heidemann, who asked you to introduce LB62? [LB62]

SENATOR HEIDEMANN: A county board member from Johnson County and a county board member from Otoe County. [LB62]

SENATOR SULLIVAN: And what prompted the need for the statute to be changed? [LB62]

SENATOR HEIDEMANN: Actually, we're really not changing the statute. We're almost reaffirming it more than anything else. As you probably are aware, there was case law that kind of overturned what the statute had said. We're reaffirming the statute more than anything else. There's probably been some instances across the state of Nebraska where some county boards have had trouble dealing with it. I don't think it's widespread, by any means, but we just...more than anything else what prompted us is we wanted to reaffirm what was already in statute. [LB62]

SENATOR SULLIVAN: Do you know that over the last 50 years how many times an elected county official has taken a county board to court over a budget dispute? [LB62]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SENATOR HEIDEMANN: No, I don't. I would have to think it would be very few. I think there's a track record across the state of Nebraska that the county boards accommodate the elected county officials as much. There's probably a working record there that they do get along. [LB62]

SENATOR SULLIVAN: Well, and I think there have been probably about four or five different court cases and do you know why, as a result of those court decisions, the Legislature didn't see fit to change the statutes after those court decisions? [LB62]

SENATOR HEIDEMANN: I think it was probably the last court case that set case law that put the burden back on to the county officials. This just reestablishes the burden is on the county officials and not the county board. If I misspoke, I'm sorry for that before. [LB62]

SENATOR SULLIVAN: So carrying off of that comment, exactly how does LB62 change the procedures for county officials who want to challenge the county board on their budget? [LB62]

SENATOR HEIDEMANN: It doesn't change it much. It maybe sets a little bit higher standard but it doesn't change it very much according to the statutes. It just kind of reaffirms what we've done and gets away from the case law. [LB62]

SENATOR SULLIVAN: Well, who pays the attorney's fees for the county board in a budget challenge? [LB62]

SENATOR HEIDEMANN: I would suppose the county does. [LB62]

SENATOR SULLIVAN: And who pays the county...who pays the attorney fees for the county official in a budget challenge? [LB62]

SENATOR GLOOR: One minute. [LB62]

SENATOR HEIDEMANN: I would have to think that burden would be on them. I'm not for sure, though. [LB62]

SENATOR SULLIVAN: Okay. So right now, just so I'm straight with this, when a county official challenges a county board in court over the budget of their office, the county official pays the attorney and court costs out of their own pocket, but the county board's attorney and court costs are paid by taxpayers. [LB62]

SENATOR HEIDEMANN: Well, theoretically, the county elected officials will probably be paying out of their budget, which is actually tax money also, I would have to think. [LB62]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SENATOR SULLIVAN: Are you sure about that, Senator? I'm not quite... [LB62]

SENATOR HEIDEMANN: I am not. I'm just trying to grasp what you're asking me here. [LB62]

SENATOR SULLIVAN: Well, the main thing is who pays. In the event of a court challenge, county boards are able to use taxpayer dollars to pay the legal fees but a county official... [LB62]

SENATOR GLOOR: Time, Senator. [LB62]

SENATOR SULLIVAN: Thank you. [LB62]

SENATOR GLOOR: Thank you, Senators Sullivan and Heidemann. (Visitors introduced.) As a procedural reminder, members, we are under Final Reading. That allows you to roam the legislative environs, roughly defined as the Chamber, the lounges, and the houses of comfort. Thank you. Senators wishing to be recognized are Wallman, Campbell, Dubas, Avery, Krist, and Sullivan. Senator Wallman, you are recognized. [LB62]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I appreciate Senator Sullivan and Senator Dubas' statements. I came from a county board meeting last night where it was packed and about budget issues, about roads, about gravel, about bridges, about culverts. And some of the workers...we have townships so some of these townships are running out of money because of LB383. As you realize, I voted no, because they're running that close to the edge. They've saved money all these years, kept their tax rates low, as low as they could possibly do, and then we took a little away, little bit of money they had coming away. That was just enough to throw them over the edge. Diesel fuel is up, tires are up, everything costs a lot more money. And the county board members, most of them in this state, a lot of them anyway, have health insurance, they have benefits. They get paid a lot more than we do, and I have no trouble with that, but then we're giving the boards more power to negotiate. We have a very...one of our counties where I'm at, we had a lot of problems the last couple...last year anyway, so I sat with the county attorney last night and we talked about these issues. And is it giving too much? I think this mediation thing of Senator Dubas' is very good. They still have...they still have the hammer. They set the budget and they set the tax levy. All these things are done by the board, so it's a management position. And the reason we probably didn't have any more testimony in the hearing, most of these county officials were working and so they don't have an organization as such, I don't think; maybe they do. But so I think this is a good amendment and it's a good bill, too, probably; with this amendment would make it a lot better. Thank you, Mr. President. [LB62 LB383]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

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SENATOR GLOOR: Thank you, Senator Wallman. Senator Campbell, you are recognized. [LB62]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. I rise to oppose the return of LB62 and want to underline once again, and I know Senator Heidemann mentioned this, but NACO's position on this has not changed since the beginning. Having sat...and all of you are well-aware of my background. For the new people, I served on the Lancaster County Board for 16 years, and in those 16 years we had some very difficult budget years. And in all instances we worked with the elected officials and, to their credit, they also worked with the county board. Never once did we get to a situation in a budget in which we didn't work it out and I still believe that in the vast majority of county businesses across the state that would be the effort. To Senator Sullivan's question about payment of the county board, I'm not an attorney, Senator Sullivan, but I would guess it has to do with the fact that the county board's responsibility is to set the budget, much like the Legislature's responsibility is. And so the county board there stands in for all the citizens of the county to set that budget. Not in all circumstances in county government is the county board able to have the taxpayer pay should they be taken to court or they go to court. And I'd have to do some research for you but I remember there were times in which the county attorney would say, folks, if you do this you're going to have to pay for this court out of your own pocket, so not in every case. In this case, yes, and I think it has to do with the county board's responsibility to put forth a budget on behalf of the citizens, and I'm assuming that's why the county attorney would step in there, but they don't always step in, in every situation. I believe that what we are trying to do in LB62 speaks for what is happening to counties now and what will be in the future, and that is to strengthen and ensure that it's very clear who the responsibility is, and I do not feel that there is enough contention across the state to warrant returning this bill. Thank you, Mr. President. [LB62]

SENATOR GLOOR: Thank you, Senator Campbell. Senator Dubas, you are recognized. [LB62]

SENATOR DUBAS: Thank you, Mr. President. Again, thank you, colleagues, for your attention. I'd like to pick up kind of where Senator Campbell left off. If a county official wants to challenge a county board's decision in the courts,... [LB62]

SENATOR GLOOR: (Gavel) [LB62]

SENATOR DUBAS: ...that money will come out of that county official's pocket. The board, as Senator Campbell aptly stated, you know, the board is representing the county. They have taxpayer dollars available. The county official is challenging that decision for his or her particular office and so that money would come out of their pocket. And in one of the court cases that has been referenced throughout this debate,

Floor Debate  
March 04, 2011

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over \$10,000 was spent by the individual or \$100,000 was spent by the county. So again, I think that supports my amendment in the fact that if we could put a mediation process in place, those dollars would have been substantially less and especially those dollars that come out of the taxpayer's pocket. It's a good thing. As Senator Heidemann said, we're taking money away from the counties so we need to figure out ways to help them not have to spend money that they don't need to be spending. I'd also like to point out in the committee hearing transcript, on page 52 of that transcript, it's on the record that the vote on the NACO board came out 10 to 7... [LB62]

SENATOR GLOOR: (Gavel) [LB62]

SENATOR DUBAS: ...in support of supporting LB62. So it wasn't a unanimous vote on that board. You can probably imagine how that vote is split. We had the county boards on one side; we had the county officials on the other side. That doesn't take rocket science to figure that out. But again, we rely on these associations to provide information for us and NACO does a great job of giving us the information that they need when we're dealing with decisions that impact county issues. But when you have an organization that represents the variety of people such as NACO, and if they are in complete agreement within their own board and how they come forward, it kind of puts everybody in a little bit of an awkward position where they feel like, well, I thought you were representing me, and the other side is saying, well, I thought you were representing me. And, you know, it came down to the vote and the vote did come out in favor of supporting LB62, but it wasn't a unanimous vote by any stretch of the imagination. I can't dispute the points that Senator Heidemann has raised. We had the hearing. We've had the levels of debate. We've had opportunities to bring this...to talk about this and bring these topics out, and for whatever reason we haven't. Again, that's why it's so important for citizens to engage and pay attention to what's going on, and if they've got some questions or need further clarification or want to bring some points forward, it's very important that they do that. But even if they don't get engaged until, you know, this late in the process, that doesn't mean that we as senators, if we have those concerns, shouldn't use the procedures and the rules that we have in place to help interject these questions and concerns and maybe try to rectify them if we feel there is that possibility. And I think that's what I decided to do when I sought to return this from Final Reading to Select File. I felt like these points, for a variety of reasons, just didn't get brought into the debate, just didn't get registered. We didn't get...we didn't, again, for whatever reason, didn't get to ask these questions; didn't even know what questions to ask perhaps. Again, I want to be very clear, I don't want to do anything that undermines a county board's budget setting authority. It's very important. But a county official also needs to feel like they have the ability to carry out the duties that they were elected to. And I don't think that these court challenges have been a regular occurrence but they have happened, and the most recent one came down... [LB62]

SENATOR GLOOR: One minute. [LB62]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SENATOR DUBAS: ...in favor of the county official and that's why there was the feeling that we needed to clarify what the statutes really say as far as being able...who sets the budgets and how things work and that the burden of proof needs to be on the official who's challenging such a decision. I think there was agreement. As I read through the transcript, you know, one of the county...a county board member did say, you know, I don't have the right to tell my county sheriff how he or she manages their agency; I do have the right to tell them these are the dollars that you get and you need to make it work within those parameters. But so I think at times we may be talking about two separate issues here--who sets the budget, and then, once the budget is set, who has the authority to determine how that money is spent within the various agencies. So I appreciate my colleagues' attention to this, the comments that have been raised so far, and look forward to the remaining dialogue. Thank you. [LB62]

SENATOR GLOOR: Thank you, Senator Dubas. Senators in the speaking queue: Avery, Sullivan, and Council. Senator Avery, you're recognized. [LB62]

SENATOR AVERY: Thank you, Mr. President. I want to remind the body that this bill has gone through the appropriate process. It's been fully vetted. It was fully debated in the public hearing; it was fully debated in Exec Session; and the committee, after amending the bill, voted it out 8 to 0. The bill was then further discussed on General File and was amended again and we made sure that in the process of developing this bill that we worked closely with Senator Heidemann and with NACO, and the product that you have in the...on Final Reading right now had the support of both Senator Heidemann and of NACO. I think it's important to point out that NACO is the organization that represents county officials and they are fully aware of what was going on in the various stages of the process of developing this bill. There's one thing that I want you to consider if we return this to Select File for the specific amendment, AM611, that causes for the creation of a mediation process. That will not be free. The version that we have on Final Reading right now does not have a fiscal note of any...as I recall it's a zero fiscal note. If we do return this to Select File and decide to pass AM611, there's almost certainly going to be a fiscal impact. It may be unknown at this point, but it will not be zero. So I want you to keep this in mind. In particular, I want you to know that we did not pass this bill out of committee without careful consideration. And it was given full debate on General File and on Select File. So I am going to oppose this motion to return to Select File for a specific amendment and I hope that you will too. Thank you. [LB62]

SENATOR GLOOR: Thank you, Senator Avery. Chair recognizes Senator Sullivan. [LB62]

SENATOR SULLIVAN: Thank you, Mr. President. And I would like to continue my dissection, if you will, of some of the details of LB62 to clearly establish what the

Floor Debate  
March 04, 2011

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legislative intent is. But prior to that, I might just mention that Senator Campbell said that, you know, there often and usually are good relationships between the county officials and the county boards. But unfortunately, we also know that that isn't the case. And in some of the e-mails that I've received, there's a concern among county officials that they will be lorded over and, in fact, in some cases, the word was used by one county official, punished, if you will, by forcing them into going to court if they don't agree with what the county board's decision is. So I, as I said, I'd like to continue my line of questioning and wondered, since the final bill that we're looking at is a result of Senator Lathrop's amendment, I wondered if he would yield for a question or two. [LB62]

SENATOR GLOOR: Senator Lathrop, will you yield? [LB62]

SENATOR LATHROP: Yes, I'd be happy to. [LB62]

SENATOR SULLIVAN: Thank you, Senator Lathrop. You're the attorney, I'm not, so I want to ask you about the terms "clear and convincing evidence," which is, in my understanding, a higher standard than the "preponderance of evidence," which is the typical standard in civil cases. So why did we go the route of using clear and convincing evidence? [LB62]

SENATOR LATHROP: We did that for a good reason. If it were simply a preponderance of evidence, then the court would be essentially reviewing the decision and trying to pick a side. And by making it a preponderance of the evidence, essentially what happens in a court proceeding is there is a presumption, if you will, of correctness in the action of the county board and that is a presumption that has to be overcome by the assessor or the official who wants to overturn the decision. And presumption may not be the right word, but they carry the burden of proof and their burden of proof isn't to show by the greater weight of the evidence or just a little bit more evidence than the other side has but by clear and convincing. And if we talk about the burden of proof, as we frequently do on the floor, we have a preponderance of the evidence, which is more likely than not; then we have a clear and convincing; and then we have beyond a reasonable doubt, which is what we use in criminal proceedings. [LB62]

SENATOR SULLIVAN: Okay. Thank you, Senator. Continuing with some questions for you: On line (sic) (2) of the final bill, where it says, "A county board shall not eliminate an office or unduly hinder a county officer in the conduct of his or her statutory duties," what exactly does that mean? [LB62]

SENATOR LATHROP: That is language borrowed straight from Supreme Court opinions. So when we looked at this subject matter and the case from Nance County, the Supreme Court has said on a number of occasions that the county board cannot refuse to fund one of the officers' offices to the point where they unduly hinder nor

Floor Debate  
March 04, 2011

---

eliminate that office, effectively, by not funding it. So that's the standard. If you're going to court, the question is going to be, if I don't like the appropriation from the county board then my burden would be to show, by clear and convincing evidence, that the actions in failing to give me all the money that I wanted from the county board effectively eliminates the office or unduly hinders the officer in the conduct of his or her statutory duties. [LB62]

SENATOR GLOOR: One minute. [LB62]

SENATOR SULLIVAN: In effect, is that not saying, I mean, can the county board tell a county officer how to spend the funds that are budgeted for their office? [LB62]

SENATOR LATHROP: Not how to. This...that...and I think that's what was going on in the Nance County case, and if we don't do anything, we ought to move away from that, which is the county board shouldn't be telling the officer, you hire one full-timer or two part-timers, which was what was going on in that case. The only question should be, they shouldn't be down in that detail. The only question should be, when you get to the district court, did they give me so little money that they're unduly hindering my ability to carry out my statutory duties? [LB62]

SENATOR SULLIVAN: So can a county board tell a county official what kind of vehicle to buy, what kind of supplies to have in their office? [LB62]

SENATOR LATHROP: No. I don't believe that they can. Now they can...they can maybe do that indirectly with the way they budget. If I...if I'm the assessor... [LB62]

SENATOR GLOOR: Time, Senators. [LB62]

SENATOR SULLIVAN: Thank you. [LB62]

SENATOR GLOOR: Time. (Visitors introduced.) The Chair recognizes Senator Council. [LB62]

SENATOR COUNCIL: Yes, thank you, Mr. President, and I do preface my statements. With all due respect to Senator Heidemann as the introducer of LB62, I rise in support of Senator Dubas' motion to return to Select File. And I do so based not on the substance of AM611 but on our processes and our procedures. And I think this body, by virtue of our rules, has provided an avenue. If a majority of the body believes that an amendment is worthy of further consideration after a bill has been advanced to Final Reading, that this is an appropriate procedure. It is no denigration of our rules. And quite frankly, Senator Dubas, I, too, have received a number of phone calls regarding LB62, principally from countywide elected officials in Douglas County. I have not had an opportunity to speak directly with the county board, but I do understand that the Douglas

Floor Debate  
March 04, 2011

---

County Board did indicate support for LB62, but I think what is presented in your amendment, and I understand the debate that may have occurred during the hearing on LB62, but I don't know, and if you would yield to a question, Senator Dubas, if the suggestion advanced in AM611 was introduced or discussed during the committee hearing. If she would yield to a question, that question. [LB62]

SENATOR GLOOR: Would you yield to a question, Senator Dubas? [LB62]

SENATOR DUBAS: Yes, I will. Thank you very much, Senator Council. No, this amendment was not ever raised at any time during the committee hearing or during our floor debate. [LB62]

SENATOR COUNCIL: Okay. And I thank you, Senator Dubas. And I think that that's what presents an opportunity for us here by voting in favor of Senator Dubas' motion, is it does provide an opportunity for a full and fair debate by this body on whether the process that's set forth in AM611 is a process that is worthy of some consideration and advancement. Because I know one of the issues is cost and I believe it was Senator Avery who talked about there being no fiscal note associated with LB62. Well, I would submit that there shouldn't be a fiscal note attached to AM611 because it does not change the cost to a county if there is a challenge. It just changes who that cost is paid to, whether it's paid to the mediator, and under AM611 it provides that those mediation costs are to be divided between the county officer and the county board, or whether the county's costs are limited strictly to whatever the cost it is of defending their specific position. But if their position is challenged by one of those countywide elected officials, there's going to be costs to the county board in defending that action. [LB62]

SENATOR GLOOR: One minute. [LB62]

SENATOR COUNCIL: And generally speaking, the costs of mediation in terms of legal representation may not be any less than preparing for a trial, but at least it does provide a more open opportunity to get the respective parties together in a less than adversarial situation. When you're forced to resolve this in court, you're in an adversarial relationship. You're pitting the county board against the countywide elected official. And what I've heard from our countywide elected officials is that they are accountable to all of the voters in the county because they're elected on a countywide basis and that, at least in this situation, we need to have some opportunity to determine whether this is more viable... [LB62]

SENATOR GLOOR: Time, Senator Council. [LB62]

SENATOR COUNCIL: ...and more likely to lead to resolution. Thank you. [LB62]

SENATOR GLOOR: Thank you, Senator Council. Senator Dubas, you are recognized.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

[LB62]

SENATOR DUBAS: Thank you very much, Mr. President. I'd just like to make a couple quick comments. In regards to Senator Avery's comment about the costs, there wouldn't be any costs to the state. There's not any cost to the state with LB62. There wouldn't be any cost with this amendment because the amendment specifically says the cost of mediation shall be shared by the county board and the county officer. In fact, this amendment has the potential to save counties money because mediation is a less-costly method to use versus going to court. We have three levels of debate for a reason. We also don't have another house except for the citizens of this state. The citizens of this state came into this. They came into it late, I'll agree, but we have three levels of debate for this very reason. We have procedures and processes in place for us to use at every level of debate. That's what I'm using now. I'm leaving it up to you to decide whether my motion to return from Final to Select has merit, and appreciate your consideration. And I would yield the remainder of my time to Senator Sullivan, should she want it. [LB62]

SENATOR GLOOR: Senator Sullivan, you have 3 minutes 50 seconds. [LB62]

SENATOR SULLIVAN: Thank you very much, Mr. President, and thank you, Senator Dubas. Again, I'm going to seek clarification of just how much authority the county board has. So again, I would like to see if Senator Lathrop would yield for some more questions. [LB62]

SENATOR GLOOR: Senator Lathrop, would you yield? [LB62]

SENATOR LATHROP: Yes. [LB62]

SENATOR SULLIVAN: Okay, Senator Lathrop, I understand that the county board has the authority to appropriate funds. Beyond that, does LB62 give the county board the statutory authority to dictate how an elected county officer runs their office? Can they... [LB62]

SENATOR LATHROP: No. [LB62]

SENATOR SULLIVAN: ...who they hire, what supplies they purchase, what vehicles they drive, whether their employees are full- or part-time? [LB62]

SENATOR LATHROP: No, they can't directly, Senator Sullivan, but I think in some sense they can indirectly, and let me give you a quick example, if I might, to clarify, if that's all right. [LB62]

SENATOR SULLIVAN: Yes. [LB62]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SENATOR LATHROP: If you are...and I'll take the county assessor, and your budget includes a brand new car, so you can go around and look at people's property, and the county board looks at it and they said, we don't have the money this year for you to get a brand new car so we're not going to appropriate enough money to the assessor that includes in the proposed budget enough money to get a car. Well, that...somebody has to be the ultimate authority. Since they're the people that tax, they're the people that ought to have the ultimate authority. Do they indirectly tell you, you can't have a car? Yes, they don't give you enough money for it. But can they tell you, you need to shop here for your office supplies and not there? No, that's not part of this. [LB62]

SENATOR SULLIVAN: What about setting salaries? Does this, LB62, give the county board the authority to arbitrarily set or reduce the salaries for employees... [LB62]

SENATOR LATHROP: No. [LB62]

SENATOR SULLIVAN: ...in the county official's office? [LB62]

SENATOR LATHROP: No, I don't believe so, but they can tell them, this is all the money you have to work with, and that may affect how much you can pay your help. [LB62]

SENATOR SULLIVAN: Okay. With respect to the details of the bill, on line...or page 2, lines 7 and 8, why have we removed the reference to paying the costs of county officers', clerks', and assistants' salaries from the county general fund? [LB62]

SENATOR LATHROP: I'm reading it. I apologize. [LB62]

SENATOR SULLIVAN: What we've taken... [LB62]

SENATOR LATHROP: I think that was just an accommodation to the other language, but as I'm...I need a little more time and I don't want to burn your five minutes while I'm trying to sort that out. [LB62]

SENATOR SULLIVAN: Okay. All right. Well, continuing on that then, what...let's see, in the bill it says... [LB62]

SENATOR GLOOR: One minute. [LB62]

SENATOR SULLIVAN: Thank you, Senator. Says we've stricken "with the approval of the county board, whose salaries shall be paid out of the general fund of the county." Why have we taken that out? [LB62]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

SENATOR LATHROP: I think that's the same question. [LB62]

SENATOR SULLIVAN: Who are going to...where will the salaries be funded from, I guess is the question. [LB62]

SENATOR LATHROP: Well, I think it's always got to come from the general fund of a county. [LB62]

SENATOR SULLIVAN: Okay. Probably. But that's my...well, and we can maybe revisit that. [LB62]

SENATOR LATHROP: I don't know, yeah, I don't know if that came from my amendment or from what the committee did to this bill before I got involved. [LB62]

SENATOR SULLIVAN: Okay. And I may have to go back to Senator Heidemann and if he would...how much time do I have, Speaker? [LB62]

SENATOR GLOOR: Senator Sullivan, you have 10 seconds but you're the next speaker in the queue. [LB62]

SENATOR SULLIVAN: Okay. Thank you very much. So I wonder right now...oh, am I...and I'm on my time. [LB62]

SENATOR GLOOR: You are now on your new time and this is your third time, Senator. [LB62]

SENATOR SULLIVAN: Thank you very much. Would Senator Heidemann yield for a question? [LB62]

SENATOR GLOOR: Senator Heidemann, would you yield for a question? [LB62]

SENATOR HEIDEMANN: Yes. [LB62]

SENATOR SULLIVAN: Thank you, Senator. Earlier you stated that perhaps the best approach is to revisit this in another session, take a look at it. Does that mean that maybe perhaps right now you might be amenable to an amendment that says the county officers in all counties shall have the necessary clerks and assistants for such periods and at such salaries as the county officers may determine within their approved budget limitations? [LB62]

SENATOR HEIDEMANN: As long as it's approved then by the county board. [LB62]

SENATOR SULLIVAN: Okay. (Laugh) Do you feel, in your estimation...what do you

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

think right now LB62 does precisely? [LB62]

SENATOR HEIDEMANN: The elected county officials can come with what they think that they need to do business and bring it to the county board, just like...just like...just like it always has been in statute, and that's why it's a little bit frustrating to me that we have everybody a little bit up in arms here. We're not trying to change anything. [LB62]

SENATOR SULLIVAN: I would beg to differ with you on that, Senator Heidemann. You are trying to change it because we have now raised the level to clear and convincing evidence. [LB62]

SENATOR HEIDEMANN: We've made it more clear, easier to understand. [LB62]

SENATOR SULLIVAN: Thank you, Senator. Would Senator Lathrop yield? [LB62]

SENATOR GLOOR: Senator Lathrop, would you yield? [LB62]

SENATOR LATHROP: Yes. [LB62]

SENATOR SULLIVAN: Senator, have you...can you shed any more light on the question that I asked before? [LB62]

SENATOR LATHROP: No. I sat down and I was engaged in watching you and Senator Heidemann, so I apologize. I think I'd have to sit down and look at the history as this bill came to committee and out of committee to find out who was responsible for striking that language. [LB62]

SENATOR SULLIVAN: All right. Thank you very much. [LB62]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Harms, you are recognized. [LB62]

SENATOR HARMS: Thank you, Mr. President, colleagues. This is a great discussion and a great reason why county form...management in county government needs to change. The argument we're having today is simply around that no one is in charge. You argue that on one side county officials should have this opportunity; on the other side you have the commissioners. There is not one individual that you can go to, to resolve any issue. That's why I introduced legislation this year to put in a management form of county government that would really address this issue in regard to the debates we're having today. It's sad that we have to have this discussion on this floor after the bill has already been in Final Reading. We would not have this issue if we changed our county government, we changed our structure and how it's dealt with. That's the problem. And management form of county government is a national trend that is moving

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

in that direction and there will be more and more counties in other states that will address this issue. Think for a moment, you have no one that you can go to that can resolve the issue. You have no executive who's responsible in county government. And I would urge you to give that great thought because this really sets the stages beautifully for the legislation that I've introduced. We wouldn't have this issue. Thank you, Mr. President. [LB62]

SENATOR GLOOR: Thank you, Senator Harms. Chair recognizes the Speaker. [LB62]

SPEAKER FLOOD: Thank you, Mr. President. Good morning...afternoon, members. I recognize we've had an extended discussion on LB62. Given the fact there's another amendment behind this, at this time I'm going to pass over LB62 and we're going to take up LB81 as it relates to the wheel tax issue that's been of interest to Omaha. My priority reason for doing this is that, given the time deadlines in the process and the fact that the Legislature has chosen a little different course, citizens of that community and the surrounding area need direction from the Legislature and it is time sensitive. And for that reason, we will now pass over LB62 and the Legislature will take up LB81 on a motion to return it to Select for a specific amendment, and then we will adjourn. Thank you, Mr. President. [LB62 LB81]

SENATOR GLOOR: Thank you, Mr. Speaker. Mr. Clerk. [LB81]

CLERK: Mr. President, with respect to LB81, Senator Cornett would move to return the bill for a specific amendment, AM620. (Legislative Journal page 706.) [LB81]

SENATOR GLOOR: Senator Cornett, you are recognized. [LB81]

SENATOR CORNETT: Thank you very much. When we were voting on Select File, the city of Omaha requested an amendment clarifying some of the language. Senator Mello and I discussed that on the record. I knew this amendment was coming; we did not have time to draft it that day. So I'd request the body support the motion to move the amendment back to Select File for this specific technical amendment. [LB81]

SENATOR GLOOR: Seeing no one wishing to speak, Senator Cornett, you're recognized to close. Senator Cornett waives. The question, members, is, shall LB81 be moved to Select File? All in favor vote aye; all opposed vote nay. Mr. Clerk. [LB81]

CLERK: 40 ayes, 0 nays to return the bill, Mr. President. [LB81]

SENATOR GLOOR: LB81 is returned to Select File. Senator Cornett. [LB81]

SENATOR CORNETT: Yes, in the Final Reading copy of LB81, AM620 simply adds the words, "or stored," after the words, "used," on page 3, line 19, and on page 5, line 6. So

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

amended, the first sentence of section 14-109(2)(b) will provide in pertinent part that: No motor vehicle fee shall be required under this subsection if a vehicle is used or stored but temporarily in such city for a period of 6 months or less in a 12-month period. Additionally, the first sentence of section 18-1214(2) will provide in pertinent part that: "No motor vehicle fee shall be required under this section if (a) a vehicle is used or stored but temporarily in such city or village for a period of 6 months or less in a 12-month period." It's defining the "use" versus "stored" issue. I would urge the body's support. Thank you. [LB81]

SENATOR GLOOR: Thank you, Senator Cornett. Seeing no members wishing to speak, Senator Cornett, you're recognized to close. Senator Cornett waives. The question is, shall the amendment to LB81 be adopted? All those in favor vote aye; all opposed vote nay. Have you all voted? Mr. Clerk. [LB81]

CLERK: 42 ayes, 0 nays on the adoption of the Select File amendment, Mr. President. [LB81]

SENATOR GLOOR: The amendment is adopted. Senator Larson. [LB81]

SENATOR LARSON: Mr. President, I move that LB81 be advanced to E&R for engrossing. [LB81]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Items for the record. [LB81]

CLERK: Mr. President, your Committee on Retirement Systems, chaired by Senator Nordquist, reports LB509 to General File with amendments. Natural Resources, chaired by Senator Langemeier, reports LB458 to General File, LB697 to General File with amendments, and LB369 and LB580 indefinitely postponed. Revenue Committee, chaired by Senator Cornett, reports LB297, LB423, LB430, and LB528 to General File, and LB360 to General File with amendments. I have new resolutions: Senator Burke Harr, LR98 and LR99; Senator Nordquist, LR100. Those will all be laid over. Senator Pahls, as Chair of Banking, selected LB70 as one of the Banking Committee priorities. Bills read on Final Reading this morning were presented to the Governor at 11:13 (re LB12, LB24, LB25, LB26, LB43, LB77, LB78, LB94, LB98, LB108, LB146, LB178, LB178A, LB215, LB264, LB303, LB311, LB326, LB331, LB332, LB334, LB347, LB396, LB410, LB410A, LB462, LB383, LB36, LB61, LB114, LB160, LB179, LB197, LB225, LB243, LB274, LB308, LB335, and LB401). Name adds: Senators Price, Krist, and Coash would like to add their name to LR40CA. (Also, Senator Sullivan would like to print an amendment to LB62, Legislative Journal pages 743-751.) [LB509 LB458 LB697 LB369 LB580 LB297 LB423 LB430 LB528 LB360 LR98 LR99 LR100 LB70 LB12 LB24 LB25 LB26 LB43 LB77 LB78 LB94 LB98 LB108 LB146 LB178 LB178A LB215 LB264 LB303 LB311 LB326 LB331 LB332 LB334 LB347 LB396 LB410 LB410A LB462 LB383

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 04, 2011

---

LB36 LB61 LB114 LB160 LB179 LB197 LB225 LB243 LB274 LB308 LB335 LB401  
LR40CA LB62]

And a priority motion, Mr. President: Senator McGill would move to adjourn the body until Monday, March 7, at 10:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until Monday morning at 10:00 a.m. All in favor say aye. All opposed say nay. We are adjourned.  
(Gavel)