

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

Floor Debate
February 26, 2019

[]

SCHEER: Morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-first day of the One Hundred Sixth Legislature, First Session. Our chaplain for today is Sen-- or Pastor Paul Moessner from Immanuel Lutheran Church in Bellevue, Senator Crawford's district. Would you please rise.

PASTOR MOESSNER: (Prayer offered.)

SCHEER: Thank you, Pastor Moessner. I call to order the thirty-first day, One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Please record, Mr. Clerk.

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

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

ASSISTANT CLERK: No corrections.

SCHEER: Thank you. And are there any messages, reports, or announcements?

ASSISTANT CLERK: I do, Mr. President. The Attorney General, an Opinion-- has an Opinion addressed to Senator Kate Bolz (re LB420). Notice of committee hearing for the Agriculture Committee. The Committee of Judiciary reports LB300, LB93, LB206, LB230, LB322, LB390, and LB579 to General File, some with committee amendments. Your Committee on Enrollment and Review reports LB224 and LB16 to Select File. That's all I have at this time, Mr. President.

SCHEER: Thank you, Mr. Clerk. We'll proceed on to the first item on the agenda.

ASSISTANT CLERK: Mr. President, LB399, introduced by Senator Slama. (Read title.) Bill was read for the first time on January 17 of this year. It was referred to the Education Committee. That committee reported the bill to General File with committee amendments. We have an

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

Floor Debate
February 26, 2019

amendment adopted by Senator Chambers; an amendment adopted by Senator Bolz; an amendment pending from Senator Moser; and a bracket motion pending from Senator Chambers.

SCHEER: Thank you, Mr. Clerk. Senator Slama, would you like to reintroduce us to LB399, please?

SLAMA: Yes. Thank you, Mr. President, and good morning, colleagues. LB399 serves as the first major revision to Nebraska's civic education standard since 1949. Our students face an almost constant workload of standardized testing in English, reading, math, and science. Thanks to the competitive nature of these tests, these subjects can take the limelight from other areas of instruction, such as civics. When a student walks across the stage at their high school graduation, we can rest assured that their skills in other core subjects have been sufficiently tested and analyzed. Once the pomp and circumstance fades, however, these newly minted adults will hopefully find themselves in a voting booth. I can attest, as the only member of the body to have graduated from high school in the last five years, that there's many things I simply don't remember from high school. I can no longer recite how to diagram a sentence, explain the Pythagorean theorem, or show that I've memorized the periodic table. However, I've used my civics education in every day of my life after high school, from reading the newspaper to voting. LB399 lays the groundwork to ensure that students have at least been given a very basic introduction to their government. Our nation's history and government structure is simply too important to take a backseat to other core subjects. This bill, with the committee amendment, which I support, sets a very achievable bar for school districts, which can select between one of three options provided for their students to complete by the end of 12th grade. LB399 also revises some outdated wording. The Americanism Committee, tasked with reviewing each school district's social studies curriculum, will be renamed the Committee on American Civics. The Committee on American Civics will also host two public meetings per year with at least one of those meetings open to public comment. This will ensure transparency and accountability in each school district's curriculum choices. According to the current statute, teachers who fail to teach civics within the letter of the law can be jailed for a Class III misdemeanor. We finally change that in LB399 by removing this penalty. In this session we are tasked with solving Nebraska's most "preshing"-- pressing threats to our future, from providing property tax relief to further incentivizing our young people to raise their families in this great state. Those efforts will

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

Floor Debate
February 26, 2019

need bipartisan support. Today we're not taking votes on those issues. That will come later this spring. But this represents a promising first step that regardless of political ideology and urban/rural background that we can find common ground on issues that had in the past encountered insurmountable division. Thank you, both to those who have supported this bill from the start and opponents who have worked with me to find a compromise in the committee amendment, which maintain the spirit of this bill. It's worth noting again that LB399 advanced past the Education Committee on an 8-0 vote. I've appreciated the spirited debate. And as we've learned during debate, this bill is not perfect. No bill that has ever passed through this body has been. I look forward to working with those who have raised concerns during General and Select File to make LB399 the best piece of legislation that it can be. I encourage a green vote on Senator Moser's amendment, the committee amendment, and LB399. Thank you.

SCHEER: Thank you, Senator Slama. Senator Chambers, would you like to refresh us on your bracket motion?

CHAMBERS: Thank you. How much time do I have to do that?

SCHEER: You have five minutes.

CHAMBERS: Five. Thank you. Members of the Legislature, this is a motion to bracket the bill till the last day of the session. I am opposed to it. I've made that clear. I've talked about various things that impact this bill and that this bill will impact, and the main one is that it retains discrimination. It makes it possible for discrimination to occur in the classroom with the sanction of this kind of bill. Rather than take a lot of time, because we don't have much left on this bill, I'm going to tell you about an article I handed out. Most of you will throw it away because you're weak-minded and you can't deal with the truth, but it has to do with papers that were declassified reporting things from Winston Churchill's diary at the height of the war. I'm going to read from that article. It's from the Sunday World-Herald, January 15, 2006. I keep things. Reading: The documents made public at the National Archives also show that Churchill decreed that Britain, quote, mustn't interfere, unquote, with racial discrimination practices in the World War II era U.S. military. At the time, black soldiers in the British Army were treated equally, while black and white U.S. soldiers ate and slept in separate areas. The documents show that Churchill and

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

Floor Debate
February 26, 2019

other ministers took a dim view of, quote, U.S. prejudices, unquote, but did not want the issue to cause friction between the allies. In October 1942, Churchill told the cabinet that U.S. views, quote, must be considered, unquote. The cabinet agreed to instruct military leaders to respect U.S. policies, without allowing them to influence British practices, but it did advise that British troops should show, quote, a great deal of reserve, unquote, when dealing with black U.S. troops. And you all are going to sit on this floor and talk about freedom, justice, and equality. I put some things in the margin. I'm not going to try to get it all said here, but I'm going to be talking about this throughout the day. And I have a very thick book. It's called "Knight's Cross." It's about "A Life of Field Marshal Erwin Rommel," who was a better man than anybody who served in the U.S. Army because he was against racial segregation and made it clear. You all want to pretend you don't know things. If you really don't know, you are willfully blind. Senator Groene had stood up here the other day and talked about how fair the U.S. military is. This discrimination carried from World War II through the Korean War through the Vietnam War and every conflict that this country had. Black people fought for this country in every conflict, starting with the so-called Revolutionary War. George Washington had promised that they would be given their freedom. After the war, naturally, he reneged. Andrew Jackson made a similar promise at a later time. He reneged. It has always been that way and black people are going to have a voice on this floor as long as I am here, and I'm going to speak.

SCHEER: One minute.

CHAMBERS: And I hope that those people who got some information from a gun group will continue to listen. I don't care whether they like what I say. I know they don't like what I say, but I get the racist slurs, the threats, and all of them are anonymous. I stand out here where you can see me. My phone number and address are in the telephone book. I'm not going to run from these racists and I intend to continue addressing the racism. And bills like this one add to and contribute and carry that same racist sentiment on. You're interested in what white people want and that's all, as will be shown by the vote on cloture. Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Senator Chambers, you're first in the queue if you'd like to continue.

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

Floor Debate
February 26, 2019

CHAMBERS: Mr. President, members of the Legislature, I'm going to read some things I put in the margin of this article. What to me is your American flag? Bah, humbug, Ernie Chambers. And I still say it's a rag. And those who call with the threats and the insults, here I am. And that's all it is. If you listened to what I read from Winston Churchill's diaries about the segregation and discrimination in the U.S. military, it should give you a glimmer of why I'm upset. You cannot deal with my words. And there were black men risking their lives and they had two battles to fight, one against the Nazis and one against the soldiers in the United States Army. And I'm supposed to stand up here and act like I feel about America and that rag like you all do? That rag is what I call it, and that's what it is. Every hateful thing that was done against black people was done under the egis of that flag-- slavery, raping black women, selling black people, segregation and discrimination in the military throughout its history-- all under the egis of that rag. You don't like it? Here's what Frederick Douglass said. "What, to the American slave, is your Fourth of July? I answer: a day that reveals to him, more than all other days in the year, the gross injustice and cruelty to which he is the constant victim. To him, your celebration is a sham." What to me is the American fra-- flag? A rag. And you're more upset with what's said about that rag than you are at the savaging of your Constitution by Donald Trump, the chump. And I'm working on a nursery rhyme for him: Trumpty Dumpty had a great wall. That's all I'm gonna tell you. When I finish it, I'll share it with you. Then I put a quote from the Pledge of Allegiance and I underline. First of all, I pledge allegiance to the flag, it starts, so you know what I'm talking about. Then it concludes with liberty and justice for all: not in the U.S. Army, not in the school system, not in the workplace. Then I gave you some lines from your Star-Spangled Banner, which has these words: land of the free and home of the blare-- brave. Then I pulled Scrooge. Bah, said Scrooge. Humbug! And I apply his words to which you all say about the flag in your pledge and in your Star-Spangled Banner. And then I quote from Boswell's "Life of Johnson," and this is a famous quotation, "Patriotism is the last refuge of a scoundrel." Whenever the heat is put on these white people, they want to run up the flag of patriotism: You're not a patriot. Well, if patriotism is what they're manifesting, you can bet your bottom dollar, if you got one, I'm not a patriot. And these people who call me and talk about what people in the military do, they don't know that I got an honorable discharge from the U.S. Army, and it makes them no difference. They are fat-mouthing. They are cowards. And I want them to know, because some call from other states, my telephone at home captures every phone number of anybody who calls. So I've got those

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

Floor Debate
February 26, 2019

numbers. But in being level, I cannot match the number to a specific caller. So I may just call them, tell them this is Senator--

SCHEER: One minute.

CHAMBERS: --Ernie Chambers. Your phone number was on my phone. You apparently want to talk to me, so here I am. Tell me what you got on your mind, but tell me your name first. That's what I deal with. It's what I've dealt with ever since I've been in this Legislature. Notes slipped under my door, threats, racial slurs. You all don't have to deal with it. You couldn't deal with it. You cannot deal with the truth that I'm telling. And you cannot say that what I'm saying is untrue, and that's why I read from this white man, Winston Churchill, who tells you about the racism in your U.S. military. But they are not going to affect the way the British treat the black soldiers in the British Army. And later on I'm going to read you something from Field Marshal Erwin Rommel, who fought for the Nazis but he was not a Nazi. He was referred to as a soldier's soldier,--

SCHEER: Time, Senator.

CHAMBERS: --even by those on the other side. Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Colleagues, the cookies this morning are being given to you by Senator Gragert. It is his 60th birthday today. Thank you very much. (Visitors and doctor of the day introduced.) Returning to debate, Senator Hunt, you're recognized.

HUNT: Thank you, Mr. President. Thank you, colleagues. Good morning, everybody. I'm a little bit under the weather today so-- but I wanted to-- to share some feelings that I have about LB399 and the committee amendment. I rise in opposition to the committee amendment and to the underlying bill. And I want us to think about, if this bill passes, how do we determine if schoolteachers are adequately patriot? How do we determine if a curriculum is emphasizing the right kind of patriotism or acceptance for our system of government, as it says on page 3? I think that Senator Bolz was right to bring that amendment to remove this part about assuring the character of teachers, because who decides that? Who decides if a teacher has good character? I

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

Floor Debate
February 26, 2019

have a big problem with our body attempting to legislate patriotism or define patriotism, especially for children. Students have a right to curriculum that is designed on academic grounds and historic grounds by educators, rather than a curriculum designed in statute to manipulate their beliefs. They should learn how to think about government and how to think about political governance, not what to think about it, because students also have the right to not be indoctrinated. I think that that's a strong word and that might not be comfortable for some people to hear, but to me, that is what this bill is really veering toward. Compulsory patriotism is just un-American, and that's why this bill is such a paradox to me. Genuine patriotism, to me, is a choice to support liberty and equality and justice and democracy based on an understanding of its value, not because of patriotic songs and learning a history curriculum that venerates one form of government or another, or that venerates one form of economic system over another, which this bill also talks about. Genuine patriotism comes from rational understanding and personal commitment, and it cannot be coerced. If you have to pass a law to make people patriotic, is that really patriotism? Of course not. And I also really question the stuff in this bill, "Since youth is the time most susceptible to the acceptance of principles and doctrines," that's scary language to me, and that's not something that I can support in any case. I just think that any attempts to make children more patriotic is not free thought. That's not something that we can stand behind as a democratically elected group of people. And how many American school children, how many children in Nebraska understand the idea of allegiance or the idea of patriotism or the idea of liberty and justice in the pledge that they're required to recite? Are we instilling real patriotism and American values? Are we teaching free thought? Are we teaching them to make their own decisions and come to their own conclusions? I don't think that that's what this bill accomplishes. Real patriotism arises when citizens feel they can be proud of how their country benefits its own citizens and makes positive contributions to the whole world but without their government telling them to be patriotic about it. I feel like some people who support this bill are acting like there's no civics education in schools, but that's just not true. The history of America, I also think it's important for us, when we talk about history, it is a story of liberty and justice and democracy and great things and heroic exploits and all of this kind of soaring language. But it's also a story of struggle and a story of "rebell"-- of rebellion and resistance in regard to how we achieve that liberty and justice and democracy. It's about rebels and dissenters and people who challenge the status quo. And many of those people we will never read about in a history book because the people who wrote the history books didn't recognize

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

Floor Debate
February 26, 2019

them. I believe in a system that teaches the truth as best as it can and encourages young students to reach their own conclusions about our country's past and about their role in our country's future. And that's--

SCHEER: One minute.

HUNT: --what will instill genuine patriotism and pride in being an American. I think it's very important for us as a body to protect the freedom of teachers to teach history and civics, to maintain the academic integrity of our school boards and make sure that they have control over what they're teaching, and also to maintain the freedom of students to think for themselves. And to me, that is the most American thing we can do in this body and that is not something that we can legislate. Thank you, colleagues.

SCHEER: Thank you, Senator Hunt. Senator Bolz, you're recognized.

BOLZ: Thank you, Mr. President. This bill says that it is the responsibility of society to ensure that youth are taught about being competent, responsible, patriotic, and civil citizens. And it gives me the opportunity to talk about an example of someone who I think is competent, responsible, patriotic, and civil, the kind of person that I hope youth will be told about and taught about under legislation like this. And this person is Brigadier General Tammy S. Smith. Tammy is an incredibly impressive patriot. She is the commanding general of the 98th Training Division. She is responsible for the oversight and direction of four brigades, including 2,503 soldiers, throughout the East Coast and Puerto Rico. The primary mission of the 98th Division is to provide drill sergeants to army training centers. She has an incredibly long list of achievements. She has served as a "perto"-- platoon leader. She's been part of a support battalion. She is dual-hatted as the Chief General Officer of the Management Office, and she, prior to assuming command, she served as a United States Army Reserve Deputy Chief of Staff. She has an impressive background. She holds a Doctor of Management degree in organizational leadership from the University of Phoenix. Brigadier General Tammy S. Smith also, colleagues, happens to be the first openly gay U.S. general. And so this bill provides me an opportunity to talk about another bill that's on the agenda today, about LB627, which establishes workplace equality for gay and lesbian individuals in Nebraska. And it's my assertion this morning that if you support

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

Floor Debate
February 26, 2019

the ideals of LB399, if you push your button on LB399, if you believe in patriotism you believe in patriots like Brigadier General Tammy S. Smith and you believe in what our U.S. military has established as best-practice policy regarding equality. In fact, in 2015 Secretary of Defense Ash Carter announced that they would implement new policy regarding gay and lesbian servicemen and women. The Department of Defense has updated in 2015 the Military Equal Opportunity Policy so sexual orientation will, for the first time, be included to ensure that everyone, no matter their race, religion, color, sex, age, and national origin, be treated equally to maintain a more inclusive environment. So, colleagues, I support this bill. I plan to vote in support of it. I believe in the ideals of teaching young people about patriotism and responsibility and patriotism and equality. And so I hope that when you think about pressing your bill-- your button for LB399 you think about Brigadier General Tammy S. Smith and that makes you think that you should, in fact, also support later today LB627. Thank you, Mr. President.

SCHEER: Thank you, Senator Bolz. Mr. Clerk for a motion.

ASSISTANT CLERK: Mr. President, "Senate"-- Senator Slama would move to invoke cloture on LB399, pursuant to Rule 7, Section 10.

SCHEER: Thank you, Mr. Clerk. Senator Slama, you're recognized.

SLAMA: Just to close or-- ? Oh. Oh, yes, I move for cloture. No? Call of the house, yes, thank you, a call, please.

SCHEER: There has been a request for a call--

SLAMA: And a roll call vote.

SCHEER: And a roll call vote. There has been a call to place the house under call. All those in favor please vote aye; all those opposed vote nay. Please record.

ASSISTANT CLERK: There's a quorum, President.

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

Floor Debate
February 26, 2019

SCHEER: 29 in favor, 1 nay. The house is under call. Senators, please return to the floor. The house is under call. Please record your presence. Senator Lindstrom, Senator Brewer, Senator McDonnell, the house is under call. Would you please return to the floor and check in. Senator McDonnell, the house is under call. Would you please return to the floor and record your presence. Senator Slama, we're waiting on Senator McDonnell. Would you like to proceed with the roll call? OK, thank you. Senator McDonnell, please return to the floor. The house is under call. I see Senator McDonnell walking this direction. Mr. Clerk, if you'd like to proceed, roll call. Regular order, Senator Slama? Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. (Roll call vote taken.) The vote is 42 ayes, 3 nays on the motion to invoke cloture.

SCHEER: Cloture requiring 33 votes, we have reached that. Moving to the next item is voting on the bracket amendment by Senator Chambers. This is a simple majority of 25. All those in favor please vote aye; all those opposed vote nay.

CHAMBERS: [MICROPHONE MALFUNCTION] Roll call.

SCHEER: There's been a request for roll call vote. Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken.) The vote is 44 nays, 1 aye to bracket.

SCHEER: FA15 [SIC] is not adopted. Moving to the next item to be voted upon is FA14, Senator Moser's amendment. All those in favor-- there's been a request for a roll call vote. In regular order, Senator? Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken.) The vote is 39 ayes, 1 nay on the motion to adopt the amendment.

SCHEER: FA14 is adopted. Next question before us is adoption of AM286, the committee amendment.

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

Floor Debate
February 26, 2019

CHAMBERS: [MICROPHONE MALFUNCTION] Roll call vote.

SCHEER: Been a request for a roll call vote. Mr. Clerk. Colleagues, as you've probably noticed, we're having some technical difficulties this morning, so I appreciate your patience. Refreshing everyone's memory, we are now going to vote on the committee amendment, AM286. Mr. Clerk, there's been a call for a roll call vote.

ASSISTANT CLERK: (Roll call vote taken.) The vote is 42 ayes, 3 nays on the motion to adopt the committee amendments.

SCHEER: AM286 is adopted. Next item is the adoption and movement of LB399 to E&R Initial.

CHAMBERS: [MICROPHONE MALFUNCTION] Roll call.

SCHEER: There's been a request for a roll call vote. Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken.) The vote is 42 ayes, 3 nays on the motion to adopt-- on the motion to advance.

SCHEER: LB399 is advanced to E&R Initial. I raise the call. Next item, Mr. Clerk.

ASSISTANT CLERK: Next bill, Mr. President, LB309 introduced by Senator Lathrop. (Read title.) The bill was read for the first time on January 15 of this year. It was referred to the Judiciary Committee. That committee reports the bill to General File with no committee amendments.

SCHEER: Thank you, Mr. Clerk. Senator Lathrop, you're welcome to open on LB309.

LATHROP: Thank you, Mr. President, and colleagues, good morning. LB309 is pretty straightforward. It would add a 17th judge to the district court of Douglas County. We actually should be adding additional judges. That's what the data supports, but because of limited courtroom space in Douglas County and a tight budget we're only asking for one at this time.

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

Floor Debate
February 26, 2019

This reflects a recommendation by the Judicial Resource Commission, which is a panel of judges, lawyers, and nonlawyers that's responsible for reviewing caseloads in the state's various courts. For example, and this isn't to pick on Lancaster County, but one figure that is mentioned at the hearing on this bill was the murder trials. In 2011 to 2018 we were told Lancaster County had four murder trials. These take a long time, as you might have guessed. At the same time Douglas County had 67, and several of those were lengthy, big national news-type cases. As you all know having an adequate number of judges is key to making sure people in our most populous county have the same access to courts and receive the same attention from their judges as litigants elsewhere in Nebraska. That goes for plaintiffs as well as defendants. So this is an important bill that could help an awful lot of people. LB309 advanced from committee on a 7-0 vote with no opposition at the hearing. There is a fiscal vote. And I would contend that we have an obligation to adequately fund our judiciary. Everyone has the right to a speedy trial, and there's no caveat in Nebraska's Constitution that says that's only true when there is room in the state budget. With that I would encourage your support of LB309 and I'm happy to answer any questions. Thank you.

SCHEER: Thank you, Senator Lathrop. Mr. Clerk for a motion.

ASSISTANT CLERK: Mr. President, Senator Chambers would move to bracket until June 16 of this year.

SCHEER: Thank you, Mr. Clerk. Senator Chambers, you're welcome to open on your amendment.

CHAMBERS: Thank you. Mr. President, members of the Legislature, although I admire mountain lions, alias, or a.k.a cougars, they are powerful animals. They are virtually invisible because of the coloration of their fur, and the fact that they have heavily-padded paws, which allows them to move noiselessly, although they can run down prey, they are not built to run long distances. They can maintain an all-out sprint for about 1,000 yards, and if they're being pursued by dogs, at that point the animal will tree. When this animal is running, when the front paws lift, the back paws go forward and land right where those front paws were when they lifted. That's the way it operates. This animal can jump, straight up, 18 feet into the air, horizontally through

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

Floor Debate
February 26, 2019

the air. He can leap 45 feet to land on the back of prey. For those who might like to visualize 45 feet, on a football field there are 10 yards between the lines, so he would leap from one line over the other halfway to the next line, 45 feet. That is very powerful. He can spring from a height of 60 feet and not sustain an injury. I'm saying all this for a reason, in addition to just taking time, because that's what I'm going to do. The cougar, or mountain lion, is known as an ambush predator. I do admire the way that animal functions. The part that I will not be is designated by that term ambush. I told Senator Lathrop that I'm not going to try to kill this bill, but I'm going to take time. And I'm going to take time on other bills, just so you know to be forewarned is to be forearmed. And I'm going to proceed at my own pace for as long as I choose, and I haven't determined how long that will be yet. When we finally get around to voting for this bill, I probably will vote for it. If I don't vote for it, I will not vote against it. I have grievances against various Douglas County district judges, but not all of them. When it comes to the salary bill to increase the salary for judges, that bill is a different kettle of fish. That salary increase will go to all of the judges throughout this state. An amount will be set for the chief justice. Then in descending order, a percentage of that will determine the salary for the lower court judges. I saw something on the news this morning that was very disturbing to me, but not a surprise. I presume from the address this was a black woman. She had gone to one of these judges in Douglas County to seek a protection order. This man she was with had made various threats to her among which was that he would burn her house down. He had set fires in the yard. He had referred to their daughter as a pig and other insulting, abusive terms. He had told this woman that he could snap her neck right at that instant. And you know what the district judge did? He refused to grant the protection order. Now, white women have gone to court with far less than that and have gotten a protection order. I say, again, because of the address and the way things were handled by the court, I'm presuming that the woman is black. Well, last night he delivered on one of the promises. He set her house afire with her in it and the children. One of the girls was burned, and I don't know what may have happened to the others. But that's what these judges in Douglas County do when somebody of my complexion will appear. What I have done for this Legislature is to unify you all against me. I brought peace and harmony among you all when you're against me. So it's all of you against me, me against all of you, and we'll just have to see how the session plays out. I do not believe in putting off til tomorrow what can be done today. And I don't believe in waiting until later in the morning to do what I can do right now. So you may as well settle your brains for a long, slow, stroll through these bills, and we will take some highway, some

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

Floor Debate
February 26, 2019

byways, some trails, some animal paths, and eventually wind up somewhere. One thing is certain. We will not go beyond noon, but if we do, it doesn't bother me because it will mean that I've succeeded in using the remainder of a day. I don't know whether I will try to take one bill each day until we get into full day deliberations, but I'm going to take this morning. I have told you about this book, Knight's Cross, a Life of Field Marshal Erwin Rommel by David Fraser. I'm going to read some comments from the jacket, and in the same way that I find things worthy of emulation when dealing with the mountain lion, there are things about Rommel which are worthy of emulation. By the way, Rommel was not a Nazi. Rommel fought for Hitler. He was fond of Hitler. He fought in the German Army, but he was not a Nazi. I had a U.S. Army uniform but I was not a patriot as you all reckon patriotism. I was not a flag waver. I was not a flag saluter. I was not an rah-rah person for America as a place with liberty and justice for all because that's a lie. And I'm going to listen when we get to Senator Pansing Brooks' bill, probably not today, LB627. The one-liner is, prohibit discrimination based upon sexual orientation and gender identity. But if you have liberty and justice for all, that bill is a waste of time. All the LGBTQ community have liberty and they have justice, so I think what Senator Pansing Brooks should do for those who voted with her, and with whom she voted, is to withdraw her bill. To have a bill like this--

SCHEER: One minute.

CHAMBERS: --is to be a slam against America to call the U.S. flag a lie. The flag salute is a lie. This bill has no place here. These people are already clothed with freedom, justice, and equality. In fact, although I had to learn it when I was a wee lad, I'm going to read what I copied on the sheet I gave you this morning, this article, read from the pledge, the flag salute. One nation under God. Does that one nation include Latinos? Latinas? Native Americans?

SCHEER: Time, Senator.

CHAMBERS: Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Senator La Grone, you're recognized.

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

Floor Debate
February 26, 2019

LA GRONE: Thank you, Mr. President. I rise in opposition to bracket motion, but I think that Senator Chambers and I may actually have the same goal this morning because I'm currently opposed to LB309 for reasons that we'll get to when we get to my amendments. But I want to delve into Senator Chambers objections a little more because he might be able to convince me. Would Senator Chambers yield to a question?

SCHEER: Senator Chambers, would you please yield?

CHAMBERS: Any number that you choose to ask me, Sonny. [LAUGHTER]

LA GRONE: Thank you, Senator Chambers. So I know that you have been opposed to adding judges in the past and you started to touch on that at the beginning of your comments. I was just wondering if you could explain a little bit more why in this specific instance you would be opposed to it, and I'll give you the background on why I'm asking because currently I think they need another judge. I just have issues about how it gets paid for. So, I'd be interested to hear your objections.

CHAMBERS: And I'll make it brief, I won't take all your time. I objected when they were trying to add another juvenile court judge because there's one on there named "Circavench" or Crnkovich, something like that, who is very vicious, vindictive, unjudicial, and unfit to be on the bench. So I had told the chief justice and everybody else I would never vote to allow an additional juvenile court judge as long as she was there. Well, as things rocked on, as soon as she reaches a certain age, she's not going to stand for retention, but even before that, I became convinced that denying the court an additional judge was not really hurting her at all. But it was delaying the cases that needed to be heard, overburdening judges who were there, so I withdrew my opposition, and I supported adding a juvenile judge. And as I stated in my opening on this motion, I'm not going to try to kill this bill. But I have some problems with judges on Douglas County district court bench.

LA GRONE: So would you agree, then, that Douglas County does need another judge because of caseload and stuff like that that you mentioned? Would you agree with that? So, I guess I'm curious as to-- and again, like I said, I have issues with the bill that we'll get into later, but I'm

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

Floor Debate
February 26, 2019

just curious-- I'm just trying to understand your reasoning here why the bracket motion if that's the case.

CHAMBERS: I'm going to take all the time I want on this bill, but I made it clear I'm not trying to kill it. I'm trying to kill time.

LA GRONE: Okay. Thank you, Senator Chambers. With that, I'd yield the rest of my time to Senator Chambers.

SCHEER: Thank you, Senator La Grone. And Senator Chambers, you have 2:10.

CHAMBERS: Thank you, Senator La Grone. Thank you, Mr. President. And you all will have an opportunity now to see if I have the stamina at 82 years old that I claim to have. I don't make idle boasts. I don't make idle threats. But when I speak, I am as factual as I can be. I'm looking around from time to time at some of these young people, 60 years old, 65 years old, 70 years old, kids. The younger generation. And I'd race any of them up the stairs. Those north stairs that you come to when you are going to go-- I call it the Governor's entrance. And we'll run up those stairs and see which one of you all can get to the top before an 82-year-old man, who's been through far more than any of you all will ever experience. Will not sit down in this chair. It's not that I cannot sit down, I choose not to. I've been standing for what I believe for more than a decade.

SCHEER: One minute.

CHAMBERS: As I've have stated, my chair, not my chair, the chair at the desk assigned to me will carry a sign, not like the bed Abraham Lincoln slept here, George Washington slept there, in this chair it will say, Senator Chambers never sat here. And I'm going to take you all's time, and I don't care whether you're here or go someplace else, and I'm not going to suggest where you go, but there are a number of places. Thank you, Mr. President.

SCHEER: Thank you, Senator La Grone and Senator Chambers. (Visitors introduced.) Mr. Clerk for items.

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

Floor Debate
February 26, 2019

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports the following bills as correctly engrossed: LB7, LB55, LB146, LB154, and LB264. Your Committee on Enrollment and Review reports the following bills to Select File: LB116, LB145, LB384, LB660, LB660A, and LB486, some having Enrollment and Review amendments. The Government, Military and Veterans Affairs Committee provides notice of committee hearings. Senator McCollister designates LB284 as his personal priority bill, and Senator Erdman designates LB483 as his personal priority bill. That's all I have at this time, Mr. President.

SCHEER: Thank you, Mr. Clerk. Returning to floor debate on LB309, Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President and members of Legislature, I think instead of a floor debate this is likely to be, what in the term of the lawyers, a soliloquy. That's when one person speaks. Maybe just speaking in general, sometimes directed, directly at the audience, but I'm going to speak and speak and speak some more. By the way, as I was saying about the numerous things to admire about mountain lions, a mountain lion or cougar weighing 100 pounds can bring down a moose, not the singular of mice or mices, but a moose. One of those with a huge rack of horns, and they do not play, and when a lion goes after one of them, then it's his intention to bring him down. If he gets on the back, he can bite through the spinal cord. His teeth are such and his jaw muscles strong enough, his fangs will penetrate the skull of his prey, or he can reach around and get a grip on the throat. So this animal has several ways of killing, yet they don't bother human beings. That's what I wish people in this state would understand. That animal should not be hunted. This animal, as strong as he is, as swift as he is, as deadly a hunter as he is, were he of a mind to kill human beings, that would have been done. The cougars had been virtually eliminated in Nebraska until one was spotted in 1991. There has not been a documented case of a cougar acting aggressively toward any human being from 1991 until today. People tell these wild tales that have no basis in fact. They claim to have seen this animal, but they don't know what it looks like. The animal is virtually invisible. There are landowners who can see the signs, the footprints, the scat, the prey, that indicates a cougar, maybe a mother with some kittens, but at any rate on that property, yet in two decades the landowner never saw one. Never saw one. Hunters are allowed to use dogs by the Game and Parks Commission because without dogs, it's unlikely one of these animals would ever be taken. With this recent snow, the fact that

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

Floor Debate
February 26, 2019

they do leave footprints, tracks, they might come across the tracks of a cougar and be able to try to track him. I said all that for a reason. If this animal wanted to kill people, that's what it would do. That's what it would do and it could not be stopped. If I wanted to kill bills, I couldn't say like the cougar who could kill any human being that I can kill every bill, but I can kill a lot of time every day. That I can guarantee you. And I'm not saying that I will do that every day, but today is going to be a harbinger. It will give you an idea of possible things to come.

SCHEER: One minute.

CHAMBERS: Senator Lathrop is a very intelligent and wise person. Senator Lathrop is not the kind of person who would take a battering ram to try to knock down a door that is standing wide open as some of my simpleminded colleagues would do because they don't understand. They're given marching orders and they march. When they're told to jump, they don't ask how far. They jump first and say, boss, is this far enough? And that's what's going to happen this session. I know it, it has always happened. It's a pattern and it will be repeated. There's some people embarrassed about that vote they gave on that piece of trash legislation, LB399. But they did what they did.

SCHEER: Time, Senator. Time, Senator.

CHAMBERS: Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Returning to the queue, those waiting to speak, Senator Lathrop, Geist, La Grone, and others. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President, and colleagues. I appreciate Senator Chambers' remarks. It does not sound like he is in opposition to the bill. I want to talk about what we're doing here because this is a unique part of our process. And it's unique because we all, no matter where you live in the state, have a stake in what we're doing here right now. And let me tell you why and how that is. So by law we have something called the Judicial Resource Commission. Okay. The Judicial Resource Commission develops a weighted caseload analysis. Okay. What they've done and you have a handout here that I have provided to you. I hope you all take a second and look at

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

Floor Debate
February 26, 2019

this handout because it reflects the work of the Judicial Resource Commission. And what the Judicial Resource Commission determined is, in all of the districts where we have district courts, they are fully staffed with district court judges. And here's what happens. We come in here in sort of one of those situations where we're pointing the gun at each other and we need to understand what's happening. Generally speaking, we'll come after the Judicial Resource Commission has determined that there is a need for an additional judge, we'll come as I have and introduce a bill like LB309 and say, let us add an additional judge. Okay. Traditionally, traditionally people that understand this process understand that I can do two things. I can ask you for a new judge, or the next time you have a vacancy, I can take your judge. Let me say that again. This is why you should care about this bill. The Judicial Resource Commission will determine who doesn't need a judge as bad as Douglas County does, and that judgeship will then be moved to Douglas County. You could lose a district court judge if you oppose this bill and that's why this is a unique part of the legislative process. We all understand, we all understand when one of these judgeships come up that it is a request to add an additional judge so that Douglas County doesn't take one from a less populous area. You can look at this handout and maybe you can see your district. If you're outside of Douglas County, you have the district judge resources you need to hear the cases that come before your district court judge. Douglas County, by contrast, actually needs four district court judges. That's four additional district court judges. And how is that? Why is it that Douglas County needs more judges? Because we have more people, we have more conflict, we have more crime, we have more specialty courts which the district court judges are doing. It is very important, very important that Douglas County get this judge. Understand, this isn't something you can just turn your back on and say, it's Douglas County's problem. Because what will happen next is the Judicial Resource Commission will make a determination where we're going to take a judge from. And the next time you have a vacancy in your district, it may be your district court judge that we don't fill and that's why we're in this together. Colleagues, if you have questions about this process, I'm happy to answer them. It is a critical need. These are men and women--

SCHEER: One minute.

LATHROP: --that serve in our district courts and they are not in the political branch of government. They don't get to vote on our budgets. They do not get to vote on our budgets and

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

Floor Debate
February 26, 2019

right now we need four additional judges and this bill simply asks for one. You will be well-advised if you don't want to lose your district court judge in the next evaluation by the Resource Commission to support this bill. I'm happy to answer questions and I'm happy to address Senator La Grone's concerns when those come up as introduced in amendments. Thank you.

SCHEER: Thank you, Senator Lathrop. Senator Geist, you're recognized.

GEIST: Thank you, Mr. President. Senator Lathrop, would you yield to a question?

SCHEER; Senator Lathrop, would you please yield?

LATHROP: I'd be happy to.

GEIST: Senator Lathrop, as someone who is very interested in specialty courts such as drug court and mental health court, would you explain the interaction, I guess, with those courts and district judges?

LATHROP: Thank you for the question because our specialty courts, for those of you that don't understand that term or you're new to the term, a specialty court would be like drug court or it might be a mental health court or a veterans court. And we call it a court because it's run by the district court judges and it's intended to take people who have committed an offense and essentially run them a probation-style process where we give them a second chance, provide them with services, get them in most cases some form of mental health or addiction recovery treatment and it's overseen by district court judges. It's relevant to this conversation because that's part of what's happening in Douglas County. These judges are doing drug courts and specialty courts and it takes time in addition to the divorces and the criminal work and the civil cases and all the other responsibilities.

GEIST: Thank you. Thank you for that. And I'm not sure yet where I stand on this bill, but I do know that there is a big need for spreading the load and helping judges be able to see all of the people on their docket that they need to. One of the things that's very near and dear to my heart are specialty courts and the reason is, this is an opportunity that those who are addicted, or those

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

Floor Debate
February 26, 2019

who have serious mental health issues can get treatment and have someone walk with them for about a year and a half to two years. Individuals who go through this type of specialty court also have nonviolent felonies on their record which they in order to go to attend specialty courts, they plead guilty to those charges. By the time they graduate from the specialty court, they have their family units mostly intact. They're usually well-employed. They have a new life that they're establishing, and when they graduate, the charges that are against them are dropped. The recidivism rates of those who go through specialty courts are enormously smaller than regular recidivism rates of those who are released from prison. So I'm listening to this. I have heard from some of our judges how they do have an overload, how they're backed up on their docket, and so I think we really need to listen. I know that this is also a financial consideration and so I'm taking that into consideration as well. But we do need to be sure that we're supporting our judges, and the amount of work they do. And I'll give you one more aside. Those judges that do specialty court are not reimbursed and not paid for their time on specialty court. And depending on which specific type of court it is, whether mental health, veteran, drug court, the amount of time is significant. So the judges are doing that out of the goodness of their heart and not out of the largess of the state. So anyway, I stand in opposition to the bracket motion, but I am listening on the bill. Thank you, Mr. President.

SCHEER: Thank you, Senators Geist and Lathrop. Senator La Grone, you're recognized.

LA GRONE: Thank you, Mr. President. And again, I stand opposed to the bracket motion, but I do have some concerns. I want to briefly hit on the topic of why I have concerns with LB309 in case we don't have a chance to get to the amendments today. So essentially, I completely agree with Senator Lathrop, Douglas County needs another judge. The caseload level is too high. My point is merely that currently in our judicial system when we add another judge, a lot of the additional costs that come with that get passed down to the counties. And I think that if we want to address property taxes overall, we have to stop putting through unfunded mandates. And one of the largest unfunded mandates is how our court system is set up and I know there are issues with that. And I think that that's something we'll get to when we get to the amendments, but I just wanted to let everyone what we'd be talking about when we get to substance of the bill. But with that, I would yield my time to Senator Chambers should he want it.

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

Floor Debate
February 26, 2019

SCHEER: Senator Chambers, 4:00.

CHAMBERS: Thank you, Mr. President. Thank you, Senator La Grone. I want all the time that I can get. And it's that good people do take the time to put their comments into the record if they support this bill. I will not do anything which I think will cripple the judiciary as an institution, just as I'm offended when my simpleminded colleagues do things that weaken the Legislature as an institution. One of those things was done this morning and I don't want anybody to come to me and talk to me about why they had to do this, or they had done that, therefore, they must do this today. I don't want to hear it at all. And since I'm giving you forewarning, don't deem it to be an act of rudeness for me to turn my back on you. I don't have time to waste with people like that. And I find that I have misjudged some of my colleagues on other issues because they never were confronted with one like they were on that piece of trash, LB399. But now I see that they've got bills that they're going to need every vote that they can get, and they probably on some of them will not succeed anyway. You make a mistake, brothers and sisters, when you deal and make a deal with the devil. See, the devil was a trickster from the beginning and there are people who learn the wiles and the ways of the devil and one who wants to deceive has to be able to convince somebody that he, she, or they are different from what they really are. Many people fall victim and that's why it is said that experience is the best teacher and some will have no other. On this bill, the reason I will not try to kill the bill is because a judge is needed. If you set up an organization and you assign certain duties and responsibilities to that organization, and those responsibilities are to be parceled out among the number of people who work within or for that organization, if you do not provide enough people to reasonably discharge that work, the organization cannot do what those who created it, set in front of it to be its responsibility to achieve. There probably could be judges placed in other districts.

SCHEER: One minute.

CHAMBERS: Justifiably, but the chief justice, the people who are on these commissions, understand that they have to deal with this Legislature, and other issues are going to come before the Legislature. There are many hands trying to get into the treasury and leave with more than they had in their hand when they first stuck it into the treasury. I'm not interested in killing this bill, but if I were the rest of you, I wouldn't let one senator do all this talking and take the time.

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

Floor Debate
February 26, 2019

Just to spite him, I would take time. I'd turn on my light and talk, but if you do that, you know you play into my hands. I don't care how the time is spent. I just want to spend it. But being the generous soul that I am, I'm willing to share it with the rest of you if you will work in accord with what I think ought to be done, which right now is to pass as much time as possible.

SCHEER: Time, Senator.

CHAMBERS: Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. President. Good morning, Berea, this morning out there in western Nebraska. It's about 40 degrees warmer there than it is here. Senator Chambers, I appreciated your comments about experience is the best teacher and I agree with that. What we have experienced in western Nebraska is, several occasions the mountain lions have killed livestock and it is something that they have seen them. I had a town hall meeting back in Bridgeport a week ago on Saturday. A rancher friend of mine that lives south of Gering, south of the Wildcat Hills, had caught a mountain lion in a trap that he had set for another predator and he said, if you want to see a rodeo, try to turn a mountain lion loose from a trap, and they turned him loose. The rancher, his neighbor, lost five calves this spring and summer to mountain lions and six replacement heifers. We have a significant number of mountain lions in western Nebraska. I would extend an opportunity for you to come and visit if you would like and we will visit those ranchers and they can show you what has happened there and what is happening. It appears that the mountain lions have captured and eaten a lot of the deer and now they're moving on to prey that's easier caught than a deer and that happens to be livestock. And I don't know if you've seen it or not, but in Fort Collins about three weeks ago, there was a jogger on a trail in the hills there by Fort Collins was attacked by a mountain lion. I'm not sure exactly how he did what he did, but he either choked it or killed it with a rock or did something to disable the mountain lion and he killed it. So there have been attacks from mountain lions on people, but we have a significant number of mountain lions and Game and Parks will say that there's 58 in the Pine Ridge area and they do that by checking the scat or whatever else they do. But if they're invisible, if they're hard to see like Senator Chambers says they are, it's hard to figure that we have just 58. So mountain

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

Floor Debate
February 26, 2019

lions are an issue and they will continue to be an issue as long as there is mountain lions and livestock trying to cohabitate together. Thank you.

SCHEER: Thank you, Senator Erdman. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator Erdman pointed out something that happens when mountain lions, cougars, begin to attack livestock. As long as their prey is available, all kind of deer, antelope, things such as that, they're not interested in livestock. If there's a mother, she teaches those cubs, or kittens as some people refer to them, what the appropriate prey is, and it does not include livestock. But if you diminish the amount of prey that the lion needs to survive, then as Senator Erdman properly stated it, it will go after easier prey. I'd venture to say, though, that if you looked across the board down through the years, eagles have taken more livestock than mountain lions, but you dare not do anything to an eagle. How many of you have heard of eagles taking livestock? I don't mean it would pick up a bull, but any of those animals from the time they come into the world to the time they wind up on your plate, would be livestock. There are other animals that take livestock. The only reason Game and Parks is creating a mountain lion hunting season is to give an opportunity to kill to these who want to project themselves as big game hunters. When they had the first season several years ago, one of the top ranking employees of Game and Parks said they wanted to give hunters an opportunity, an opportunity to kill one of these animals. If there is a problem with a particular mountain lion, the law allows the landowner to contact Game and Parks if the landowner is not able to kill the lion in the process or act of doing something that endangers that landowner or livestock. Game and Parks can manage these animals. There are so few of them. Hunting is not the way you manage livestock. It's the way you do it in Nebraska because Nebraskans are backward in so many ways. The people have the wool pulled over their eyes. And when we get to those tax bills, Senator Linehan, who is a chairperson for the first time, she's going to have a chance to work with the Ernie phenomenon, and I'm going to see what she's able to do. Senator Friesen is the chairperson of a Transportation Committee. He'll have bills, but those are not too good a target because they don't touch enough people, but when you talk about property taxes, and the rural people are going to try to shift that burden to the urban people, and urban people are so dumb they might go for the Opie Do, we'll just have the opportunity to watch how things develop. I'm going to be here and I'm going to enjoy myself and I'm not going

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

Floor Debate
February 26, 2019

to be like my colleagues. You see all these empty seats here. If I've got something I have to do downstairs, I'll go do it, but I'll be watching you. And if it becomes necessary for me to be up here, I will come here by means of leaps and bounds.

HUGHES: One minute.

CHAMBERS: On this bill, I expect it to pass. I expect a judge to be made available to Douglas County. This judge being placed there is not being placed as a reward to the judges who are working there. The placement of another judge is not a vote of confidence in the way the Douglas County district court bench conducts its affair. There are many things wrong with the Douglas County judges and the way they operate, but at least you have to make available the people to do the work if they're of a mind to do it. That removes excuses, alibis, and all the phony reasons given as to why dockets back up.

HUGHES: Time, Senator.

CHAMBERS: Thank you, Mr. President.

HUGHES: Thank you, Senator Chambers. Mr. Clerk for items.

ASSISTANT CLERK: Thank you, Mr. President. The Revenue Committee reports LB477 to General File and LB512 to General File with committee amendments. The Revenue Committee also provides notice of committee hearing. The General Affairs Committee provides notice of certain gubernatorial appointments. And amendments to be printed: Senator Geist to LB142. That's all I have at this time, Mr. President.

HUGHES: Thank you, Mr. Clerk. Senator Groene, you're recognized. Senator Williams, you're recognized.

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. I'm certainly standing against the bracket motion and do support the underlying bill, LB309. As we all know and deal with everyday, we have three distinct branches of government, but our branch of government has

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

Floor Debate
February 26, 2019

certain oversight and responsibility of the judicial branch. We pass legislation that creates more or less judges, juvenile, district court. We also deal with the appropriation that pays for those things, and I certainly believe it is our responsibility to create a functioning judiciary. And right now I would tell you that in particular in the Omaha district court area, it is very difficult to say that we have a functioning judiciary. We have people that have been charged with crimes that are sitting, trying to be bonded out that have to sit in jail for two or three weeks waiting for the availability of a judge for a bond hearing. That's simply not right. There is a cost and a fiscal note with LB309, and it's not something that we can ignore. But I would tell you in the early process, especially on General File, I would strongly suggest that legislation such as this should move forward and give it an opportunity and give the Appropriations Committee an opportunity to see if there are funds potentially available. Senator Lathrop talked about the extra duty, so to speak, of district court judges in particular in the problem solving court area, which is an area that I have great interest in. I sponsored legislation a couple of years ago that expanded problem solving courts beyond drug courts to other specialty courts which are functioning at this time in the Omaha judicial district. Those function because district court judges take their time and use their talents and abilities to make them work. It is important for us as a state to have them work successfully. We clearly understand that they cost less than incarceration and each one of these people in a specialty court would be incarcerated were it not for the fact they were participating in a problem solving court. The cost, as you heard when Chief Heavican was here and gave his state of the judiciary address, was that the cost of incarceration is between \$37,000 and \$38,000 annually and the cost of problem solving court is somewhere around \$2,500 to \$3,000 annually. You also know the results of problem solving courts compared to incarceration. The recidivism rate is substantially better with problem solving courts. So what is being asked of LB309 is not to fill all the judge positions that are necessary and needed, it's to add one. And I would suggest it is, again, our responsibility to create a functioning judiciary and that's what we are on the path to do with LB309.

SCHEER: One minute.

WILLIAMS: With that, I would encourage your support and understanding that there are times we have to move legislation along and give the appropriations process the opportunity to work. Thank you, Mr. President.

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

Floor Debate
February 26, 2019

SCHEER: Thank you, Senator Williams. Senator La Grone, you're recognized.

LA GRONE: Thank you, Mr. President. And I, for the most part, agree with everything Senator Williams just said. My issue with the fiscal note on this bill is not that it's too high and that I don't think it can be dealt with the appropriations process, my issue with the fiscal note is that I think it's artificially low because is has-- how our court system works, it has an unfunded mandate added down to our counties. I am not saying we don't need district judge. We absolutely do need another district judge in Douglas County. My point is merely that the state, if it's going to mandate that, needs to pay for it. And we'll get more into that when we get to the amendments and I'll wait on that so it makes more sense. But with that, I'll yield the remainder of my time to Senator Chambers.

SCHEER: Senator Chambers, you're yielded 4:25.

CHAMBERS: Thank you, Mr. President. Thank you, Senator La Grone. Members of the Legislature, you heard me mention, in glowing terms, Field Marshal Erwin Rommel. What I'm going to do is read from the jacket notes. At the very top in red letters is this quotation. Quote, what else matters but beating him, unquote. That was stated by Winston Churchill in Cairo, Egypt in 1942. What is Winston Churchill doing in Egypt? A lot of people don't know Egypt is in Africa. And I'm going to have to digress for a minute. All these European countries who want to build fences and keep out what they call these migrants, it's a matter strictly of chickens coming home to roost. Africans did not invade Europe. Europeans invaded Africa. They went to all these countries. The Indians in the land, the nation of India, they didn't go to Europe. Britishers went to India and colonized, brutalized the people. Every population group now trying to get into Europe was first invaded by the Europeans when they thought they could make a lot of money from tea and silk and exotic items. They went everywhere, not just the Phoenicians. And everywhere they went, they took death, destruction with them. They had no respect for the people. It was as though those people had no social structure whatsoever. Americans carry that attitude with them when they go to Europe. They're loud, they're brash, they are rude, they don't respect the women, they don't respect the traditions of the people and that's because in this country, they're like spoiled brats. You can see some of that on the floor of the Legislature. They think that they are entitled to certain things, and they behave like spoiled brats when they don't

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

Floor Debate
February 26, 2019

get it. When the chickens come home to roost, that's when you ought to do some reflecting. Did you prepare the pathway that is now being used by these people to come where you are? Going back to Rommel. I had mentioned Cairo where Winston Churchill was when he talked about nothing else being important other than beating Field Marshal Rommel. In any numbering of the great captains of history, the name of Erwin Rommel must stand in the first rank.

SCHEER: One minute.

CHAMBERS: He was the outstanding axis field commander of the second World War and was respected, even admired, as well as feared by his opponents. Here, it seemed to the allies, was a supremely professional soldier. Chivalrous, decent, untainted by the crimes of the Nazi regime carrying out his duty with often dazzling success. My time that I was given is up, so I'm going to stop and continue. Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Seeing no one left in the queue, you're welcome to close on your bracket motion.

CHAMBERS: Thank you, Mr. President. Continuing. David Fraser's book surely the definitive study brings to Rommel's career not only the perceptions of an acclaimed biographer, but those of a distinguished soldier also. His incites into Rommel's mind and methods carry the authority of experience. He shows how inspiringly spontaneous and superficially haphazard Rommel style of leadership could be. Quote, Rommel believed that war is a reckless untidy business and that the habits of mind of a methodical manager are alien to what is required. Unquote. Instead, his hallmarks-- this is what I admire. Boldness of maneuver, veracity in attack, and tenacity in pursuit. That's a mountain lion. And on the floor of the Legislature, is Ernie Chambers. These were the qualities he displayed in his great battles in the North African desert. They were, David Fraser demonstrates, evident from his earliest battles in the first World War to his last defending fortress Europe from the allied invasion of 1944. This is first and foremost a biography of a soldier, but Rommel reached the position in which he almost inevitably became embroiled in politics. When he realized that the allied invasion was going to succeed, he realized also that the only way to save Germany was somehow to negotiate a peace settlement. He tried to present Hitler to whom we had always been devoted and who had always shown him a particular respect

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

Floor Debate
February 26, 2019

and affection, tried to present Hitler with the military realities. He was branded a defeatist and ignored, but his opinions and his apparent leaks meticulously discussed by Fraser with the Stauffenberg plotters of July, 1944, one of them under interrogation mentioned Rommel as a possible head of post-larian Germany, condemned him in the eyes of the Fuhrer he had served so loyally. He was offered the choice of trial by a people's court, a sham, of course, or suicide, a state funeral and protection for his family. Rommel was the quintessential soldier in every respect and rather than have his family suffer, when he at some point would no longer be on this earth, having been fond of Hitler, having fought so hard for what he deemed to the interest of Germany, Rommel did at the very end the only thing that a soldier to the core could do. He chose suicide. Rommel is not to David Fraser a flawless hero. His failings as well as his genius are recorded here. But he had that instinct for battle and leadership which sets him apart from his contemporaries and places him among the great commanders. And the name of this book, a thick book, which will intimidate many of my colleagues, Knights Iron Cross, or Knights Cross of Life of Field Marshal Erwin Rommel. And what I have said--

SCHEER: One minute.

CHAMBERS: --since I only have one minute, I won't say it now because I want to be able to get through it without my time running out. Mr. President, I will ask for a call of the house and a roll call vote on my motion to bracket.

SCHEER: Thank you, Senator Chambers. There has been a request to put the house under call. All those in favor please vote aye; all those opposed vote nay. Please record.

ASSISTANT CLERK: 16 ayes, 1 nay to place the house under call.

SCHEER: The house is under call. Senators, the house is under call. If you are off the floor please return to the floor and record your presence. The house is under call. Senators, please return to the floor and record your presence. Senator Erdman, Senator Groene, would you please check in. Senator Kolowski, would you please check in. Senator McDonnell and Senator Kolowski, would you please check in. Senator Brewer and Senator Williams, please return to the

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

Floor Debate
February 26, 2019

floor. The house is under call. Senator Williams, please return to the floor. The house is under call. We are all accounted for. There's been a request for a roll call vote. Mr. Clerk.

ASSISTANT CLERK: (Roll call vote taken.) The vote is 1 aye, 45 nays on the motion to bracket.

SCHEER: The bracket is not adopted. Mr. Clerk for a motion.

ASSISTANT CLERK: Mr. President, Senator Chambers would move to reconsider the vote just taken.

SCHEER: I raise the call. Senator Chambers, you're welcome to open.

CHAMBERS: Thank you. Mr. President and members of the Legislature, when Rommel was in Africa fighting, there was a fort, and it turned out to be easier to take than Rommel had first suspected. And that was on June 20th, and when the fort fell, this is what the book says. And this is from page 337. At six o'clock next morning, Klopper sent emissaries to negotiate surrender. The fortress of Tobruk with its port, its stocks, huge numbers of vehicles on which Rommel would be increasingly dependent and 32,000 prisoners had fallen in 24 hours. At 9:45 on that morning of 21st June, Rommel signaled to the whole of the Panzer Army of Africa, fortress Tobruk has capitulated. All units will reassemble and prepare for further advance. He had quickly settled the first details of the surrender and this for the racist white American Army and the racist who live today, the south Africans had asked the considerable number of black prisoners should be segregated from the whites. A request Rommel turned down flatly saying that the blacks were south African soldiers, have fought alongside whites, worn the same uniform, and were all captives together. He did not do like Churchill and say, respect the racism of South Africa, as Churchill said, expect the racism of the Americans. Aren't the Americans the ones who were for freedom, justice and equality. Aren't they the ones who fought under that rag up there, but they were the ones who discriminated against the black soldiers who were under that rag thinking that they might get some freedom, might get some justice. You know what Sammy Davis, Jr. said happened to him when he was in the military? He was in the Army. Six white guys jumped on him. He wasn't any bigger than a minute. They beat the stew out of him.

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

Floor Debate
February 26, 2019

Then they would pour urine on him. They poured urine in his beer and they harassed and hounded that very small black man and it took six of them, when one of them would have been enough, but they are do cowardly, like the ones who will call me and not show themselves to me. And there's some of those people on this floor who say things that they don't think will get back to me. But I don't get involved in the gossip mongering, in the busybodyness. I take care of what it is that I think I ought to be dealing with. And if those people want to come to me with it, then we'll be on a different footing. But if Rommel were a Nazi, if Rommel were a Nazi, and had manifested this egalitarianism that he did, that all of you who wear the same uniform are a part of the same army and when you're captured, you're all prisoners together and you are going to be treated the same way, not like the Americans who told the British, don't treat these black soldiers like human beings. And when black men were bringing prisoners of war to this country, Italians who tried to destroy your country, Germans who tried to destroy your country and kill many of you on trains, the black soldiers in the American uniform rode in the segregated coaches. The black soldiers in American uniforms could not go into white restaurants, when those Italian and Nazi prisoners of war were with them, they went inside. That's why I'm upset and you all are not because it was people of your complexion who were carrying out the segregated policies that have always marked America and mark America right now. That's why you get so upset at what I say because it's true. If I were saying that you all destroyed Mars, you'd laugh. You've never been to Mars. I'd say you corrupted life on the moon. You don't even believe there is life on the moon, you'd laugh. But when I talk about the rape of black women, that's your leaders. The sale of black children like cows, pigs, and chicken, that's your ancestors, the fathers of your country, and you don't like to hear it. And that same attitude exists today not only in this country, in this state, but on the floor of this Legislature, and some of you know it and I know who some of you are. But if you don't bring it to me, then we'll get along fine. But if you want to bring it to me, here I am. And I'm going to say what I want to say. I'm going to do what I think I ought to do and some idiot had some comments to make about my remarks about the flag. News Navigation. It's some kind of gun outfit and they start out with a falsehood. A Nebraska-- quote, a Nebraska Democrat has filed a bill that would prevent law enforcement from serving or working as resource officers in schools in the state. State Senator Ernie Chamber sponsored LB589. I'm not a Democrat. These idiot racists can't even get that right. And I'm more upset about being labeled a Democrat than I am what he said on the rest of it. I expect them to be racist. I expect them to use racial slurs, that's par for the course for white people but he hit me a low blow when he called me a

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

Floor Debate
February 26, 2019

Democrat. I am not a Democrat. I am not a "Replican." I am who I am and what I am and that's all. Hush fell over the pool room. Hush fell over the Chamber. You all know I'm telling the truth and you know I'm going to keep telling my truth. And put this in your pipe and smoke it. If I had all these white American military leaders on the left side and Rommel on the right side, and I looked at their attitudes toward racism even in the military and the white people are under that rag. And Rommel is under the swastika. You know what I'd say? Heil, Hitler, not America. Black men had two wars to fight. The Germans and the Americans, and they had more to fear from the Americans who were at their back. That's what was happening to us in this country, from this country at that time. And when black men came back to this country, naively thinking that it would change the attitude of these racists to know that they fought overseas against what white people call antisemitism and racism on the part of the Nazis, worse than that was waiting for them when they got back to this country because a black man in a military uniform was a plum target for those who lynched black people. And black men in uniform were lynched in the United States of America and when the Nazis captured somebody, they didn't lynch them. Not the Nazis, they had too high a standard for that. They didn't even lynch the people who were fighting them trying to kill them. But Americans who when you all say you get an army and you go over here and fight, you're fighting for Americans, black men fighting for America risking their life come back here and the Americans are the ones who do the lynching.

SCHEER: One minute.

CHAMBERS: What kind of country is this and what kind of man would I be if I let the simpleminded stuff that these racists put out affect me. As I tell people, it's like giving high octane gasoline to a fire breathing dragon. You don't quench the fire by pouring high octane gasoline on it. When I can upset these racists this much and they're listening against their will, I'm winning, all the time. And I'm going to keep doing it and I will do it for the rest of my life and I've only got about 40 years left, so I've got to work hard and fast to try to get something done. I look around here at my colleagues, you pass a piece of trash legislation like Senator Slama brought and you're proud of yourselves. You make it seem like you did something worthwhile, you didn't. It just shows the racism that's here or the stupidity of those who voted for the bill.

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

Floor Debate
February 26, 2019

SCHEER: Time, Senator.

CHAMBERS: Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Senator La Grone, you're recognized.

LA GRONE: Thank you, Mr. President. And I said that I was going to wait until my amendment to start talking about my concerns with the bill but in the interest of making sure we get to those issues, I'm going to start talking about those now. We can talk more about the amendment in detail when we get to it. I completely agree with Senator Lathrop that Douglas County needs another judge. I mean, the facts clearly show that. Their caseload is way over what it should be per judge. So no one is arguing that we do need another judge in Douglas County. In fact, we probably need multiple other judges. But my problem with LB309 is the current system of how we fund our courts. As it currently stands, LB309 would be an unfunded mandate and my amendment is meant to fix that. Unfunded mandates are essentially things that the state requires of counties and then doesn't pay for. It's a way for the state, us here in the Legislature to shift our costs off of our books on to the counties. And while there are many issues that contribute to our property tax problems, unfunded mandates are a part of those because they incur costs for the counties who have to use property tax dollars to pay for that. So currently how our system works, is that the state is responsible for a court system but only picks up part of the cost. We pay for the judges' salary, we pay for a couple other things associated with it and that's laid out in the bill. But we kick a lot of the administration costs down to the counties and my issue with that is that if we're going to seriously address spending and we're seriously going to address our property tax problem, we need to be very clear about exactly how much money we're spending. And there's money that is being spent here when we pass this bill that is not on the A bill because it's kicked down to the counties. And so, again, we'll get to the specifics of my amendment when we get to it, but essentially what I think we need to do is address all the costs associated with our court system. Now that's going to be a very large fiscal note, I'm completely aware of that. But at least we'll be aware of exactly how much money we are spending, exactly how much money we are requiring our counties to pick up from our property taxpayers, and I think that that will go a long way to addressing our property tax problem because we'll finally be able to actually see how much money we really are spending. So with that, again, I will get more to the specifics of

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

Floor Debate
February 26, 2019

the amendment when we get to it. I would say about the amendment when we get to it, it was hastily drafted. I know there are problems with it, we need to clean that up. This was simply a way to make sure that we had something to work with this morning since this bill was coming up. And with that, thank you, Mr. President.

SCHEER: Thank you, Senator La Grone. Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. On the same theme as Senator La Grone, unfunded mandates, what I was able to ascertain, I don't even think Douglas County thought this was coming, the commissioners. I don't know if they were involved in the process. Senator Lathrop, would you answer a question?

SCHEER: Senator Lathrop, would you please yield?

LATHROP: I'd be happy to.

GROENE: Did you talk to the county commissioners about this bill and did they come and testify?

LATHROP: Douglas County is not opposed to this bill, nor is NACO.

GROENE: They didn't testify, or?

LATHROP: They did not testify. I spoke to their representative this morning. They are not in opposition to this bill.

GROENE: But they didn't send correspondence in neutral or?

LATHROP: No. We had a couple district court judges or a district court judge come down from Douglas County and talk about their workload and the need for additional judges.

GROENE; One more question. Is this more juvenile or just general court cases?

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

Floor Debate
February 26, 2019

LATHROP: This is district court, so we have three courts. We have the county court which is generally misdemeanors and smaller civil matters. We have the juvenile court that deals with the underage minors, and district court deals with felonies and divorces, domestic relations and significant litigation.

GROENE: Thank you. And I stand in opposition just basically because of the unfunded mandate and the fact that we're going another three hundred-some thousand dollars out of the General Fund that needs to go to the property tax relief for all. So, we're kind of a dual thing that money won't be available for property tax relief by this body plus we're going to have an added unfunded mandate to Douglas County. And as far as voting green on Senator Chambers' motion, I'm trying to be more collegial this year and I plan on voting at least green three times on a motion by Senator Chambers so I only have two more to go. Thank you.

SCHEER: Thank you, Senator Groene and Senator Lathrop. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President and members of the Legislature, I have to disagree with something Senator Groene said. This is not this sloganeering of an unfunded mandate. The counties-- let me ask Senator Groene a question before I go on.

SCHEER: Senator Groene, would you please yield?

GROENE: Yes.

CHAMBERS: Senator Groene, does the Legislature create counties?

GROENE: Yes.

CHAMBERS: So--

GROENE: It did, past tense.

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

Floor Debate
February 26, 2019

CHAMBERS: Okay. Whatever they do, they do because the Legislature authorized them to do so, is that correct?

GROENE: One hundred percent agreement. I've used the same argument before.

CHAMBERS: And they are like, hand persons for the state and of the state doing those things that they're instructed to do. Isn't that correct?

GROENE: True. All local government was created by this body.

CHAMBERS: Thank you. Members of the Legislature, that is called a shibboleth. That phrase unfunded mandates is thrown up for any and everything that people don't like. The fact that the courts are created by the Legislature, there are some in the Constitution, but there are certain courts that can be brought into being by the Legislature and they are courts with the same status as other courts except that their jurisdiction might be different. But to say that this has something to do with property taxes when it deals with Douglas County, is beyond my ability to comprehend. I never knew that rural senators were concerned about the property taxes paid by people in Douglas, or Sarpy, or Lancaster because they're the ones that the rural people are going to have to shift taxes to in order to try to get some relief out there where they are. So all that Senator Groene is doing is giving an argument which he knows is going no where, it sounds like the right thing to say, but this bill, I believe, is going to advance if and when you get to vote for it. I believe it will be passed and I don't believe the Governor will veto it. Now something that would guarantee he wouldn't veto it, is if I vote against it. Then you know he would sign it. That's how petty he is. But when you have a court system and it's one of the three branches of government, nothing should be done to hurt that branch of government in a systemic way. Salaries are a different matter. And I am going to have a different approach to the salaries for these judges. And I will talk about some of the wrongful things that judges have done. But what those wrongful things are to me have nothing to do with a bill like this. I have not been shown by anybody that the person who will be appointed to the judgeship will be like that other guy who quit because of sexual improprieties in Lancaster County. And nothing was done to him at all. He was allowed to resign. And that meant that he could not be punished by the Judicial Qualifications Commission because he was not a judge.

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

Floor Debate
February 26, 2019

SCHEER: One minute.

CHAMBERS: They had enough evidence to kick him off the bench. The chief justice said publicly, the wise thing for him to do was to leave. He could not have anything done against his license as a lawyer. Why is that? Because the judicial qualification withholds evidence that they had from the Council for Disciplines Office, therefore this judge who is unfit to sit on the Nebraska Supreme Court, unfit to be a judge, is still practicing law because the judges and the lawyers take care of themselves and their own. The judicial qualifications were clever. Not the Qualifications Commission itself--

SCHEER: Time, Senator.

CHAMBERS: --but those who spoke. Thank you.

SCHEER: Thank you, Senator Chambers and Senator Groene. Senator Lathrop, you're recognized.

LATHROP: Thank you, Mr. President and colleagues. I intended to wait until Senator La Grone's amendment was up to talk about it, but apparently that's going to be the discussion on the current motion and I don't want you to break for lunch and spend the night without having heard from me about this amendment. The amendment is, for all practical purposes, what I would refer to as a poison pill. This bill has a fiscal note that is the cost of a district court judge. The amendment, which I appreciate, if we add a district court judge to Douglas County, Douglas County, I appreciate Senator La Grone's concern for Douglas County property taxpayers, who are not in his district. Douglas County will pay for a bailiff and a court reporter, the state will pay for the district court judge, which is why we have a fiscal note. The amendment offered by Senator La Grone would require that the state-- now, you want to talk about property tax relief, hang on a minute, and listen up. The state would from the General Fund reimburse the counties money that won't be there for your property tax relief, would reimburse the counties for all of the expense, including the space they take up in the courthouse. That will blow the fiscal note up, which I would submit is the purpose of the amendment in the first place. It doesn't provide people with property tax relief. It's not going to fix a single thing. It is an attempt to try to derail a bill so that

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

Floor Debate
February 26, 2019

Douglas County can pick up a needed district court judge. Now, I'm going to talk about the level of cooperation that happens in this place, because I've been around for these conversations in the past, for eight years I was. And here is the conversation. We all have an obligation to our district, right? But we are all state senators and we have a problem in Douglas County and that doesn't make it a problem of a couple of people that happen to live in Douglas County that serve in this body, it is a state problem. It is a state problem. Just as you will want people to listen to the burden of property taxes in rural Nebraska, you'll expect some help from people in Douglas County, I'm telling you that this is a state problem. It's not a Douglas County problem and we don't need to add an amendment that is a poison pill on this bill to try to not cooperate in solving a state problem. To be clear, how this works, if we don't add a district court judge, the next time there's a vacancy, they will look to see who doesn't need a district court judge as bad as Douglas County and that will become a vacant seat in Douglas County and Douglas County will have to pay for a bailiff and a court reporter. You're not getting anywhere with this. But the question as we proceed in this session is about whether we're going to cooperate to solve statewide problems, even if it isn't in your district and maybe it's not your biggest problem, but this is where the divide between urban and rural stops. We don't do it with district court judge appointments because if you're not going to help me or help Douglas County get judges that can hear cases and Senator Wayne was telling me, he's got somebody that's awaiting sentence in Douglas County, been three months, can't get them in front of a district court judge. Guess where his client is sitting? In the county jail and guess what the county jail is doing? They're paying a daily rate to have that person sit there.

SCHEER: One minute.

LATHROP: This is way more complex than simply dropping a bill that's going to blow up a fiscal note and make this thing radioactive. That's what's happening with the amendment that we'll see after we get done with Senator Chambers' bracket motion. Colleagues, this is a state issue. And if you want to talk about unfunded mandates, let me share something with you. Every time we don't properly fund the State Patrol, they're turning that into a county sheriff issue. I was talking to Senator Stinner, they're down about 48 vacancies at the State Patrol. Those of you that live in greater Nebraska outside of Douglas County, outside of Sarpy, who is picking up where those state troopers used to serve? It's your county sheriffs. We can do that with mental health

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

Floor Debate
February 26, 2019

and I'm looking around the room and seeing the people that have introduced in Judiciary Committee to deal with the fact that the state hasn't come through on mental health. So who is picking up that tab? It's an unfunded mandate to your counties.

SCHEER: Time, Senator.

LATHROP: Thank you.

SCHEER: Thank you, Senator Lathrop. Senator La Grone, you're recognized.

LA GRONE: Thank you, Mr. President, and I'll get to Senator Lathrop's comments in a moment. Because I-- this is why I wanted to get to the amendment is I can explain why I introduced the way I do and I can assure Senator Lathrop I have no intention of it being a poison pill. I have no expectation that the amendment will go forward in its current form. But something Senator Chambers said, I think, deserves comment because I think it really helps to understand the underlining issue that we're dealing with here. Senator Chambers indicated that the state has created the counties and the counties are effectively functionaries of the state. And what he's referring to is the Dillon's Rule concept. And so that concept says that the state creates the counties, the state can give the counties what powers it wants, and then the counties can't really go beyond that. And we'll get into how Nebraska has altered that slightly in a minute. But just the general rule on Dillon's Rule so we understand what we're talking about here, is that essentially it's named after Judge John F. Dillon of the Iowa Supreme Court who authored the rule on his first commentaries on law. Essentially what it says is that a local government can exercise only the powers that's granted to it expressly, those necessarily or fairly implied to the powers it is expressly granted, and those essential to the accomplishment of declared objects and purposes of the local government, not simply convenient but indispensable. So it's really the counterpart of the plenary rule that the state has all the legislative power which is the foundation of state government. And Nebraska has modified that. We can get into, I'll spare you the long details but just to touch on it shortly, the sword power which is what can counties do, and the shield power which is what can counties or any other locality for that matter block the state from doing. Now in Nebraska we've essentially said is the counties or any local government has a very large amount of sword power. They can do what they need to do and we could-- home rule for

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

Floor Debate
February 26, 2019

localities and counties to have that is another discussion. But what they lack, is they lack a shield power so they can't stop the state from doing anything. And so how that brings us here is anytime we have and we can make the localities do anything that we want to make them do, and my point with this is that there's a cost incurred with that. And really what that is, is the state is forcing the localities, including the counties, to spend money. And I think that we need to start being honest about how much money we're spending by looking at those unfunded mandates and putting them on the state dollars. Now to address Senator Lathrop's comments about the amendment, I introduced the amendment again as a hastily-drafted blank amendment. It includes a lot of stuff. My goal is to have the conversation, what should the counties pay for and what should the state pay for. I think that we can have that conversation with an amendment that brings it all in. Are we going to amend a lot of that out of it? Probably, absolutely, and that will bring the fiscal note down. My point is that I don't think it's sustainable to continue kicking all these costs to the counties and then also want to address our property tax issue. So really, what I hope that the amendment can become, is an amendment that looks at the bill, says these are the costs that the counties should pay, these are the costs that the state should pay, and that the amendment becomes an avenue, an avenue, it doesn't achieve it but an avenue to property tax relief for the counties. Now granted, we're not forcing them to spend that money on property tax relief but my hope is that given how important of an issue that is--

SCHEER: One minute.

LA GRONE: --that that is what they would use it for. With that, thank you, Mr. President.

SCHEER: Thank you, Senator La Grone. Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President and members of the Legislature, kind of taking a jump off on that piece of trash legislation as I describe it, LB399, they talk about civics. Well, civics, as everybody should know but may not, is a branch of political science. And political science comprises the study of government, its processes, its principles, its operations, and things along that line. So when an activity is to be carried out, somebody is going to pay for it. People who live in Omaha also live in Douglas County, also live in the state of Nebraska, so these are not discreet individuals who pay taxes only to one entity. What has to be done is to look at those

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

Floor Debate
February 26, 2019

essential elements that go to the very structure and functioning of the government. This is a tripartite government. There are three distinct branches. Each is assigned by the Constitution with certain powers that cannot be encroached upon by the other two together or individually unless specifically authorized by the Constitution. The judicial system is critical to the proper functioning of any society even if it's totalitarian, even if it's national, socialist, or Nazi. Now judges can be corrupted, judges can be influenced, judges can be intimidated, but when you look at the structure of a judicial system, it is essential that one exist. I'm going to let you all get away with saying that the purpose of the American judiciary at the federal level, at the state level, is to see that justice is dispensed. Justice consists of granting to a person his or her due. It is based on the notion in Nebraska that the doors to the courthouse are open to every individual for any problem or harm or wrong suffered in that person's person, property, name, and so forth. That's why I sued God, to show that the doors of the courthouse are to be open no matter what kind of action you bring. It's not for the Legislature or anybody else to say, you cannot bring this action. The court has its doors open, a judge may say at the first instance that it comes before a judge, this is frivolous, and dismiss it. The individual who is thrown out on that basis can file an appeal. But nevertheless, the judicial process itself must be open to everybody. The judicial system functions through the judges, and their staff and other judicial employees. If there is a location such as Douglas County with the largest population of any county, you're going to have more judicial work than any other county. The Legislature has a responsibility, if it's going to function as a Legislature should,--

SCHEER: One minute.

CHAMBERS: --to make sure that the court has the personnel necessary to carry out the functions that have been assigned to a court or that are essential to the nature of a judicial system. All this bill says is that a study has been undertaken, more than one judge would be needed. But looking at the practicability of the situation, Senator Lathrop brings a bill that says, add one judge. That's why I have no doubt that this bill is going to advance. I have no doubt that it's going to be enacted. I have no doubt that the Governor would sign it. How much time do I have, Mr. President?

SCHEER: Eight seconds.

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

Floor Debate
February 26, 2019

CHAMBERS: Eight seconds? Okay. Thank you.

SCHEER: Thank you, Senator Chambers. Senator Briese, you're welcome to open. You're just welcome to make a comment, I guess. [LAUGHTER]

BRIESE: Okay. Thank you, Mr. President. And that's what I do, I rise today to comment on this discussion here. And I'll first say, I'm not opposed to Senator Lathrop's bill. You know, he has laid out a fairly compelling case why we need the additional help there and I'm certainly not out to derail the bill. But I want to thank Senator La Grone for bringing his amendment and raising this issue. Is it reasonable to expect success on this amendment with an accompanying fiscal note? Maybe not. Is it reasonable to ask the state to fund these amounts? Absolutely. Senator La Grone has ably laid out his concerns over unfunded mandates and, folks, we're talking about property tax relief here. And yes, Senator Chambers, all Nebraskans need property tax relief whether you're a Cherry County rancher, a Clay County farmer suffering from the highest property taxes in the country, or an urban Nebraska homeowner with the sixth to seventh highest property taxes in the country, you need property tax relief. You deserve property tax relief. And we could go on and on here listing unfunded mandates we impose on our local government. We can talk about those items we impose on counties without paying for them and instead relying on property taxpayers to pick up the bill. And we could go on and talk about unfunded mandates on our local school systems. We can discuss how Nebraska statutes require schools to provide special education programs. We can talk about how the state was once statutorily required to fund 90 percent of those programs and how that amount was lowered and was then dropped, so it's now simply what we appropriate which by the way is about 48 percent. Instead we rely on the local property taxpayers to pick up the slack. We could talk about requiring a free public education and we could talk about how we once by statute allocated 20 percent of local income tax revenue to help fund that education. And we can also talk about how we pulled the rug out from under school districts by dropping that amount from 20 percent to two and a third percent. In doing so, we relied on the property taxpayers to pick up the slack. And we can talk about requiring a free public education and then we can talk about how we're essentially last in the country and the percentage of that education funding derived from the state and while school budgets increase at a rate of 2.8 to 3.2 percent per year, we increase the state's contribution over recent three-year period by less than 1 percent a year. And who makes up that difference? Well,

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

Floor Debate
February 26, 2019

it's the property taxpayers. We'll discuss these items relative to school funding another day and rest assured we will discuss them, and also rest assured, we'll discuss raising new revenue to inject more dollars into education to offset property taxes. And as the opponents of property tax relief outside of this body object to this new revenue, ask them about the state imposed property tax increases we levy on our citizens every year through our current system of education funding. Ask them about the state imposed property tax increase we impose on our citizens any time we produce an unfunded mandate. Until then, the point is any time we require something of our locals, without funding it, we're raising property taxes on hardworking Nebraskans. So I thank Senator La Grone for bringing this issue forward and I will support Senator La Grone's amendment and ultimately I will support this bill with or without the amendment. With that said, thank you, Mr. President.

SCHEER: Thank you, Senator Briese. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker. Good morning, again. Listening to the conversation this morning about unfunded mandates brings back to mind those things I seen as a county commissioner and understand that there are such a thing as unfunded mandates. Senator Lathrop spoke about Douglas County and NACO not being in opposition to the bill, and I understand those people sitting in jail there and the taxpayers of Douglas County are paying for that as well. And so, speaking of NACO, I would like to read you a resolution, a legislative resolution that I have this morning, and it is about a man that served many years as a NACO director, also as a state senator. Jack D. Mills was born to Dale and Fern Mills on August 22, 1937 in Holdrege and Jack graduated from Superior High School, attended Kearney State College and the University of Nebraska and earned a degree in business administration from Bellevue University. And whereas, Jack was an entrepreneur, was in the grain, fertilizer and cattle business in Big Springs and a farmer and rancher in Deuel and Garden Counties. Whereas, Jack served his community as a member of a Local Educational Service Unit Board, Big Springs School Board and the local library board. Whereas, Jack was elected to the Nebraska Legislature in 1974, served in District 44 until 1978 with dignity and integrity and played a key role in the landmark groundwater legislation. Jack worked for 20 years as the executive director of the Nebraska Association of County Officials, that is NACO, and will be remembered for his pioneering work on the formation of interlocal, intergovernmental risk pools that have saved the counties and taxpayers

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

Floor Debate
February 26, 2019

millions of dollars. In retirement, Jack served on the board of directors of Blue Cross Blue Shield where he earned the title of chairman of the board, Ameritas, and Spinal Research Foundation and as president of Villas at Island Club Condominium Association. Jack served his community as a Shriner, a Mason, a member of the Scottish Rite and was decorated as the Knight Commander and the Court of Honor, and a member of St. Mark's United Methodist Church where he served on the finance committee. Jack and his wife raised four children and welcomed 11 grandchildren. Jack, with his wife Norma by his side, spent a lifetime representing Nebraska honorably, competently, and diplomatically and will be remembered as a true statesman. Jack Mills passed away February 14, 2019, at the age of 81. Now, therefore, be it resolved by the members of the One Hundred Sixth Legislature of Nebraska's First Session, one, that the Legislature honors the life and service of Jack D. Mills, two, that the Legislature extends deepest sympathy to the family of Jack D. Mills, and three, that a copy of this resolution be sent to the family of Jack D. Mills. Thank you.

SCHEER: Thank you, Senator Erdman. Senator Lowe, you're recognized.

LOWE: Thank you, Mr. President. You know, Omaha has a problem with not enough judges and I think we all understand that and we all have compassion for Omaha. LB309 is a step in the right direction. But we must look at where this money comes from and if it is the counties' responsibility for it or the state's. If Senator Chambers would like some time, I'd like to yield the rest of my time to Senator Chambers.

SCHEER: Senator Chambers, 4:20.

CHAMBERS: Thank you, Mr. President. Thank you, Senator Lowe. And Senator Lowe touched on the bill and I will also. This bill is going to pass. I would like to ask Senator Briese a question if he would respond.

SCHEER: Senator Briese, would you please yield?

BRIESE: Yes, I will.

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

Floor Debate
February 26, 2019

CHAMBERS: Senator Briese, do you have the belly for a little wager this morning?

BRIESE: Oh, not at all, Senator.

CHAMBERS: I'll even tell you what it is in advance, before you decide whether you want to do it.

BRIESE: Doesn't interest me.

CHAMBERS: No matter what it is.

BRIESE: That's right.

CHAMBERS: All right. Well, I will go back to what I was going to say about the bill. During the time that I've been in the Legislature, I have brought numerous complaints against any number of judges and various judges have been disciplined. One who was thought to be as immovable as the Rock of Gibraltar was kicked off the bench in Douglas County because of a complaint that I brought. I don't just willy-nilly, make a complaint, I talked to employees at the courthouse. And they told me to a person that complaints had been made against this judge. They called him Deacon Jones and nothing happened as a result. The counsel, or in this case, the Judicial Qualifications Commission never took action. I told them that I guarantee you that something will be done in this instance because it's not the commission, it is I. And they trusted me. And they gave me statements about the things that this judge had said, things he had done, and I documented everything meticulously. I filed a complaint and there was even a fellow judge that I spoke in behalf of. This Jones had gone into her restroom and urinated on the floor. That's what he had done among other things and people knew about it, but did nothing. I was outraged and that's what put me on his trail in the first place. Other things began to develop and I pointed out, and I'm going to leave out some of the details because I want to make the point, that because of what Jones had done, in effect, he had removed himself from being able to function as a judge and he ought to be suspended pending the outcome of the investigation by the commission. I emphasize that this suspension is not a determination on whether he should be removed or not,

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

Floor Debate
February 26, 2019

but because of what he has done. He cannot function effectively as a judge. Senator Brashear, the former Speaker, was here at that time--

SCHEER: One minute.

CHAMBERS: --and no judge had ever been suspended like that and he thought it wouldn't happen. But lo and behold, I was on the case, it did happen. And ultimately, the complaint that I had written detailed the wrongful conduct he had engaged in was like a template for the commission when they decided that he should be removed from the bench. Every complaint, every part of that complaint, rather, that I documented was confirmed, and he was gone. There were other judges who chose to resign rather than grapple with me. And they also gave up their license to practice law. So I have been a watch person over the judiciary. I have not hesitated to go after them, which is a street term for confronting them and bringing them--

SCHEER: Time, Senator.

CHAMBERS: Thank you, Mr. President.

SCHEER: Thank you, Senator Chambers. Senator Dorn, you're recognized.

DORN: Thank you, Mr. Speaker, and fellow colleagues. I wanted to get up and talk a little bit today about also the property tax relief and part of what Senator La Grone's amendments will do is the unfunded part to counties for additional cost. I am in support of Senator Lathrop's bill, LB309, that the County of Douglas does need another judge. With that, I think there will be a fiscal note that this year in our budget that we will have to deal with. And we will have to decide where that funding comes from and how we're able to handle that as we work through that process. I do agree with Senator La Grone and Senator Briese and some of the other comments here that we as a legislative body, we have a lot of things that we're going to have to work through to try and get some property tax relief done this year, and this is just another one of those conversations that I think we're going to have as we go through that process. As I said, I sat on a county board for eight years and one of the things that county boards are most fearful of is, this legislative body passing bills, passing unfunded mandates that will increase the cost for

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

Floor Debate
February 26, 2019

counties, and then all the counties hear is, the counties need to decrease their spending. They have the only way they can pay for their spending is by property taxes. So it's kind of a Catch-22. This body gives them more of a cost and yet they're supposed to have less spending and less tax asking. Like I said, I will be supporting Senator Lathrop's bill for a judge but we have a lot of things on our plate here in this legislative session, property taxes and a lot of other things. I think we need to move on and get some of these things done so that we can have some more votes and get some more bills passed. Thank you.

SCHEER: Thank you, Senator Dorn. Items, Mr. Clerk.

ASSISTANT CLERK: Thank, you Mr. President. The Committee on Enrollment and Review reports LB254 to Select File with E&R amendments. They also report LB361 to Select File. Notice of committee hearings from the Appropriations Committee. Amendments to be printed: Senator La Grone to LB309. A series of name adds: Senator La Grone to LB147; Senator Albrecht to LB462, and Senator Hunt to LB611.

Finally, Mr. President, a priority motion. Senator Linehan would move to adjourn the body until Wednesday, February 27, 2019 at 9:00 a.m.

SCHEER: Thank you, Mr. Clerk. Colleagues, you've heard the motion to adjourn. All those in favor please say aye. Any opposed say nay. The ayes have it, we are adjourned.