

FEBRUARY 13, 2001

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FLOOR DEBATE

February 13, 2001

PRESIDENT MAURSTAD PRESIDING

PRESIDENT MAURSTAD: Good morning. Welcome to the George W. Norris Legislative Chamber for the twenty-eighth day of the Ninety-Seventh Legislature, First Session. Our chaplain of the day is Father Robert Tucker of the Cathedral of the Risen Christ in Lincoln...from Lincoln, Senator Foley's district. Father Tucker.

FATHER TUCKER: (Prayer offered.)

PRESIDENT MAURSTAD: Thank you, Father Tucker. Members, we'll call the session...today's business to order. Please record your presence.

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

PRESIDENT MAURSTAD: Thank you. Are there corrections for the Journal?

CLERK: No corrections, Mr. President.

PRESIDENT MAURSTAD: Any messages, reports or announcements?

CLERK: Mr. President, I have neither messages, reports or announcements at this time.

PRESIDENT MAURSTAD: Mr. Clerk, legislative confirmation report.

CLERK: Mr. President, confirmation report offered by Retirement Systems, found on page 621.

PRESIDENT MAURSTAD: Senator Bruning, you're recognized to open.

SENATOR BRUNING: Mr. President, members of the Legislature the Nebraska Retirement Systems Committee recommends Denis Blank for your confirmation to the Public Employees Retirement Board. Mr. Blank is from Lincoln; he's the Chief Administrator for the Department of Agriculture; he's worked there for 20 years, and we feel that he'll be an excellent addition to the Public Employees Retirement Board. His term will expire in 2005, and

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we're very pleased to have him join PERB, and we look forward to working with him in the future. So I ask that the body confirm Mr. Blank to the Public Employees Retirement Board.

PRESIDENT MAURSTAD: Thank you, Senator Bruning. Debate on the adoption of the Retirement Committee report? Senator Bruning, you're recognized to close. Senator Bruning waives closing. The question is the adoption of the Retirement Committee Report found on Journal page 621. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal pages 639-640.) 26 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

PRESIDENT MAURSTAD: The confirmation report is agreed to. Mr. Clerk.

CLERK: Mr. President, LB 313A, on Select File. No E & R. Senator Coordsen would move to amend the bill with FA31. (Legislative Journal page 640.)

PRESIDENT MAURSTAD: Senator Coordsen, you're recognized to open on your amendment to LB 313A.

SENATOR COORDSEN: Thank you, Mr. President. Members of the body, this amendment reduces the expenditure for 2002-2003 by \$2 million. If you recall, when we talked about LB 313A on General File, we understand that this is an estimate of what schools might participate in the merger and affiliation incentive programs. After the work, then did the Fiscal Office recalculated the expenditures, and this amendment then reduces the projection by \$2 million; it's now \$8,043,010. With that, I would move for the adoption of the amendment.

PRESIDENT MAURSTAD: Thank you, Senator Coordsen. Is there debate on the Coordsen amendment? Senator Coordsen, you're recognized to close. Senator Coordsen waives closing. The question is the adoption of the Coordsen amendment to LB 313A. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

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CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Coordsen's amendment.

PRESIDENT MAURSTAD: The Coordsen amendment is adopted.

CLERK: Senator Erdman, I have nothing further on the bill, Senator.

PRESIDENT MAURSTAD: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I move the advancement of LB 313A to E & R for engrossing.

PRESIDENT MAURSTAD: The question is the advancement of LB 313A. Those in favor say aye. Those opposed nay. The bill is advanced. Mr. Clerk, General File.

CLERK: Mr. President, LB 182, a bill introduced by Senator Jones. (Read title.) The bill was introduced on January 4 of this year, referred to Natural Resources, advanced to General File. I have no amendments on the bill at this time, Mr. President.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Jones, you're recognized to open on LB 182.

SENATOR JONES: Thank you, Mr. President. Members of the body, LB 182 was brought to me by the Niobrara Council. This bill concerns the Niobrara Council which was created by the passage, last year, of LB 1234. At that time the council was created and given a state recognition for the purpose of insuring that local interests be represented while upholding the mission of management in protecting the Niobrara National Scenic River Council, according to the Wild and Scenic River Act. I attended a meeting up there in October on this and this is their idea and it come from them, so I'd continue with that. I'd say that under LB 1234 a majority of the 16-member council must be present at a meeting for a council to take action. A zoning action requires two-thirds majority of the entire council, while other actions would require a simple majority. The problem is if ten members were present at a meeting, but two were at...the

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federal representatives, the council could legally meet, but to simply have a simple majority they'd have trouble having that...of nine votes would be impossible to obtain. Since the federal representatives do not vote, in addition, two-thirds of the 16-member council is 11 votes, whereas two-thirds of the current 14 member council is 10 votes. So that would be the problem there. Under LB 182 would correct these problems by not counting the nonvoting members as part of the quorum needed for the meeting to take action. For example, under the current situation the quorum would effectively drop from 9 to 8 members, until the federal officials have the ability to have their vote restored at this deal. It would also redefine the simple majority as a majority of the quorum present at any meeting and it would redefine the two-thirds majority as two-thirds of those members who are actually able to vote. In other words, LB 182 would offer the council flexibility as needed to deal with the current situation as well as the future where the federal officials may once again be allowed to vote, if they get it all settled. I might go through who they are up there to give you an idea. There's sixteen total and they have four commissioners, one from each county, and they have four landowners, one from each county in the corridor, and they got two NRD members, and there's two NRD districts in that corridor, so they got one from each one of them; they got one from Game and Parks, and they got one from the Forestry, and the Fish and Wildlife has one, and the National Park Service has one; and the recreational has one, and environmental has one. So that's the sixteen members that it takes to make it up. All this is is a flexibility for them while they are waiting for a federal decision to decide if these two federal people can vote. Right now the two federal people are the Fish and Wildlife and the National Park Service, that's the two that's from the federal. And right now a simple majority of the sixteen is nine; and after the bill passes there will be...a simple majority of fourteen would be eight. So that gives them the flexibility so they can go ahead and do business, because a lot of times there won't be enough of them there to count. And if there's two federal people there why they're in trouble. So, that's all the bill does. So, if you have any questions, I'd be glad to answer them. Thank you.

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PRESIDENT MAURSTAD: Thank you, Senator Jones. Debate on the advancement of LB 182? Senator Jones, you're recognized to close.

SENATOR JONES: I waive closing.

PRESIDENT MAURSTAD: Senator Jones waives closing. Question is the advancement of LB 182 to E & R Initial. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill, Mr. President.

PRESIDENT MAURSTAD: LB 182 is advanced. Mr. Clerk.

ASSISTANT CLERK: The next bill, Mr. President, is LB 337, that is a bill that was introduced by Senators Schrock and Stuhr. (Read title.) The bill was read for the first time on January 8, referred to the Natural Resources Committee. That committee reports the bill to General File with no committee amendments.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Schrock, you're recognized to open on LB 337.

SENATOR SCHROCK: Mr. Lieutenant Governor, members of the Legislature, on January 25, 2001, the Natural Resources Committee had a hearing on LB 337. I will brief you on what the bill contains. It extends the termination date of the Nebraska Litter Reduction and Recycling Act, from October 2002 to October 2007, that's five years. This allows the Department of Environmental Quality to operate the litter reduction program and recycling grant program for an additional five years. The original program was created with the passage of LB 120, in 1979, approximately 21 years ago. It generally raises funds of about \$1 million a year; the funding source is an annual fee to manufacturers, wholesalers and retailers with gross annual sales of at least \$100,000 in products which commonly contribute to litter. The fee amount is \$175 per \$1 million of total sales. The fee is collected by the Department of Revenue and the grants may be political subdivisions, public and private entities and

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organizations, and the projects funded by the program are for public education, clean-up of public areas and recycling. The money is allocated in percentages established by the Environmental Quality Council, this is done on an annual basis. The current percentage allocation is 45 percent for public education, 5 percent for clean-up, and 50 percent for recycling. If anybody has an interest, the Nebraska Department of Environmental Quality annually puts out a report on who gets the grants and what the money is used for. With that, I would urge your support for the passage of LB 337 and would try and answer any questions you may have. That concludes my opening remarks.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Schrock. We're discussing the advancement of LB 337. Open for discussion on that bill. Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members of the Legislature, Senator Schrock, I'm sure you're aware of the \$175 per million that is paid now to the DEQ for recyclables and so on and so forth. And then there is also a \$25 annual fee. I don't want to do anything right now, but on Select File would you be amenable to possibly looking at an amendment that would put those two together, put the two together so that those people that are paying the two fees would be able to do so at one time? Right now they come due at different times during the year. It would simplify things for those people; I think there is something like 20,000, 30,000 people that this affects. Would you look at something like that on Select File? I don't want to do it now.

SENATOR CUDABACK: Senator Schrock, for a question.

SENATOR SCHROCK: Senator Janssen, I think we need to talk to the Department of Revenue and they have apparently indicated some concerns. But if we can work something out with them that looks like it makes sense, I will be glad to accommodate your concerns so we could have one annual payment instead of two different fees.

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SENATOR JANSSEN: That would...I would appreciate that very much. And we all know the departments don't like to create anymore work; actually this would be less work for them, if they got it...both of the payments at one time. We'll be visiting with the Department of Revenue and your staff and office and getting an amendment ready for Select File.

SENATOR SCHROCK: Sounds good.

SENATOR JANSSEN: Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Wehrbein, on the advancement of LB 337.

SENATOR WEHRBEIN: Thank you, Mr. President, members of the body. Senator Schrock, I'd like to ask you a question or two.

SENATOR CUDABACK: Senator Schrock, will you yield?

SENATOR WEHRBEIN: I...I think I was listening when you introduced the bill, but did you get into the fact that there was supposed to be a study by the department prior to this extension that says six months. I was just reading the bill, as to the effectiveness of the recycling act? Do you have any comments along that line?

SENATOR SCHROCK: Senator Wehrbein, the DEQ briefed us on...on the program, at our hearing on the 25th of January, and certainly the committee members and myself felt like the program was running the way it was intended to, and that's about all I can report to you.

SENATOR WEHRBEIN: Well, I...over the time we've had at least thoughts of introducing bills, I don't know that any have been, about changing to a litter pickup where we pay a deposit, bottle deposit and those kinds of things. And I just thought philosophically I think this is the better way, but I didn't know whether you had any comments along that line as to whether this is a better way than...than other states have and...so that we don't...just don't...

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SENATOR SCHROCK: Yes, Senator Wehrbein, the program was initiated in 1979, because at that time there was interest in the state about a bottle deposit fee, you know a pop bottle would have a nickel deposit for returning it, so on and so forth. And other states were running programs like that. And the industry, which I'm including the bottlers and the people that generate the waste, didn't want that type of a program, and so this was their response to that type of a program. Now, is the program 100 percent effective? All you have to do is look in our ditches in the state of Nebraska and you know it isn't. We can do better. But I think this is helping. You know, a lot of cities are using these grants and they're using it so they can recycle, and certainly the 45 percent for education...I don't know what makes people pitch things out of their window when they're driving down the road. Education just goes so far. But it seems like if you...I recall when my...when my two sons were younger, you didn't dare roll down the window and throw anything out; they'd chastise you for it. And I'm afraid maybe when they got in their teenage life that maybe they weren't quite as careful about that either. I think it's just a cycle everybody (laugh) goes through. And then you have to ask yourself, if you're a teenager and you happen to be...I know that doesn't happen in this state, but you happen to have a beer bottle in your car, do you want to drag it home and put it in the trash can, or do you throw it out before you get there, you know? And that's part of the problem we have in this state, and I assume all states have that problem.

SENATOR WEHRBEIN: Well, I kind of wanted to be assured that this was the best way to go. I assume you evaluated it versus going to the deposit, the pop bottle deposit, which I know has been...come to the forefront every now and then. I think Senator Elmer might have had a bill like that a few years ago again. But apparently DEQ is convinced of this and I just wanted some comments.

SENATOR SCHROCK: Just one more comment. In the states where they have the deposit, the grocery stores in those states, and I think Ramie Janssen, Senator Janssen will...they bring back these dirty bottles, it's a health hazard; the grocery stores don't want to deal with them; it takes a lot of room and time

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and they have to sort through a lot of dirty, unsanitary bottles and it gets to be a problem for that industry. And so I'm not sure that I could support a deposit. And this maybe isn't addressing 100 percent of the problem, but it's certainly helping.

SENATOR WEHRBEIN: Okay, thank you.

PRESIDENT MAURSTAD PRESIDING

PRESIDENT MAURSTAD: Thank you, Senator Wehrbein. Senator Janssen, on debate on LB 337.

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, Senator Schrock, you're on the right track there. If the state of Iowa, all you have to do is talk to someone from the state of Iowa and see what a problem they have...

(Recorder malfunction)

SENATOR JANSSEN: ...deposit that has been in effect in that state for a few years. If you have an exterminator come in to take care of, you know, your bugs and so on and so forth, most stores have one come in once a month, I know we do in our store. But if you had a store in Iowa, you would have to have them there at least once a week because of the conditions that happen because of cans and bottles being returned. You go back about 30 years, when we had the return bottles, people would keep those bottles for sometimes a year at a time and then bring them all in at once, and there would be flies and mice and all other unmentionable little varmints that would be in those bottles; you had to have a separate place to keep them. Right now you don't have those little sheds out back of your stores, you've got one, big building. Those bottles and cans would come into that building, and you think the Health Department has a tough go now, if that would happen why they would have to add staff to the Health Department just to watch the bugs in the bottles. It's not a good situation. No one in my industry is complaining about the litter tax fee that we pay now; we'll continue to pay it. But, for heaven sakes, don't ever try to get that bottle

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bill passed in this Legislature; it would be...it wouldn't be...wouldn't be a very (laugh) good situation for the public health. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Janssen. Senator Schrock, you're recognized to close on LB 337. Senator Schrock waives closing. The question is the advancement of LB 337 to E & R. Those in favor vote aye; those opposed vote nay. Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 337.

PRESIDENT MAURSTAD: LB 337 is advanced. Mr. Clerk.

CLERK: Mr. President, LB 409 was a bill introduced by Senator McDonald. (Read title.) The bill was introduced on January 9 of this year, referred to the Natural Resources Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator McDonald, you're recognized to open on LB 409.

SENATOR McDONALD: Mr. President and members of the body, LB 409 simply provides for Reclamation District director per diems of \$70 per day, not to exceed \$2,800 per year. The current statute allows each board member to receive \$500 per year as compensation for this service. This hasn't been changed since 1947. I might add that I'm a 1948 model, so you get an idea how long it's been since this has been changed. Directors also receive traveling expenses, using the same guidelines as state employees. These are the same per diem amounts that NRD directors have just been awarded by LB 134, which we passed last week, and I would encourage you to advance LB 409 to Select File. I'd entertain questions, if necessary.

PRESIDENT MAURSTAD: Thank you, Senator McDonald. Senator Schrock, on the advancement of LB 409.

SENATOR SCHROCK: Yes, Mr. Lieutenant Governor. Members of the

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Legislature, I'd like to thank Senator McDonald for introducing this bill. I might remind people, I think this is his first bill on General File. There is two Reclamation Districts in the state of Nebraska, they are both in Senator McDonald's District and they started out at \$500 a year, in 1947, I believe, and have never had an increase. This puts the in line with our NRD boards and I think the bill is very appropriate. And really, we passed the bill last year that increased the NRD boards' salaries and compensation and it was really kind of an oversight that we didn't do this for the two Reclamation District boards. So I'm fully supportive of Senator McDonald's bill, but I may change my mind along the way.

PRESIDENT MAURSTAD: Thank you, Senator Schrock. Further debate on the advancement of LB 409? Senator McDonald, you're recognized to close.

SENATOR McDONALD: I think that it's important to remember that this project has advanced from a thought in 1947 to two Reclamation Districts that provide irrigation for about 120,000 acres, an enormous responsibility. And they're also responsible for the determination of recreation at these projects, too. So, with that in mind, I'd encourage advancement of LB 409. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator McDonald. The question is the advancement of LB 409. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB 409.

PRESIDENT MAURSTAD: LB 409 is advanced. Mr. Clerk.

CLERK: Mr. President, LB 133, a bill by Senator Schrock. (Read title.) The bill was introduced on January 4, referred to the Natural Resources Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0135, Legislative Journal page 442.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Schrock,

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you're recognized to open on LB 133.

SENATOR SCHROCK: Mr. Lieutenant Governor, members of the Legislature, this legislation was brought to me by the Association of Natural Resource Districts and certainly my own natural resource district, Tri-Basin Natural Resource District, has had a lot of interest in this. And the bill...the bill would change the requirement for inspection of chemigation units. And I think probably the best thing for us to do is to move to the amendment and I'm going to ask you to vote red on the amendment. And we've passed out a new amendment, which has been worked out by the Well Drillers Association, the Department of Health and the natural resource districts. So, with that, I think we can move to the committee amendment.

PRESIDENT MAURSTAD: Senator Schrock, you're recognized to open on the committee amendment.

SENATOR SCHROCK: Mr. Lieutenant Governor, without any fanfare, I would ask my colleagues to vote red on this and then we can get to the new amendment which I have passed out.

PRESIDENT MAURSTAD: Thank you, Senator Schrock. Is there discussion on the committee amendments? Senator Schrock, you're recognized to close.

SENATOR SCHROCK: Yes, colleagues. Please vote red on this and then we'll deal with the new amendment.

PRESIDENT MAURSTAD: Thank you, Senator Schrock. The question is, shall the committee amendments to LB 133 be adopted? Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 1 aye, 29 nays, Mr. President, on the committee amendments.

PRESIDENT MAURSTAD: The committee amendment is not agreed to. Mr. Clerk.

CLERK: Senator Schrock would move to amend with AM0369,

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Mr. President. (Legislative Journal page 587.)

PRESIDENT MAURSTAD: Senator Schrock, you're recognized to open on your amendment to LB 133.

SENATOR SCHROCK: Mr. Lieutenant Governor, members of the Legislature, AM0369 will become the bill. The amendment adds a new classification, natural resources ground water technician, and changes "water well monitoring supervisor" to "water well monitoring technician". Senator Baker, you'll be glad to know I met Wayne Madsen, out on the steps of the Capitol, yesterday, and he says, you're not going to call these people supervisors, are you? I said, no, we're going to call them technicians. And he was a very happy camper, so...this change was recommended by the Department of Health and Human Service in consultation with the natural resource districts. And they will be taking a class and receive a certificate from the department. The course shall include inspection of chemigation systems, measuring and recording static water levels, and inspecting and servicing flow meters and taking water samples. Those are the four things that these technicians can do. The training shall not be less than two hours, nor more than eight hours, and a written examination shall be given at its conclusion. The certificate of a successful completion of the examination will not be given until the appropriate fee has been paid. The fee is to be determined by the department under current law; Section 46-1224 governs the way fees are established. Currently, the application fee is no more than \$25. The certification fee is not to be less than \$25, nor more than \$40. The amendment defines a certified natural resources ground water technician as an individual who performs the activities of a natural resource ground water technician, has taken a training course, passed an examination, and received a certificate from the department. It allows the opening or breaking of the seal on a water well to be done by a certified water well monitoring technician or a natural resources ground water technician. As some of you may or may not know, once a year the natural resource districts come out and inspect people who chemigate through their center pivot systems; they inspect the units to make sure they're working, to make sure that the...the...that if the system should fail, that no water...no contamination will go back down the well. And so

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that's basically what this bill does. It's basically to make sure the people inspecting the chemigation units on irrigation well systems are operating properly and to protect the ground water of the state of Nebraska. It's something we have done on our farm, on an annual basis because we do use chemigation. And with that, I will conclude my opening remarks and try and answer any question you may have.

PRESIDENT MAURSTAD: Thank you, Senator Schrock. For debate on the Schrock amendment to LB 133, Senator Jones.

SENATOR JONES: Mr. President, members of the body, I was in the committee when this bill first came to the committee. And in the discussion the well drillers did come in, in opposition of it because they was concerned about the person that's checking these wells. With this amendment they have pulled all their opposition away from it and they support the idea now, and so I support this amendment. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Jones. Further debate? Senator Schrock, you're recognized to close. Senator Schrock waives closing. The question is the adoption of the Schrock amendment on LB 133. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Schrock's amendment.

PRESIDENT MAURSTAD: The amendment is agreed to.

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

PRESIDENT MAURSTAD: Debate on the advancement of LB 133? Senator Schrock, you're recognized to close. Senator Schrock waives closing. The question is the advancement of LB 133 to E & R Initial. Those in favor vote aye; those opposed vote nay. Please record.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 133.

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PRESIDENT MAURSTAD: The bill is advanced. Mr. Clerk.

CLERK: Mr. President, LB 46, by Senator Landis. (Read title.) The bill was introduced on January 4, referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Landis, you're recognized to open on LB 46.

SENATOR LANDIS: Good morning, Mr. Lieutenant Governor. Members of the Legislature, LB 46 stems from an article I read in a journal about settlement escrows, by Robert Gertner and Jeffrey Miller. Gertner and Miller posited the situation of which parties waited until the very last minute, on the courthouse steps, to settle a case. They'd spent all of their money for discovery purposes, like depositions and interrogatories, passing papers, dilatory motions, billable hours, and at the last possible moment they found a settlement, a settlement that, had they arrived at it months before, would have saved a great deal of time, effort, energy and money. And Gertner and Miller said, why is it that people don't settle cases earlier? And one reason is people are looking for the last possible amount of advantage that they can get. They want the other side to blink; they've been hiding their bottom line for as long as they possibly can, but when they're on the courthouse steps it's time to be realistic, and so they exchange realistic offers with each other to avoid going to trial after having spent a rather great deal of money getting ready to go to trial. Gertner and Miller, in this article, said, look, you might be able to get these parties to tell their bottom lines, not to each other, but to a third party. If they told those...that secret, confidential information to a third party, that third party could see if there was an overlap, if the plaintiff would accept a number that the defendant would offer, or if the plaintiff would accept a number that was even lower than what a defendant would offer, so that there was an overlap between the two parties. Then the article said, look, if you had two parties who overlapped, somebody who would come down far enough that it overlapped with how far somebody would come up in a settlement, you could then pick the midpoint between those two bottom lines and both

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parties would be better off than they would be with their bottom line, which itself is a number that is livable to both parties. What we don't have, said these writers, is a way of doing this process. Maybe you could do it privately. We suggest this to lawyers to do privately, and after having read this I said to myself, well gosh, that's okay, but would require that lawyers read this rather academic journal, figure out the idea, and then voluntarily choose to do it. Why not make this available to people in the state of Nebraska by assigning the responsibility to serve as this third party to our Office of Dispute Resolution in the Court Administrators Office or, if possible, they might be able to delegate the responsibility to the mediation centers around the state. The bill essentially says this, parties to a lawsuit in which money damages is the only issue have a voluntary option--they can go to the Office of Dispute Resolution, have the Dispute Resolution Office contact the other party, ask both parties if they would consider offering to the office their confidential, secret bottom line. Then if they do that, the parties agree that if there's an overlap between what the parties will accept for settlement, that the settlement will be the midpoint of that overlap, and that if they discover that in the Office of Dispute Resolution both parties are agreeing that that's the settlement point that they would accept. It can be done once and only once in a case. It is totally voluntary on both parties part, it can be initiated at any time prior to trial; it assures an impartial agent who is confidential and who is subject to the regulation of the court and the discipline of the court, should they violate their responsibilities at any time. It is designed to reduce the delay in reaching settlements. It's designed to reduce costs to both parties and to the court system itself. Having introduced the bill, I learned that this kind of mechanism is available on the Internet, through something called Cybersettle in which parties pay for this process to the tune of about \$600. However, it is done through a computer system, which of course means it has a security problem; it's done over the Internet, which means if something does go wrong it's unclear as to how the settlement practice would go forward or the discipline of parties who were participating in the mechanism. Cybersettle has been successful, however, in a number of instances, I think to the tune of about \$25 million of settlements in about 10,000 cases;

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so it does exist. What we would do in Nebraska would be cheaper, it would be subject to local discipline, and it would be confidential and have the power of our state administration of justice to keep it confidential, and also to make this process a rather good deal cheaper than what it's done on the Internet. I would ask for the advancement of LB 46. I'll answer any questions you might have. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Landis. Debate on the advancement of LB 46? Senator Landis, you are recognized to close.

SENATOR LANDIS: Thank you. Mr. Speaker, I do want to mention the committee hearing included a member of the mediation staff in Lincoln, Paul Ladehoff, a former law student of mine, who now is a practicing mediator, Jan McKynzie, who was representing the Nebraska Insurance Federation, essentially the domestic insurance companies of this state, and John Lindsay, who was representing the Nebraska Association of Trial Attorneys. Both parties to most disputes that involve money would be the insurance industry and the trial attorneys. And they both think that this would be a valid tool to use. Understand, it's voluntary on both parties parts, it's confidential and it would be low-cost. I ask for the advancement of LB 46.

PRESIDENT MAURSTAD: Thank you, Senator Landis. Question is the advancement of LB 46. Those in favor vote aye; those opposed vote nay. Please record.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 46.

PRESIDENT MAURSTAD: LB 46 is advanced. Mr. Clerk.

CLERK: Mr. President, LB 48, by Senator Landis. (Read title.) The bill was introduced on January 4, referred to Judiciary, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Landis, you are now recognized to open on LB 48.

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SENATOR LANDIS: Thank you. LB 48 was suggested to me by the Nebraska Bankers Association. It's come out of the Judiciary Committee, 6-0, with the support of the State Bar Association and the State Bankers Association. When an individual goes into bankruptcy, any lawsuits against that individual are stayed, which means they can't go forward. So, you've got a debtor in bankruptcy and, if you're suing that debtor for some debt or some court case, the action is stayed. However, the statute of limitations for the party who is bringing the lawsuit is not tolled, it continues to run. So, while you might have two years or four years to sue somebody, you can be in bankruptcy court and the clock is stayed on the lawsuit, but the statute of limitations is running and federal law says, look, if you're in bankruptcy court, the statute of limitations runs out, so you can't bring the lawsuit, but the action is stayed by the federal bankruptcy court; you get 30 days to initiate the lawsuit. That's a short amount of time and this one attempts to seek a fairer balance. It says that when an action has been stayed by any court of competent jurisdiction or by statute, such action shall be commenced within the longer of the time prescribed in this chapter after the cause of action has accrued, or one year after the date the stay is no longer in effect. Which means that in the event your statute of limitations is being eaten up by the tolling of a cause of action that when that tolling ends you will still have at least one year in which to bring the action, and that's what LB 48 does. I'd ask for its advancement. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Landis. Discussion on the advancement of LB 48? Senator Landis, you're recognized to close.

SENATOR LANDIS: This bill was reported out of committee this year and it was also reported out last year, but it ran out of time last year. I'd ask for the advancement of LB 48.

PRESIDENT MAURSTAD: Thank you, Senator Landis. The question is the advancement of LB 48 to E & R Initial. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

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CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 48.

PRESIDENT MAURSTAD: LB 48 is advanced. Mr. Clerk.

CLERK: Mr. President, LB 84, a bill by Senator Brashear. (Read title.) The bill was introduced on January 4, referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Brashear, you're recognized to open on LB 84.

SENATOR BRASHEAR: Mr. President, members of the body, LB 84 is an amendment to the provisions of Nebraska law with regard to the jurisdiction of county courts. It's a technical clean-up bill that includes reference to the statutory exception of the county courts exclusive jurisdiction by adding, at line 7, page 2 of the green copy bill, a cross-reference. And I would urge the advancement of the bill. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Brashear. Debate on the advancement of LB 84? Senator Brashear, you're recognized to close. Senator Brashear waives closing. The question is the advancement of LB 84. Those in favor vote aye; those opposed vote nay. Please record.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 84.

PRESIDENT MAURSTAD: LB 84 is advanced. Mr. Clerk.

CLERK: Mr. President, LB 85, by Senator Brashear. (Read title.) Introduced January 4 of this year, referred to the Judiciary Committee, advanced to General File. I have no amendments, Mr. President.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Brashear, you're recognized to open on LB 85.

SENATOR BRASHEAR: Thank you, Mr. President. Members of the

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body, LB 85 amends a provision of the Nebraska statutes relating to civil procedure and the rules with regarding the testimony of witnesses. This bill is a technical clean-up bill also. LB 85 deletes a reference to the Nebraska Revised Statute 25-1214, because that statute was repealed in 1975, and LB 85 also inserts a reference to the current appropriate statute at 27-609. I urge the advancement of the bill. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Brashear. Debate on the advancement of LB 85? Senator Brashear, you're recognized to close. Senator Brashear waives closing. The question is the advancement of LB 85 to E & R Initial. Those in favor vote aye; those opposed vote nay. Voting on the advancement of LB 85. Mr. Clerk, please record.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 85.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk.

CLERK: Mr. President, LB 87 was a bill introduced by Senator Brashear, related to criminal procedure. (Read title.) Introduced on January 4, referred to the Judiciary Committee, advanced to General File. I have no amendments to the bill.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Brashear, you're recognized to open on LB 87.

SENATOR BRASHEAR: Mr. President, members of the body, LB 87 clarifies archaic and awkward language in Nebraska Revised Statute 29-504. That statute was originally adopted in 1873, and the statute contains awkward phrasing directing the "magistrate to proceed as soon as may be in the presence of the accused to inquire into the complainant". LB 87 changes the direction to the "magistrate to proceed as soon as practical under the circumstances". That clarification replaces the outdated phrase by utilizing new, contemporary language, and I would urge the advancement of the bill. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Brashear. Discussion on

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the advancement of LB 87? Senator Brashear, you're recognized to close. Senator Brashear waives closing. The question is the advancement of LB 87. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 87.

PRESIDENT MAURSTAD: LB 87 is advanced. Mr. Clerk.

CLERK: Mr. President, LB 299, a bill introduced by Senator Chambers. (Read title.) The bill was introduced on January 5, referred to the Judiciary Committee, advanced to General File.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Chambers, you are recognized to open on LB 299.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, this bill does a simple thing, actually two things, one of them I'm going to remove by amendment. Under the law of Nebraska now, if an innocent third party is injured as a result of a police chase, the jurisdiction employing the pursuing officers will be liable. There are instances when officers pursue into Nebraska from other states, usually it's Iowa officers coming from Council Bluffs. What this bill would do is place the same liability on them, when they enter this state, as exists for officers within this state. If they are authorized by the agency they work for in Iowa to pursue into this state, that provides a basis for holding that agency liable and the presence of the officer in Nebraska provides sufficient contact with this state to satisfy the requirement of the state being able to get personal jurisdiction over the officer. That part is no difficulty whatsoever and nobody has a problem with that. The item which did raise an issue, and I wanted to put it in the law to illicit a response from the state and I did get a response, I had put into the law, on page 4, a responsibility for the state of Nebraska to pay any such claim that a person obtain against one of these foreign officers and then seek reimbursement. The state, through whoever made the pink slip out, they call it a fiscal note, did question whether or not this could constitutionally be done; is it putting the state in

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a position to indemnify a person for an activity over which the state has no control? So rather than even fight that issue, I have an amendment on the desk which would strip that language from the bill. I will let that serve as my opening. The next thing to come up will be the amendment, and I will be prepared to answer any questions on the bill itself or the amendment. But that will terminate my close (sic), Mr. President, thank you.

PRESIDENT MAURSTAD: That terminates your opening? Never pass a chance. Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend. (FA32, Legislative Journal page 642.)

PRESIDENT MAURSTAD: Senator Chambers, you're recognized to open on your amendment.

SENATOR CHAMBERS: Thank you, Mr. President. And, Mr. President, every now and then I like to give somebody an opportunity to show that he is awake. (Laugh) And, as he says, every opportunity, none are missed. On page 4, in lines 2 through 8 you will find the language that I had talked about which would require the state to pay to such third party the damages recovered against one of these foreign officers. The reason I say "foreign", that means they're simply outside the state of Nebraska. The amendment I have would strike all of the language in lines 2 through 8, that would leave the bill in the form of simply placing the same responsibility and liability on officers who pursue into Nebraska, from other states, which currently exist for officers of Nebraska in such pursuits. If you have any questions, I'm prepared to answer them.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. Debate on the Chambers amendment to LB 299? Senator Chambers, you're recognized to close. Senator Chambers waives his closing. The question is the adoption of the Chambers amendment to LB 299. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of

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Senator Chambers' amendment.

PRESIDENT MAURSTAD: The amendment is agreed to.

CLERK: I have nothing further, Mr. President.

PRESIDENT MAURSTAD: Debate on the advancement of LB 299? Senator Chambers, you're recognized to close.

SENATOR CHAMBERS: Mr. President, I would like to say a few words in closing. Thank you, that terminates my closing. (Laugh)

PRESIDENT MAURSTAD: Thank you, Senator Chambers. The question is the advancement of LB 299. Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 299.

PRESIDENT MAURSTAD: LB 299 is advanced. (Visitors introduced.) Mr. Clerk.

CLERK: Mr. President, LB 269 was introduced by Senator Cudaback. (Read title.) The bill was introduced on January 5 of this year, referred to the Judiciary Committee, advanced to General File. I do have committee amendments, Mr. President. (AMOC99, Legislative Journal page 443.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Cudaback, you're recognized to open on LB 269.

SENATOR CUDABACK: LB 269 has been around for a while, members, and it changes the jurisdictional basis for civil actions in county courts. It was referred to Judiciary. The Judiciary Committee looked at it. Senator Brashear is very knowledgeable on it, and there are committee amendments, actually the committee amendments become the bill. So, rather than me to try to explain those, I will let Kermit take up the committee amendments, and that essentially becomes the bill and that's where I will drop it. Thank you.

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PRESIDENT MAURSTAD: Thank you, Senator Cudaback. Senator Brashear, you are recognized to open on the committee amendments to LB 269.

SENATOR BRASHEAR: Mr. President, members of the body, LB 269 was heard by your Judiciary Committee on January 19th; it was advanced to the floor with the amendment, seven...all people present voting in favor. The committee amendment reduces the bill's proposed change to the concurrent jurisdiction of the county courts from \$100,000 as amount in controversy, to \$45,000. The \$45,000 is also made to be the jurisdictional basis for transfers of creditors claims to probate proceedings from county courts to district courts. Your committee realized that the present jurisdictional threshold of \$15,000 is relatively easy to surpass, meaning that most cases worth trying are heard in district court. That scenario is inefficient in terms of utilization of our county courts. However, the committee recognized the need to keep cases with large amounts in controversy within the district court as the district court is often better equipped to hear such cases, particularly as it relates to juries. Those cases that involve greater amounts of money generally, and I'm generalizing, involve more discovery, take a greater length of time, and a jury trial is more often desirable. The committee amendment also provides that the Supreme Court would have the ability to adjust the jurisdictional amount of the county court every fifth year commencing July 1, 2005, now we'll have a subsequent amendment to correct that year, but by referring to inflationary changes as measured by the Consumer Price Index as maintained by the Federal Bureau of Labor Statistics. On July 1 of each fifth year, the Supreme Court review...would review the jurisdictional amount for the small...does review the jurisdictional amount for Nebraska's Small Claims Court. This committee amendment would allow the Supreme Court to adjust the county court's jurisdictional basis for inflation at the same time that it reviews the Small Claims Court jurisdictional amount. I urge the body to adopt the amendment. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Brashear. Mr. Clerk.

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CLERK: Senator Brashear would move to amend the committee amendments, Mr. President. (AM0187, Legislative Journal page 471.)

PRESIDENT MAURSTAD: Senator Brashear, you're recognized to open on your amendment to the committee amendments.

SENATOR BRASHEAR: Mr. President, members of the body, the amendment to the committee amendment simply corrects the date. The date in the committee amendment is listed as 2006, the year, and it should have been 2005. In all other respects the argument which I just presented to you supports this amendment and the committee amendment, and I urge its adoption. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Brashear. Debate on the Brashear amendment to the committee amendments to LB 269? Senator Brashear, you're recognized to close. Senator Brashear waives closing. The question is the adoption of the Brashear amendment. Those in favor vote aye; those opposed vote nay. Please record.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Brashear's amendment to the committee amendments.

PRESIDENT MAURSTAD: The committee amendments, or excuse me, the Brashear amendment is agreed to. Senator Wickersham...debate on the committee amendments? Senator Brashear, you're recognized to close on the committee amendments.

SENATOR BRASHEAR: Mr. President, members of the body, I see a little consultation among colleagues. I understand that the...the substance of this amendment relates to the amount in controversy which we would vest in our county courts. I would summarize again by pointing out that the present jurisdictional limit for county courts is \$15,000; it's been that way since the early 1980's. Because we have not had the, what I would submit is the efficient procedure and process for allowing the Supreme Court to adjust the amount to take into account inflation, it's been locked at \$15,000. Four years ago when this body considered increasing the jurisdictional amount, it was going to

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double it, from 15 to 30; your Judiciary Committee, this year, established it at 45 rather than at the \$100,000, which was suggested to us in the green copy. It's a reasonable attempt to compromise and I would represent to the body and for the record that if that amount needs to be further discussed and refined we certainly could do that on Select File. I would urge the adoption of the committee amendment and the advancement of the bill. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Brashear. The question is the adoption of the committee amendments to LB 269. Those in favor vote aye; those opposed vote nay. Please record.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 269...I'm sorry, on the adoption of the committee amendments. Excuse me.

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. The committee amendments are agreed to. For debate on the advancement of LB 269, Senator Wickersham.

SENATOR WICKERSHAM: Mr. President, if...I hope my remarks won't sound too disjointed here, because I've been listening with one ear to the debate, and with the other ear doing some other things. This bill, I suppose to most of you, looks innocuous. And you're going to wonder why we're going to...why we may talk about it at all today. Came out of the Judiciary Committee and maybe it shouldn't be...maybe it shouldn't be a concern. But, if I'm...if I'm understanding what I heard in the committee amendments right and...and the original bill is that it is a significant increase in the jurisdiction of the county court. Now why should we care about whether we significantly increase the jurisdiction of the county court? Some people may say that that will allow the county courts to take on a heavier workload; if the county courts take on a heavier workload, then we don't need to have as many district judges, or we won't need to increase the number of district judges in the future; it will tend to even out the workloads between the courts, et cetera, et cetera, et cetera. And we don't need to worry about the quality of the judges that are going to be deciding these cases. We have, over time, brought very qualified individuals to the

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county court bench, they are lawyers who are able to understand the kinds of issues that would be presented in these cases and make good decisions. So why don't you go ahead and do it? Well, I can sympathize with those arguments, but I think that it raises a couple of other issues that are far more practical in their nature. For example, if I had a 35 or a 40 thousand dollar case, could I not suggest to my opponent that I'm going to bring the case in the county court; by bringing the case in the county court I will assure you that if I lose in the county court there will be an appeal to the district court, where we will go through the entire case again on the record, because that review would be de novo on the record. And then if I lose in the district court, I'm going to bring an appeal to the court of appeals. So, if you want to hang in there with me through a trial and at least two appeals, we'll litigate this. If, on the other hand, you want to settle, here's my proposal. At that point we have given somebody an advantage in a lawsuit because we have provided them with, as I understand things, another appeal and another portion, another thing that is expensive to both sides of the litigation. I'm also concerned a little bit that the proposal opens us up to the potential for what I would characterize as judge shopping. Now in some of our districts that might be a little bit harder to do than others, because you have a significant number of district judges and a significant number of county judges that serve an individual courthouse. But that isn't true everywhere in the state. So what if you have a county judge that likes a particular kind of case and you have a county judge or a district judge that you're not so certain about? It gives an opportunity, I think, for mischief. And I'm not at all sure that the potential for mischief, as I see it, outweighs any potential benefit in terms of efficiencies in the courts or evening out of the workloads in the courts. If others can convince me that my...my notions about mischief are misdirected or they are mischief with a small m, instead of a capital M, I would like to hear that discussion.

PRESIDENT MAURSTAD: Thank you, Senator Wickersham. Further debate? Senator Kristensen.

SPEAKER KRISTENSEN: Thank you, Mr. President. Members of the Legislature, I echo some of the same concerns Senator Wickersham

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has. What I want to make sure is clear today that there is no doubt that the amount can be increased. Now whether you're going to increase it from \$15,000 to \$100,000, I definitely would not have voted for that. The committee amendment takes it back to 45, that's easier. There's an inflationary kicker in there. I just want to make sure that the record is clear and I'm going to think about it between now and Select File. But I want to make sure that we don't get the two courts so close together that you, in effect, create a unified court system here. There is a reason to have a county court and there is a reason to have a district court. And as you begin to put those two figures close together, we've already put the salary there, if we're going to have a unified court system, then that needs to be done through a hearing. It needs to be done with a plan and with a considerable amount of study. And, I guess, I have great concerns that, if we're going to de facto move us to a unified court system, then I'm...I'm not going to vote for this bill and would work to defeat it. I'd be interested to hear Senator Cudaback's intentions or his observations towards this moving us to a system where actually there is no distinction between county court and the district court. As you recall, we've already given over concurrent jurisdiction on dissolution proceedings; that's the lion's share of that work that's already there. Now, if you're going to move in the civil area, I'm not sure what other cases there are that would have concurrent jurisdiction, but it would certainly indicate to me that we are moving very quickly in the last three years to a unified court system of which I'm not prepared to support and, in fact, I think we should work against at this point in time. So, Senator Cudaback, on your time, I hope you'd address your intentions and your observations toward making this a unified court system. And I'm going to listen to the debate and see if there is any other interest in lowering the amount at this point. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Mr. Speaker. Next on debate of LB 269, Senator Don Pederson.

SENATOR D. PEDERSON: Mr. Lieutenant Governor, members of the body, the concern that I have with this bill actually is not the dollar amount that's involved. I think if we're going to have

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the county courts do extensive civil actions, then that's an appropriate amount. But I do have a concern about what we're doing with our court system generally. In the area that I'm familiar with, the problem is not necessarily jurisdictional amount for civil actions with the county court. The problem is that we have county judges that are very capable, but they're restricted by the...by legislation and the constitution in what areas they can serve. We have an abundance of domestic matters and they are not entitled to serve in that area, they've been restricted. And that's where...that's where a high measure of...of what the court system does in our area and is confronted with. I'm also a little bit concerned by the referring this matter to the Supreme Court to make a determination on every...basically an every five-year basis, determine what the jurisdictional amount should be. I think we're abdicating some of our responsibility in that regard. But really, my primary concern is the structure of this bill. If it's additional amount, that's okay. But I think we have reached that point where we spend a tremendous amount of money for our court system and I don't think that we're utilizing them in the manner in which they should be utilized. And rather than go forward with the idea of increasing the dollar jurisdictional amount in civil actions, I think we should study what we are expecting from our court system because there's a very small differential between the district court judge salary and the county court judge salary, and I think we're not utilizing them to the fullest, and I don't think that this bill exactly reaches that point. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Pederson. Further debate? Senator Brashear.

SENATOR BRASHEAR: Mr. President, members of the body, I obviously have a concern given the fact that LB 269 has picked up some opposition. I have even greater concern that it has picked up quality opposition from members who are trained in the law. And so I...I want to try and maintain the perspective of what your Judiciary Committee was doing and what it was responding to. First of all, it might interest you to know nobody appeared in opposition to this bill. And when the bill was presented to us it didn't have this rather reasonable

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compromised \$45,000 jurisdictional amount, it had \$100,000. Now, I think, your committee felt that we were approaching this reasonably given the fact that we had established the amount in controversy jurisdictional amount of \$15,000 for county courts in the early 1980's, and there had been no adjustment because there was no mechanism for adjustment. In my experience, limited as it may be, county courts are a little more accessible, they can move a little more quickly, they are a little less cumbersome and they do dispense justice. Given the fact that our highways and byways are full of SUV vehicles, which all cost in excess of \$35,000, don't they, it seems to me that the economy of the world has inched upward such that we ought to raise the \$15,000 jurisdictional amount in the county court. And that was the unanimous opinion of those who have bothered to appear at all with regard to this bill. So, I would like to urge again we picked a middle road; we tried to be careful and conservative; we tried to be rational, reasonable and responsive; I think we have been. I think there are many issues which in excess many amounts...strike that. There are many matters in controversy in excess of \$15,000 in amount which could be most efficiently, effectively and meaningfully handled for citizens in the county court. I would urge us to continue to advance this bill with the clear understanding of record that there may be other concerns which people want to address as it makes its way. I urge the advancement of LB 269. Thank you.

PRESIDENT MAURSTAD: Thank you, Senator Brashear. Senator Cudaback, your light is the only one on. You can close or you can use this as a time to speak.

SENATOR CUDABACK: I'll use it for both, Mr. President. I want to assure you that...

PRESIDENT MAURSTAD: Are you closing?

SENATOR CUDABACK: ...there's no hidden agenda here.

PRESIDENT MAURSTAD: Are you closing?

SENATOR CUDABACK: Jim Cudaback didn't set out to change the world here with this bill. It simply came to me by a

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constituent that says through inflation in itself...no, through inflation and itself takes care of the 15,000, so where that magic figure is; 100,000, that's an arbitrary, perhaps too much. And I'm not an attorney, I don't have any hidden agenda. I turned it over to Senator Brashear and the Judiciary Committee where it belongs. I don't want to get into an argument with a...and, Senator Kristensen, I...I can certainly see why he's concerned with that, bringing the whole system, you might say, together, unification, and this is not to do that. Whether the \$45,000 will, I don't know. Senator Wickersham had some good points and Senator Pederson, certainly, with the whole system, made some very good points. But...and this bill probably doesn't address Senator Pederson's concerns, although they are serious concerns and they probably need to be dealt with on a whole...on the whole circle. But that would probably take a...you might say another study or whatever that would take to do that. This simply is an innocent bill that raises the amount of dollars in the jurisdictional...and takes over wherever those dollars begin. It's meant...it's meant to be simple; I turned it over to Senator Brashear for that reason. Now, if on Select File if we see something is wrong here, and if...and if the attorneys in the body wanted to get together and come up with a more reasonable...whether Senator Kristensen wants to, you know, get together with Senator Pederson, Senator Brashear, come up with a more reasonable, where it wouldn't...where it wouldn't happen to change what you're worried about changing, whatever that is, Senator Kristensen, I can't...your mind is beyond mine; it goes a little...it thinks a little deeper, perhaps, on these issues. But anyway, whatever you're concerned about, let's go to it. I mean I don't want to change the world here with this bill; it's meant to do what it's meant to do, and I hope it does what it's meant to be. With that, I'll close, Mr. President. I urge...I urge you to support it on to Select File.

PRESIDENT MAURSTAD: Thank you, Senator Cudaback. Question is, shall LB 269 be advanced to E & R Initial? Those in favor vote aye; those opposed vote nay. Mr. Clerk, please record.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 269.

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

CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB 103 (sic LB 104), LB 105, LB 126, LB 128, LB 128A, LB 162, LB 179, LB 268, LB 278, LB 278A, LB 313, LB 317, and LR 1CA as correctly engrossed. Natural Resources reports LB 103 to General File with amendments. General Affairs reports LB 814 to General File; LB 582, indefinitely postponed. That's all that I have, Mr. President. (Legislative Journal pages 642-644.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Next item on the agenda.

CLERK: Mr. President, LB 346, a bill by Senator Robak. (Read title.) The bill was introduced on January 8, referred to the Health Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0044, Legislative Journal page 446.)

PRESIDENT MAURSTAD: Thank you, Mr. Clerk. Senator Robak, you are recognized to open on LB 346.

SENATOR ROBAK: Thank you, Mr. President. Members of the body, LB 346 was advanced from the Health and Human Services Committee on a 7 to 0 vote and did not have any opposition at the hearing. This bill would add a continuing education requirement for occupational therapists and occupational therapy assistants in obtaining and renewing their state license to practice. Occupational therapists would be required to complete 20 hours of continuing education, while occupational therapy assistants would have to complete 15 hours of continuing education biennially. Currently, 35 states, including Iowa, Kansas, South Dakota and Minnesota, have continuing education requirements in place. The Board of Occupational Therapy Practice would be responsible for promulgating rules and regulations necessary to carry out the provisions of this bill, this would be with the approval of the Department of Health and Human Services Regulation and Licensure. This bill was brought to me by the Nebraska Occupational Therapy Association and is

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the result of their works resulting from the Nebraska Credential Reform 2000 recommendations. By introducing this legislation the Nebraska Occupational Therapy Association sees continuing education as a step toward their effort in determining the continued competency of occupational therapists in the state of Nebraska. The Pages have passed out some sheets, colored sheets, what occupational therapy is, what other states require, what other professions in Nebraska require, and a letter of support from, Health and Human Services. I would just ask for the advancement of LB 346 to Select File.

PRESIDENT MAURSTAD: Thank you, Senator Robak. Senator Jensen, you're recognized to open on the committee amendments.

SENATOR JENSEN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, committee amendment, AM0044, requires every occupational therapist and occupational therapy assistant to provide a list of continuing education activities they participated in or attended, the amount of credit they received for each activity, and the date, location, name of the approved provider who sponsored the activity. HOT and OTA is required to maintain records of their continuing education activities. The amendment provides that the board must biennially select a random representative sample of license renewal applications for the audit of continuing education credits and must require the OT or OTA to submit continuing education records in connection with such audit. The amendment permits the department, upon recommendation of the board, to waive all or part of the continuing education requirements in the bill upon submission of a documentation by a licensee that circumstances beyond his or her control have prevented completion of the requirements. Such circumstances include situations in which (a) the licensee holds a Nebraska license, but does not reside or practice in Nebraska; (b) the licensee has served in a regular U.S. armed forces; (c) the licensee has submitted proof that he or she is suffering from a serious or disabling illness or physical disability which has prevented completion of the required hours of continuing education. The licensee has been initially licensed by the board within 24 months immediately preceding the license renewal date and the licensee has successfully completed two or more semester hours of formal credit instruction which contributes to

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meeting the requirements of an advanced degree relating to occupational therapy offered by an accredited school or college. That concludes the amendment and I would urge its adoption. Thank you, Mr. Speaker.

PRESIDENT MAURSTAD: Thank you, Senator Jensen. For debate on the committee amendments, Senator Brown.

SENATOR BROWN: Mr. President, members, I wondered if Senator Jensen would yield to a couple questions?

PRESIDENT MAURSTAD: Senator Jensen, would you yield?

SENATOR JENSEN: Yes.

SENATOR BROWN: We spent a lot of time yesterday on a bill that somewhat similarly raised requirement...continuing education requirements for childcare providers. Were there other occupations that you considered in terms of increasing the ongoing training requirements this year?

SENATOR JENSEN: Yes, this is the second such request that we've had to increase the continuing education of a discipline. The other one was the physical therapists and now this is the occupational therapists.

SENATOR BROWN: So you...you've had three that you considered and...and were all three advanced?

SENATOR JENSEN: The other one is advanced and, matter of fact, it was upon Final Reading, and this one here, of course, is in General File. I think there's one yet to come.

SENATOR BROWN: Can you tell me what the position of the Department of Health and Human Services was on the...the other requests that your committee had?

SENATOR JENSEN: Well, these are being requested by the particular discipline and certainly the Health and Human Services Committee has no objection of that. Matter of fact, we usually approve that.

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SENATOR BROWN: I meant the Department of Health and Human Services, if you remember.

SENATOR JENSEN: I think Senator Robak passed out a letter from the department approving this, yes.

SENATOR BROWN: And was that the case in the other...the other ones that were...

SENATOR JENSEN: I believe so.

SENATOR BROWN: Okay. I'm not sure if anyone else sees...sees a pattern here, but...but we're looking at professions that feel that continuing education is important to...to the quality of the job that they do, and so just as a follow-up to what we discussed yesterday I would like to say that I think that childcare is just as worthy of that. Thank you.

SPEAKER KRISTENSEN: Further debate on the committee amendments? Senator Jensen, you're recognized to close. He waives that opportunity. The question before the body is the adoption of the committee amendments. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SPEAKER KRISTENSEN: Committee amendments are adopted. Debate on advancement? Seeing none, Senator Robak, you're recognized to close on the advancement of LB 346.

SENATOR ROBAK: Thank you, Mr. Speaker. I think it's been well discussed by Senator Jensen what this bill does. It was brought to me by the Nebraska Occupational Therapy Association and we do have a list, the green handout, that shows the other education requirements of selected professions and how many hours of continuing education they need to have right now at this time. And this bill was supported in...I have a letter that...written by the Health and Human Services Policy Secretary in support of this bill. And, with that, I'd just ask for advancement of

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LB 346 to Select File. Thank you.

SPEAKER KRISTENSEN: You've heard the closing. The question before the body is the advancement of LB 346. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 346.

SPEAKER KRISTENSEN: The bill advances. LB 346A.

CLERK: LB 346A by Senator Robak. (Read title.)

SPEAKER KRISTENSEN: Senator Robak, you're recognized to open.

SENATOR ROBAK: Thank you, Mr. Speaker. LB 346A is the A bill that goes along with LB 346 and it would appropriate \$6,500 in Fiscal Year 2002, and \$8,000 in Fiscal Year 2003. This is from the Bureau of Examining Boards Cash Fund. The money would be used for hiring of temporary staff to draft the rules and regulations that would be needed to implement LB 346. I urge the advancement of LB 346A. Thank you.

SPEAKER KRISTENSEN: Debate on advancement? Seeing none, Senator Robak, you're recognized to close. She waives that opportunity. The question is the advancement of LB 346A. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 346A.

SPEAKER KRISTENSEN: The bill advances. LB 226.

CLERK: LB 226, a bill by Senator Thompson. (Read title.) Introduced on January 5, referred to the Government Committee, advanced to General File. I have no amendments.

SPEAKER KRISTENSEN: Senator Thompson, you're recognized to open.

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SENATOR THOMPSON: Thank you, Mr. Speaker. LB 226 was advanced unanimously from the Government, Military and Veterans Affairs Committee. It's supported by the Secretary of State and would bring consistency to residence requirements for election commissioners. It would change the residence requirement to one year for county election commissioners and chief deputy election commissioners for counties having more than 100,000 inhabitants, and for counties having not less than 20,000 and not more than 100,000 inhabitants. Chief deputy election commissioners in counties having more than one thousand..hundred thousand inhabitants currently do not have a residency requirement and that would change, to be consistent, and the remaining election commissioners and chief deputy election commissioners currently have a resident requirement of at least five years. In Nebraska statute, the only other five-year residency requirement is for the Lieutenant Governor or Governor, and this brings it more in line with other elected officials, such as ourselves, as well as other county officials, most of whom do not have residency requirements or have residency requirements of six months or more. So, essentially, all it does is change from five years to one year. This will increase the pool and...of people who can apply and will make this section of our statute a little more consistent. Thank you, Mr. Speaker.

SPEAKER KRISTENSEN: Debate on the advancement of the bill? Seeing none, Senator Thompson is recognized to close. She waives that closing. The question before the body is the advancement of LB 226. All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Record.

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 226.

SPEAKER KRISTENSEN: The bill advances. LB 253.

CLERK: LB 253, introduced by Senator Schimek. (Read title.) Bill was introduced on January 5, referred to the Government Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER KRISTENSEN: Senator Schimek, you're recognized to open

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on the bill.

SENATOR SCHIMEK: Yes, thank you. Mr. President, members of the body, this bill is probably a direct result of this year's presidential election when we went back and started looking at some of our election statutes, and was actually brought to me by the Secretary of State's Office. It does one thing. It changes the method by which we choose the winner of a tied primary election in the case of Governor, Lieutenant Governor, Attorney General, Secretary of State, State Auditor, and State Treasurer, those top six constitutional offices. Currently, the statutes provide that the Legislature picks the winner of a tied primary in those six offices. All other offices in the state are decided by lot. That would be the State Board of Canvassers of offices and also the county board...the county offices that are canvassed by the county board of canvassers. So all this bill does is changes it so that those six offices are done in the same fashion. Now, if you think about it, it doesn't even make sense that the Legislature would pick those because the Legislature is not in session. It would mean that we would have to come back in to a special session in order to pick the winner of a race for one of those top six offices. Now, I think we could all argue about how these elections should be decided and I...and I think maybe that is a topic that the Special Election Task Force will be looking at, but, for now at least, this would just change that one provision to keep it in tune with the other offices and also to prevent our having to come back into special session. The one thing it does still permit is that in the general election or a special election it would be the Legislature who would still pick the winner if it was a tied election. So, with that, I would encourage advancement of the bill. I would be happy to respond to questions.

SPEAKER KRISTENSEN: Debate on advancement? Senator Wehrbein.

SENATOR WEHRBEIN: Mr. Speaker, members of the body, thank you. Senator Schimek, I was wondering, is there a definition of "lot", "by lot", in the...in the legis...in statue (sic--statute)?

SENATOR SCHIMEK: I don't believe so, no.

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SENATOR WEHRBEIN: So...but, generally, that's the short/long straw,...

SENATOR SCHIMEK: Right.

SENATOR WEHRBEIN: ...heads or tails of a coin,...

SENATOR SCHIMEK: Or the flip of a coin, yeah.

SENATOR WEHRBEIN: ...those kinds of things. But I just...just struck me and I wondered. Thank you.

SENATOR SCHIMEK: Thank you.

SPEAKER KRISTENSEN: Further debate on advancement? Seeing none, Senator Schimek, you're recognized to close. She waives the closing. The question before the body is the advancement of LB 253. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 253.

SPEAKER KRISTENSEN: LB 253 advances. LB 250.

CLERK: LB 250, a bill by Senator Schimek. (Read title.) Bill was introduced on January 5, referred to the Government Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0116, Legislative Journal page 448.)

SPEAKER KRISTENSEN: Senator Schimek, you're recognized to open on the bill.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members of the body. LB 250 is a tool that would help public organizations that have out-of-state members. It gives them an opportunity to meet in that member's town if, and only if, a limited set of facts exists. First of all, that entity must have out-of-state members; that entity must meet in public buildings; the entity

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must make reasonable arrangements to provide viewing at other in-state locations by teleconference or videoconferencing, if asked; and, finally, it must publish notices at least 21 days in advance. What LB 250 does not do is it does not allow out-of-state public meetings unless the public body has a member entity located outside the state. The meetings...and, secondly, the meetings have to be in those member towns and not anywhere in the state. Now, really, the only entity that this could probably apply to right now is the Nebraska Municipal Power Pool, which has several subsidiary organizations, and I just passed out this little flier and you will notice that that involves more than 175 communities, and it also goes across state lines. If you look on the back of the flier, it shows you the members in Colorado, in Iowa, Kansas, Nebraska, North Dakota, Wisconsin, and Wyoming. It was felt by the members of this...or the people that brought the bill to us that occasionally they needed to accommodate their outstate members. They're a very important, integral part of the group. So, with that, Mr. President, I would yield the rest of my time back to the Chair and if there are any questions I would be happy to try to answer them.

SPEAKER KRISTENSEN: Senator Schimek, you're recognized to open on the committee amendments.

SENATOR SCHIMEK: Yes, thank you, Mr. President. The committee amendment was...and I should tell you that this bill was before the committee last year and when it was drafted this year a number of suggestions and ideas were incorporated into it, but there was one other that was brought to us later and it simply, on page 4, on line 20, strikes the word "paper" and inserts "legal newspaper"; and in line 25, after the meeting...after the word "meeting", it says "or the in-state location for a telephone conference call or videoconference". So that would read: "Public bodies shall make available at the meeting or the in-state location for a teleconference call or videoconference, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting." That was considered by the committee to be the logical thing to do, to provide the materials at the meeting where the videoconference is going on and at any site where it

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is. So, with that, I would simply ask for the adoption of the committee amendment.

SPEAKER KRISTENSEN: Debate on adoption of the committee amendments? Seeing none, Senator Schimek, you're recognized to close. She waives. The question is the adoption of the committee amendments. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SPEAKER KRISTENSEN: Committee amendments are adopted.

CLERK: Senator Smith would move to amend the bill, Mr. President. (FA33, Legislative Journal pages 644-645.)

SPEAKER KRISTENSEN: Senator Smith, you're recognized to open on the amendment.

SENATOR SMITH: Thank you, Mr. Speaker. Members, just a very quick amendment that I believe is considered friendly. As Senator Schimek pointed out, really, the only subject organization we're talking about is the Power Pool and my concern with the original bill was that we're taking meetings of a Nebraska-based political subdivision, moving them out of state. And in discussions and negotiations I...I wanted to have some specific concerns met and I think we've done that. The membership, the out-of-state membership, to this organization is approximately 21 percent and, instead of allowing 50 percent of the meetings to be out of state, this merely says 25 percent of the meetings. They basically have quarterly meetings, so this would be one a year, basically what they had planned as a maximum anyway. And my concern as well, not addressed by this amendment per se because it's really not possible to do that, but there are member communities out of state, such as Aspen, Colorado; Gunnison, Colorado; places that are quite enticing to have meetings but are quite expensive as well, and so I just want to be on the record as...as registering my concern for those types of meetings, but certainly with this amendment I...I...it certainly makes me more supportive of the bill, and

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so I'd appreciate your consideration of this amendment. Thank you.

SPEAKER KRISTENSEN: Debate on the amendment? Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President, members of the body. Senator Smith, Senator Brown and I were just joking that probably the way you really would have liked to have drafted this amendment is to have 25 percent of the meetings outstate and all the rest of them in Gering, right? (Laugh) This is a friendly amendment. I think the bill was originally drafted with the 50 percent provision trying to keep some flexibility, because not knowing down the line what other entities there might be out there. But I have to say that I don't believe for the group that brought us this bill that they would have a problem with it because I know they don't envision more than one meeting a year out...out of state, at that. I mean, I wouldn't be surprised if they'd only hold out-of-state meetings once every couple of years. So I don't believe they have a problem with it and, Senator, I do not have a problem with it either.

SPEAKER KRISTENSEN: Further debate on the amendment? Senator Smith, you're recognized to close. He does so. Question before the body is the adoption of the Smith amendment. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Smith's amendment.

SPEAKER KRISTENSEN: Amendment is adopted.

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

SPEAKER KRISTENSEN: Further debate on advancement? Seeing none, Senator Schimek, you're recognized to close?

SENATOR SCHIMEK: Yes, thank you, Mr. President. I would just say that this bill has been a work in progress for several years. I think it's been carefully drafted by all parties concerned, including the media, who always have concerns about whether we're going to keep within the open meetings provisions

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or not, and I think they are satisfied with the amendment that we put on it today. I think the majority of meetings will still be instate, but it does give these entities a little bit more flexibility. So, with that, I would just ask for your vote to advance this to Select File.

SPEAKER KRISTENSEN: You've heard the closing. The question before the body is the advancement of LB 250. All those in favor vote aye; all those opposed vote nay. Record.

ASSISTANT CLERK: 34 ayes, 0 nays on advancement of LB 250 to E & R Initial, Mr. President.

SPEAKER KRISTENSEN: The bill is advanced. LB 186.

ASSISTANT CLERK: Mr. President, LB 186 is a bill introduced by Senator Stuhr. (Read title.) The bill was read first time on January 4th, was referred to the Nebraska Retirement Systems, and I do have committee amendments, Mr. President. (AM0022, Legislative Journal page 448.)

SPEAKER KRISTENSEN: Senator Stuhr, you're recognized to open.

SENATOR STUHR: Thank you, Mr. President and members of the Legislature. LB 186 makes some changes to our county retirement provisions. Existing law requires each qualified county employee and official to contribute 4 percent of his or her salary to the retirement system. As the employer, the county contributes 6 percent of the employee's salary. County boards in counties with a population over 150,000 are authorized to establish their own retirement plans. Douglas and Lancaster County fit into that category. LB 186 proposes to increase the county employee contribution rate to 4.5 percent, and to increase the employer match to 6.75 percent. Current law requires counties with a population over 85,000 that participate in the state-administered retirement system to fund a supplemental retirement program for certified law officers. Presently, officers in these counties have an additional 2 percent of their salary contributed to a supplement retirement program. LB 186 would authorize certified law enforcement officers in counties not affected by the present law to

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contribute an additional 1 percent of their salary with a corresponding 1 percent county contribution. Historically, what we try to do is have the county and state plans have a comparable contribution rates, although not identical. In 1998, contributions by employees of the state were increased under the state plan, but a similar increase was not adopted for counties. In fact, the most recent change to the county plans occurred in 1993, when the employee contribution rate was increased from 3.2 to 4 percent. And I might add there was also, in the testimony, there was no opposition to the bill. There is a committee amendment and that is to add an operative date clause to the bill. I ask for your support of the bill and the committee amendments. Thank you, and I yield my remaining time back to the Chair.

SPEAKER KRISTENSEN: We're now opening on the committee amendments. Chair of the Retirement Committee, Senator Bruning.

SENATOR BRUNING: Mr. Speaker, members of the Legislature, Senator Stuhr did an excellent job describing this bill. The committee amendment simply moves the operative date to January 1, 2003, to give counties time to budget and plan for the increase of the retirement benefit that they will pay in, in their budgets. With that, I would ask you adopt the committee amendment and adopt the bill.

SPEAKER KRISTENSEN: Debate on the committee amendments? Seeing none, Senator Bruning is recognized to close. He waives the closing. The question is the adoption of the committee amendments. All those in favor vote aye; all those opposed vote nay. Record.

ASSISTANT CLERK: 26 ayes, 0 nays on adoption of committee amendments, Mr. President.

SPEAKER KRISTENSEN: The committee amendments are adopted. Debate on advancement of the bill? Seeing no debate, Senator Stuhr, you're recognized to close.

SENATOR STUHR: Thank you, Mr. President and members. In closing, I would just like to remind you again that what the

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bill does is increase the contribution rate from 4 percent to 4.5 for county employees and officials and the county match would then be raised to 6.75. And I think the important part of the provision also is that law enforcement officers now, in counties less than 85,000 in population, would now have a retirement plan, a match of 1 percent from their salary and a match from the county. With that, I ask for your support.

SPEAKER KRISTENSEN: You've heard the closing. The question before the body is the advancement of LB 186. All those in favor vote aye; all those opposed vote nay. Record, Madam Clerk.

ASSISTANT CLERK: 31 ayes, 0 nays on advancement of LB 186, Mr. President.

SPEAKER KRISTENSEN: LB 186 advances. LB 280.

ASSISTANT CLERK: Mr. President, LB 280 was introduced by Senator Connealy. (Read title.) The bill was read first time on January 5th, referred to the General Affairs Committee. I have no amendments, Mr. President.

SPEAKER KRISTENSEN: Senator Connealy, you're recognized to open on the bill.

SENATOR CONNEALY: Thank you, Mr. Speaker and members. LB 280 would raise the amount of money that a county board can spend from \$350 to \$500 in any one year when a cemetery is totally abandoned, and from \$350 to \$400 a year when a cemetery is partially abandoned. This came out of committee with no dissenting votes. It's permissive. It allows county boards to do this if they would like to. I'd ask that your advancement of LB 280.

SPEAKER KRISTENSEN: You've heard the opening. Debate on advancement? Seeing none, Senator Connealy, you're recognized to close. He waives that opportunity. The question is the advancement of LB 280. All those in favor vote aye; all those opposed vote nay. Record, Madam Clerk.

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ASSISTANT CLERK: 28 ayes, 0 nays on advancement of the bill, Mr. President.

SPEAKER KRISTENSEN: The bill advances. LB 97.

ASSISTANT CLERK: Mr. President, LB 97 was a bill introduced by Senator Schimek and other members. (Read title.) The bill was read first time on January 4th. It was referred to the Government, Military and Veterans Affairs Committee. I do have committee amendments, Mr. President. (AM0132, Legislative Journal page 458.)

SPEAKER KRISTENSEN: Senator Schimek, you're recognized to open on the bill.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. Let me give you just a tiny bit of background on this bill. In 1989, some of you are still here who will remember this, the Legislature passed the Nebraska Unmarked Human Burial Sites and Skeletal Remains bill. That act created provisions to protect unmarked graves and set in place a procedure to deal with remains if they are inadvertently exposed during farming, construction, or through natural erosional processes. LB 97 seeks to make a very minor procedural change to this law. As it now stands, if Native American human remains and burial offerings are inadvertently unearthed on private or nonfederal public land, the State Historical Society is charged with recovering those remains and analyzing them to determine if they are...if they are Indian remains and, if so, then they try to find out if the remains can be affiliated with a particular tribe. If they cannot determine a tribal affiliation or if an affiliated...or if affiliated remains are unclaimed by the affiliated tribe the remains are returned to the county they were discovered in and reburied in an appropriate cemetery in the county at the expense of the county. LB 97 simply amends the law to read that those unclaimed or unaffiliated remains be reburied in consultation with the Nebraska Indian Commission on tribal land by one of the four federally recognized tribes in Nebraska. LB 90...or LB 97 has several advantages over the existing system. For one thing, it will save counties money. It also allows the staff to deal more directly with the Indian

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Commission and tribes, as opposed to 90 separate counties. And, more importantly and most importantly, it makes good sense culturally and spiritually as well. It will ensure that native peoples have the maximum amount of control over the treatment of their ancestors regardless of whether a specific tribal determination can be determined. That is the purpose of the bill and I would be happy to answer any questions that you might have. I would yield the rest of my time back to the Chair.

SPEAKER KRISTENSEN: Thank you, Senator Schimek. You're recognized to open on the committee amendments, as Chair of the committee.

SENATOR SCHIMEK: Yes, thank you, Mr. President. During the course of the hearing, we had testimony from one tribal member who came in and was concerned about the notification process and the fact that not enough tribes were being contacted regarding remains, and in a quick conversation with the historical society we determined at the hearing that they would have no problem with expanding that list to a greater number of tribes, and that is what this amendment is about. It says: the society shall notify all tribes which can reasonably be determined to have lived in Nebraska in the past. If such remains or goods are still unclaimed by the appropriate relative or Indian tribe then the remains shall be reburied, determined by the commission, et cetera. So this simply expands the original notification and at first it was thought that this would be notification to about 60 tribes. I think that ultimately they decided it would be a notification of about a hundred tribes. And I believe the historical society would plan on doing this once a year. So, with that, Mr. President, I would urge the adoption of the committee amendments.

SPEAKER KRISTENSEN: You've heard the opening on the committee amendments. Debate on those amendments? Seeing none, Senator Schimek. She waives closing. Question is the adoption of the committee amendments. All those in favor vote aye; all those opposed vote nay. Record, Madam Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays on adoption of the committee amendments, Mr. President.

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SPEAKER KRISTENSEN: Committee amendments are adopted. We next move to debate on advancement. Seeing no debate, Senator Schimek, she's recognized to close. She waives the closing. The question is, shall LB 97 advance? All those in favor vote aye; all those opposed vote nay. Record, Madam Clerk.

ASSISTANT CLERK: 33 ayes, 0 nays on advancement of the bill, Mr. President.

SPEAKER KRISTENSEN: The bill advances. LB 97A.

ASSISTANT CLERK: Mr. President, LB 97A was introduced by Schimek..Senator Schimek. (Read title.)

SPEAKER KRISTENSEN: Senator Schimek, you're recognized to open.

SENATOR SCHIMEK: Yes, thank..thank you, Mr. President. Members of the body, if you will look at the fiscal note in your bill books or on your..on your gadget, you will discover that this is a fiscal note for about \$3,000, and I think this is just to..for the purpose of helping for reburial and transportation costs. The commission has said that it doesn't need any additional funds to administer this act. So, with that, I would encourage advancement.

SPEAKER KRISTENSEN: Debate on advancement of the bill? Seeing none, Senator Schimek is recognized to close. She waives. The question is, shall LB 97A advance? All those in favor vote aye; all those opposed vote nay. Record, please.

ASSISTANT CLERK: 34 ayes, 0 nays on advancement of the bill, Mr. President.

SPEAKER KRISTENSEN: The bill advances. We next move to LB 358.

ASSISTANT CLERK: Mr. President, LB 358 was introduced by Senator Hartnett. (Read title.) The bill was read first time on January 8th. It was referred to the General Affairs Committee. I do have committee amendments, Mr. President.

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(AM0163, Legislative Journal page 459.)

SPEAKER KRISTENSEN: Senator Hartnett, you're recognized to open on the bill.

SENATOR HARTNETT: Mr. Speaker and members of the body, this deals with the area of gray marketing in gray market cigarettes, and what happens with gray market cigarettes, they're produced in the United States and exported to foreign markets. Independent brokers purchase gray cigarettes from these markets. We import them into the United States and sell at reduced price because they are exempt from state and federal local taxes. LB 358 will make it illegal to place a state tax stamp or meter impression on any cigarette package that is marked with labels identifying it for shipment to a foreign country or consumption beyond the jurisdiction of Internal Revenue laws of the United States. This bill would (inaudible) violation with a guilty of a Class IV felony. This bill has been passed in...since 1998, with 45 states, so I simply ask for the advancement. I think it's...it...it figures...it covers a loophole that we have right now.

SPEAKER KRISTENSEN: Senator Hartnett, are you finished with your opening?

SENATOR HARTNETT: Yeah, I'll give my...

SPEAKER KRISTENSEN: Thank you.

SENATOR HARTNETT: (Microphone malfunction) which I support.

SPEAKER KRISTENSEN: The Chair of the General Affairs Committee, Senator Janssen, you're recognized to open on the committee amendment.

SENATOR JANSSEN: Thank you, Mr. Speaker, members. This is a fairly simple amendment. It basically does two things. First, it adds the emergency clause and, second, it removes the civil penalties that were originally called for in the bill. The bill has a Class IV penalty in it now, so we felt as though that that would...that would be sufficient penalties. With that, that's

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all the amendment does. Thank you.

SPEAKER KRISTENSEN: Debate on the committee amendments? Seeing none, Senator Janssen, you're recognized to close. He waives closing. Question before the body is the adoption of the committee amendments. All those in favor vote aye; all those opposed vote nay. Record.

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB 3...I'm sorry, on the adoption of the committee amendments to LB 358.

SPEAKER KRISTENSEN: Committee amendments are adopted. Debate on advancement of the bill? Senator Hartnett.

SENATOR HARTNETT: I'd simply say that it advanced from the committee unanimously and I simply ask for the advancement of this bill.

SPEAKER KRISTENSEN: Was there anyone who wished to speak on advancement of the bill? Seeing none, Senator Hartnett, you're recognized to close. He waives the closing. The question before the body is the advancement of LB 358. All those in favor vote aye; all those opposed vote nay. Have you all voted who care to? Please record.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 358.

SPEAKER KRISTENSEN: The bill advances. Items for the record.

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 244A, LB 225A, LB 334, LB 334A, LB 400 to Select File. Enrollment and Review also reports LB 313A as correctly engrossed. And your Committee on Banking, Commerce and Insurance reports LB 618 to General File; LB 215, General File with amendments; LB 743, indefinitely postponed. An announcement, Mr. President. The Transportation and Telecommunications Committee will meet upon adjournment in Room 1113; Transportation, upon adjournment, Room 1113. And, finally, Senator Dwite Pedersen would like to add his name to

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LB 615. That's all that I had, Mr. President. (Legislative Journal pages 646-651.)

SPEAKER KRISTENSEN: Thank you, Mr. Clerk. Senator Aguilar, you're recognized to adjourn us until tomorrow morning at 9:00 a.m.

SENATOR AGUILAR: Thank you, Mr. President. I would move we adjourn till Valentine's Day at 9:00 a.m.

SPEAKER KRISTENSEN: Question before the body is, shall we adjourn? All those in favor say aye. Those opposed say nay. We're adjourned.

Proofed by: Kathleen Higley