

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

Education Committee  
February 12, 2013

---

[LB357 LB469 LB506 LB599 LB604 CONFIRMATION]

The Committee on Education met at 1:30 p.m. on Tuesday, February 12, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB506, LB604, LB357, LB469, LB599, and gubernatorial appointments. Senators present: Kate Sullivan, Chairperson; Jim Scheer, Vice Chairperson; Bill Avery; Tanya Cook; Al Davis; Ken Haar; Rick Kolowski; and Les Seiler. Senators absent: None.

SENATOR SULLIVAN: Okay, folks. I think we will, since it's 1:30, begin. Welcome to the Education Committee. I am Senator Kate Sullivan, Chair of the committee. I represent District 41. We have most of the committee members here. To my left is Senator Les Seiler from District 33, Hastings; to my far right is Senator Rick Kolowski, District 31, Omaha; to his left is Senator Al Davis from Hyannis, District 43; and to my immediate right is the Vice Chair of the committee, Senator Jim Scheer, District 19, Norfolk. Our pages today are Phoebe Gydesen from Lexington who's a student at UNL and Tobias Grant from Lincoln who is a student at Doane. Today we have two gubernatorial appointments to attend to, and then we have a total of five bills: LB506, LB604, LB357, LB469, and LB599. If you're planning to testify, I request that you please pick up a green sign-in sheet that's on the table at the back of the room. If you do not wish to testify but would like your name entered into the official record as being present, there's a form on the table for that as well for you to sign, and this, too, will be part of the official record. Please fill out that green sign-in sheet in its entirety. Please print and complete the form because this is going to be part of an accurate record. And when you come up to testify, please give that sign-in sheet to the committee clerk. If you do not wish to testify but you may submit your comments in writing and also have them read into the official record. If you have handouts, please make sure you have 12 copies and give those to pages as you come up to testify. When you do come up to testify, please speak clearly and we would like you to spell both your first and last name, so again we have an accurate record. I also request that you turn off your cell phones, pagers, anything that beeps. And if you do have to have a conversation out there in the audience, I ask that perhaps you take it out to the hallway, not to distract any of our testifiers. We'll be using the light system. And you'll have five minutes as you testify to make your remarks. When you see the yellow light, that's the warning sign to try to wrap up your comments. And when the red light goes on, your time has ended. I don't think this is going to be a problem today, but please no outward displays of support or opposition to any of the bills. And, as you notice, we've got a couple of senators that are absent. I'm quite sure that they will be coming in. You know, we're in the process of introducing a lot of bills and so sometimes senators have that job to attend to as well. And Senator Cook to my far left has joined us. She represents part of the Omaha area. Okay. With that, we will begin with the gubernatorial appointments. And the first one is Mr. Clay Smith, which would be a reappointment to the Nebraska Educational Telecommunications Commission. Welcome, Mr. Smith. [CONFIRMATION]

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

Education Committee  
February 12, 2013

---

CLAY SMITH: (Exhibit 1) Welcome. Thank you. Madam Chair, members of the committee, good afternoon. My name is Clay Smith. I live in Lincoln, Nebraska, with my wife Beth and our three preteen daughters. I'm before you today seeking reappointment to the Nebraska Educational Telecommunication Commission. I'd like to share a little bit about my background. I was born and raised in Lincoln, attending public school here in Lincoln. I attended UNL on a swimming scholarship for my freshman year before I transferred to finish my degree at Stanford University. At Stanford, I got my undergraduate degree with distinction in economics and I stayed at Stanford to get my master's degree in engineering management and industrial engineering. While at Stanford, I was very active as a student. I served on the student senate. I served in Stanford in Government, which is an internship program in Washington, D.C. I served two years as a board of trustee member at the Stanford Board of Trustees. I was a teaching assistant at the graduate school of business, also the graduate school of engineering. I was an intern with IBM in their marketing program. And then I also went on to work in the planning department at Pan Am. Upon graduation, I joined Booz Allen Hamilton in New York City as an associate and was promoted to a senior associate. Clients there included GE, GTE-Sprint, American Can, Timex, Allied Signal, United Technologies/Pratt and Whitney, ATT/Western Electric. Those were clients that I actually worked with. It was an international consulting business. After that, I left to move to San Francisco where I joined an investment banking firm called Hellman and Friedman. The firm was active in LBOs, corporate restructurings, and financial advisory work. Clients included: Hewlett-Packard, McKesson, American Presidents Line, Federated Department Stores, and McClatchy Newspapers. I returned to Lincoln in 1990 to rejoin my family business. I currently serve as the president of Speedway Motors here in Lincoln. It's an international catalog and Internet merchant of performance automotive parts headquartered here in Lincoln. Along with my three brothers and our 325 associates, we are celebrating our 61st year in business. I also serve as the chairman of AFCO racing products performance shock subsidiaries in Boonville, Indiana. In addition, I'm the general partner of B&J Partnership, which is one of Lincoln's largest commercial property development companies, going by the name of Speedway Properties. We manage and preserve many buildings throughout the Lincoln community, and that business is celebrating its 52nd year. Since I've returned to Lincoln in 1990, I've been active in the community, serving as a director and officer for a number of community organizations, including: St. Paul United Methodist Church Foundation, the Community Health Endowment, CEDARS Homes for Children, Bright Lights, and others; almost 20 different organizations. In addition, I've had the honor of serving statewide, serving on the University of Nebraska College of Business Advisory Board, the Museum of Nebraska Art out in Kearney, the University of Nebraska Sheldon Museum Board, the Nebraska Humanities Council, Nebraska Wesleyan University as a board trustee, the president of the Nebraska Young Presidents Organization, and the Council of Ak-Sar-Ben. I was asked to give a little bit of a background of what was accomplished during my first tenure here. I was honored four years ago when I was

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

Education Committee  
February 12, 2013

---

originally asked to serve on this commission by the Governor. I had a long, passionate relationship with NET, mostly as a consumer. I, like many of you, grew up with NET in our home. It offered superior television programming to us, teaching, enlightening, entertaining, and also inspiring our household. I also had another experience that was really interesting because Ron and Naomi Hull were our neighbors. Ron was the director, as you know, for many years at NET, I think almost 59 years. So Kevin, his son, was my best friend. And I can still recall many dinners that I was invited over to the Hull household and having fascinating dinner guests that they would bring home, Ron would bring home. The two that stand out in my memory are dinners with Joe Orduna when he was playing here at the university and also John G. Neihardt telling stories. The past four years has really been exciting at NET. We have many challenges ahead of us and we accomplished a great deal. NET continues to build on such a strong national reputation. We were able through the last four years to do the mandatory conversion from analog to digital. We also brought live streaming of all the sessions on-line with Nebraska Capitol Live. We also managed the content for the virtual high school, which is the partnership between the Governor, the University of Nebraska, and the State Department of Education. They also won many awards for documentary programming, many of which are probably favorites of yours and mine: "Walk Ons," "Nebraska Stories," "Homemade Astronaut," "Beef State," "Most Honorable Son," and appropriately this week, with all the testimony in Washington, "In Country Again," with Chuck Hagel and his brother. There was also much expanded coverage for Nebraska sports, high school sports, UNO, and Creighton. Over the past four years, I feel like I've been active and successful as a commissioner. I was honored to be nominated for reappointment. I was active in the governance meetings, updating our strategic goals, served on the finance committee, and was an effective advocate for NET with our congressional delegation. My wife and I also served as the southeast Nebraska cochairs and hosted the kickoff fund-raiser for the successful \$25 million Inspire Nebraska foundation meeting campaign. I also was instrumental in creating the "Nebraska Stories" fund-raising campaign that honored Ron Hull. You know, NET is a very complicated public-private partnership, technology-driven; and as a commissioner, it takes a few meetings, actually at least a year to get up to speed with the acronym of the industry and also to get up the learning curve. Looking forward, the goals that I set forward is to just continue on with the governance. But the one transition point that we have right now is, while we are nationally recognized, the success of the organization really comes from three things: strong leadership, great management, and stability. NET has benefited from visionary leaders, great managers, creative talent, and organizational stability as it faced many challenges over the years. One goal I have for the coming term is the smooth transition of leadership as we choose only our third general manager in the 60-year history of NET. It's that stability that's really driven the success of NET through the years. If confirmed, I'll be the vice chair of the commission as well as the executive committee, and I'll be instrumental in assisting the new general manager assume those roles. And the other part that I feel like I'm uniquely capable to share with is that our company is are very successful embracing social media as is

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

Education Committee  
February 12, 2013

---

NET. Our company has over 90,000 followers on Facebook and we've had over 8.2 million hits on our YouTube videos. Those are areas that are actually community outreach programs for NET where they've been successful; and I think I can add leadership there as well. As you all know, Lincoln and Nebraska is a very special place, as is NET. We have many things that bind us together as a state, not the least of which is Nebraska football. But NET is the great unifier in my mind because it brings all the state together with one common passion: to educate. I thank you for your continued support of NET and also welcome any questions you might have. [CONFIRMATION]

SENATOR SULLIVAN: Thank you, Mr. Smith. It sounds like for you it's almost deja vu all over again, isn't it? [CONFIRMATION]

CLAY SMITH: It is. [CONFIRMATION]

SENATOR SULLIVAN: And the general manager that's retiring, is that Mr. Bates? [CONFIRMATION]

CLAY SMITH: Rod Bates. [CONFIRMATION]

SENATOR SULLIVAN: Okay. All right. Very good. Any questions? Senator Scheer. [CONFIRMATION]

SENATOR SCHEER: I guess I would just like to personally thank you and all the other volunteers that give of themselves in order to provide, you know, such a wonderful service to not only the Lincoln area but a statewide organization that provides, you know, free television and wonderful programs especially for our youth. And obviously you've had a big impact on it. Organization is not one of your weaker skills obviously. And, you know, the only question I might have is, what do you do with all your spare time? (Laughter) But... [CONFIRMATION]

CLAY SMITH: Well, I am very busy, but fortunately I have a great team that's behind me in my businesses so it doesn't require all of my time. But NET has been a pleasure to serve on the board and it's a great organization led by wonderful people. [CONFIRMATION]

SENATOR SCHEER: Well, thank you. [CONFIRMATION]

SENATOR SULLIVAN: Senator Haar. [CONFIRMATION]

SENATOR HAAR: I'd like to thank you too. Do you watch Downton Abbey? (Laughter) I had some households where I know there was a fight when the Super Bowl was on because (laughter) whether to watch Downton Abbey or the Super Bowl. I watched Downton Abbey, so. [CONFIRMATION]

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

Education Committee  
February 12, 2013

---

CLAY SMITH: Yes. We do in our household. In fact, my 12-year-old daughter, as I was leaving the door, this morning she asked me what I was going to do. And she said, well, they're going to keep Downton Abbey on, aren't they? (Laughter) [CONFIRMATION]

SENATOR SULLIVAN: Senator Davis. [CONFIRMATION]

SENATOR DAVIS: Thank you for your service. And NET has been a great, great thing for Nebraska. I come from western Nebraska and rural Nebraska, and so I'm just going to make my pitch here. So many people in the rural part of the state are dependent on DISH Network and DIRECT television and we just aren't able to get the NET programs, and I would hope you guys would do as much as you can to encourage DISH Network and DIRECTTV to pick you up for rural Nebraska people. [CONFIRMATION]

CLAY SMITH: I'll share that. We've discussed that in the past and I'll bring that back. [CONFIRMATION]

SENATOR DAVIS: I know you have, I know you have. [CONFIRMATION]

CLAY SMITH: As the son of a Kincaider from Stapleton, he was my grandfather, was a Kincaider, I understand the issues in western Nebraska as my grandmother or my mother was from North Platte and my family is from Custer County. [CONFIRMATION]

SENATOR DAVIS: Well, we need something to unify the two parts of the state and that's one thing that does do that, so I appreciate it. Thank you. [CONFIRMATION]

CLAY SMITH: Thank you for the input. [CONFIRMATION]

SENATOR SULLIVAN: Any other questions? Senator Avery. [CONFIRMATION]

SENATOR AVERY: Thank you, Madam Chair. I was here four years ago, Mr. Smith... [CONFIRMATION]

CLAY SMITH: You were, Bill. [CONFIRMATION]

SENATOR AVERY: ...when you were first appointed, and I was pleased then and I am very pleased that you're back to be reappointed. You're a great treasure to the city of Lincoln and I'm sure it goes beyond Lincoln, but I know what you've done for Lincoln. So thank you. [CONFIRMATION]

CLAY SMITH: Thank you, Senator. Yeah, it was actually a sad thought to come back today only in the sense that Ron Raikes was with us four years ago, and I was thinking about Ron on my drive down this morning. [CONFIRMATION]

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

Education Committee  
February 12, 2013

---

SENATOR SULLIVAN: Very good. Thank you very much for your service.  
[CONFIRMATION]

CLAY SMITH: Thank you. [CONFIRMATION]

SENATOR SULLIVAN: Our next appointee is Mr. Curt Frye. Welcome, Mr. Frye.  
[CONFIRMATION]

CURT FRYE: (Exhibit 2) Thank you. I'm Curt Frye and I... [CONFIRMATION]

SENATOR SEILER: Excuse me. [CONFIRMATION]

CURT FRYE: Yes. [CONFIRMATION]

SENATOR SEILER: I hate to interrupt. Son, in the front row, would you move your  
briefcase so somebody doesn't trip over it. [CONFIRMATION]

\_\_\_\_\_: Oh, I'm sorry. [CONFIRMATION]

SENATOR SEILER: Thank you. Excuse me. [CONFIRMATION]

CURT FRYE: I'm surprised I didn't. I am Curt Frye and I currently hold the position of being president of Wayne State College. I've been in education, a lifelong Nebraskan. I started my career in education way back in the late sixties and NET was very important to me as I taught in Cody, Nebraska, not far from Hyannis. And I used the programming for my classes in social science, particularly those that related to Nebraska history and Roger Welsch and that wonderful program that he had. The other thing that I agree with Senator Davis about is that when I was in Cody-Kilgore, NET was the only game in town, which wasn't a bad thing because I had always watched NET and had been a member and supporter of NET for lo these many years. So I started as a social science teacher and coach, and from there I went and got an advanced degree in counseling. And I served the communities of Cody, Kilgore, Neligh, and Wayne as a high school counselor and continued my support of NET. I went to the college in 1985 as the associate dean of students, became the dean of students, vice president of student affairs. Was an interim president in 2003-04. Went back to student affairs, became interim president again in '10-11, and then became the permanent president in '11-12. So this is my fourth term as president of Wayne State College, (laughter) second as the real deal. So we enjoyed the relationship that we've had with NET. I look forward to learning more about it. I went to my first commission meeting last Tuesday; and Mr. Smith is exactly correct, you kind of glaze over when they start using the technology terms. But I'll catch up. I think I'm a fast study. So I have two children, both grown. My daughter is also a counselor in the South Sioux City school system. And my son works

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

Education Committee  
February 12, 2013

---

and lives in Yankton, South Dakota. So we feel blessed that we're close to not only our children but our grandchildren as well. And so I would be happy to answer any questions that you might have. [CONFIRMATION]

SENATOR SULLIVAN: Thank you, Mr. Frye. Senator Haar. [CONFIRMATION]

SENATOR HAAR: I would have a request. When I drive to Dallas to see my son, it can get difficult to get public radio between here. [CONFIRMATION]

CURT FRYE: Yes. [CONFIRMATION]

SENATOR HAAR: And one of the things I appreciate so much about NET is that you can get it all over the state almost, and I wish a lot of other states would follow suit. And, by the way, Senator Sullivan, I'd like just to take a moment to say that there's some pioneers who have actually worked to get ETV and so statewide, and one of those is here today. Herb Schimek was one of the people who worked on that, as did my brother from Omaha, to establish a statewide network. [CONFIRMATION]

SENATOR SULLIVAN: Very good. [CONFIRMATION]

CURT FRYE: It was unique. [CONFIRMATION]

SENATOR SULLIVAN: Mr. Frye, in addition to becoming acquainted with all the acronyms... [CONFIRMATION]

CURT FRYE: Yes. [CONFIRMATION]

SENATOR SULLIVAN: ...do you have any initial thoughts about some of your vision or hopes and dreams for NET? [CONFIRMATION]

CURT FRYE: Well, I think Mr. Smith summed it up. I mean, we are facing a real challenge in terms of change in leadership, and that's going to be a very critical part of what it is that the commission needs to do, making that selection. And so the general manager and also Jeff Beckman who's running the foundation is also stepping down. And so there are two very key positions and I think that's going to be central to the success, continued success of NET. And so I think we will need to spend a good deal of time and deliberation on those two key hires. [CONFIRMATION]

SENATOR SULLIVAN: Okay. Any other questions? Senator Scheer. [CONFIRMATION]

SENATOR SCHEER: Well, as well, I'd like to thank President Frye for his offer to serve and I guess has already started that service to the state, and especially for your service to northeast Nebraska via Wayne State. It's a wonderful facility up there and it's done

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

Education Committee  
February 12, 2013

---

wonderful things under your tutelage, and I just want to tell you how much we appreciate all that you've done. [CONFIRMATION]

CURT FRYE: Thank you very much. [CONFIRMATION]

SENATOR SCHEER: Thank you. [CONFIRMATION]

SENATOR SULLIVAN: Thank you for coming and thank you for your service. [CONFIRMATION]

CURT FRYE: All right. [CONFIRMATION]

SENATOR SULLIVAN: That will conclude the gubernatorial appointment hearings. We will now move to our first bill, LB506, to be introduced by Senator Bolz. [CONFIRMATION]

SENATOR BOLZ: (Exhibits 1-3) Good afternoon, Senator Sullivan and members of the Education Committee. My name is Kate Bolz, that's K-a-t-e B-o-l-z, and I represent District 29 in the Nebraska Legislature. I'm pleased to introduce LB506 which will provide schools with high demands in kindergarten through third-grade classrooms and limited facilities with opportunities to meet the needs of their young students. This bill will continue the class size allowance within the state aid to schools formula. The class size allowance provides funding for kindergarten through third-grade classrooms with a certified teacher between 10 and 20 students. LB506 will also provide the allowance for classrooms between 21 and 28 students that have both a certified teacher and a paraprofessional in the classroom. Finally, the bill collects information about salaries and experiences of paraprofessionals or paraeducators. I bring LB506 to recognize that among the needs in providing fair funding for schools and a fair educational experience for students, the pressures on K-3 classrooms should be recognized. The current funding formula, as you know, provides a growth allowance; however, it does not provide a weighted allowance that recognizes the unique pressure that schools with high numbers of K-3 students face. These pressures include: (1) many schools are seeing a disproportionate influx of K-3 students; (2) many schools have a disproportionate number of students entering kindergarten at risk of failure in school, ranging as high as 85 percent in Richardson County; and (3), finally, many schools with the will to provide smaller class sizes from increasing numbers of K-3 students are simply limited by physical facility space. I bring LB506 to address the needs of young students in a targeted way by recognizing that utilizing teachers and paraeducators is one of the most effective, targeted ways of addressing the needs of schools with high numbers of young students, high numbers of young students who are at risk, and limited physical space. LB506 has two important components. First, it continues the class size allowance and, second, it allows for cost-effective innovations for schools by extending the class size allowance to classrooms that use paraeducators to keep class



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

Education Committee  
February 12, 2013

---

sizes small. I also would like to briefly explain two amendments to the bill. The first amendment simply cleans up language to make the data collection measures apply only to public schools. That's AM177. The second amendment is actually an amendment that I thank your legal counsel Tammy Barry for her assistance with. It provides some technical cleanup language and makes the implementation date next year. This is because it will take a year to collect the necessary data that's relevant that will be needed to implement this allocation. I also want to spend just a moment discussing the fiscal note with you. First, the first-year impact of the change will be an additional \$3.6 million in the first year. Because we are moving the implementation date to 2015, that would be the total cost of the bill. You will also see that there is a significant difference between the first- and second-year funding that would decrease overall aid. This is because the cost growth factor would increase to a level where the formula's averaging adjustment would no longer be relevant. It is not my intention to create a decrease in overall funding. I understand that a bill under significant consideration by the Education Committee may do away with the averaging adjustment which could solve for some of those disparities. Doing so would have a significant impact on this bill. I recognize fully that LB506 must be put into the larger landscape of the school aid funding formula, with costs and impacts on individual schools in mind. Nonetheless, I encourage the committee to support the strategy that targets resources towards educators in the classrooms of young students who benefit greatly from the presence of trained teachers and paraeducators. In closing, I want to share with you that this proposal comes directly from families in my district. Families all across my district shared stories about the value of paraeducators in children's lives, concerns about increasing class sizes, and dismay over losing paraeducators who had a significant impact on making classrooms successful. I'll just reiterate that point by saying that Lincoln Public Schools has had almost a double increase in K-3 percentagewise as compared to the state as a whole. So this was a real need that we heard from our constituents. In closing, I'll share one brief quote from a constituent. "As the parent of a special-needs child, I know firsthand that the paraeducators are paramount to our daughter's success. While the teachers give guidance, structure, and knowledge, the paras are in the trenches working with the children one on one. At the end of the day upon picking up my daughter from school, it's the paraeducators that I seek out asking how her day was. The paras know and are able to tell me what went well, what required some extra help and guidance. I only wish that there were more paras." I urge your support for LB506. [LB506]

SENATOR SULLIVAN: Thank you, Senator Bolz. Questions for Senator Bolz? Senator Kolowski. [LB506]

SENATOR KOLOWSKI: Thank you, Madam Chair. Senator Bolz, one of my concerns would be, and I'm...I totally back what you're asking for, especially with the younger grades and the impact this could have with the larger class sizes. But one of the questions I would have would be the coordination of time to plan and execute plans together with the teacher and the para. In a larger elementary school, and my wife

would never forgive me if I didn't say all this as a retired elementary principal, but in a larger elementary school, you may have four or five teachers in one grade level. So their PLC time, professional learning community time, of coordination of efforts and where are we with the curriculum and the assessments coming up and all the rest of the things, that would be essential among those teachers. But we also need, now if these staff numbers are in place as paras, need to get them into the planning as well and not just think they're a second-level citizen in that school as far as the uniform effort of both the teacher and the para. I think it's a crucial aspect that they plan together to execute the plans for the classroom however they're going to do what they're going to do. So I don't know. I know you don't have any quality control on that, but I'm trusting the schools would hear this and pick this up as far as a really needed item to make it successful. [LB506]

SENATOR BOLZ: Yeah. In some of my initial discussions with schools and educators and paraeducators, I think that a lot of innovation is already taking place; and you can speak to that, too, that paras are providing intense tutoring, intense reading instruction. So it may simply be recognizing what those best practices are and seeing how they can apply them under this new opportunity. I would also share briefly that new research has recently come out saying that if kids aren't reading competent by the third grade, it's really a tipping point because that's when you change from understanding how to read to needing to have reading comprehension. And so those paraeducators, especially the ones that provide reading tutoring, may be able to float a little bit from class to class but really add value to the classroom. [LB506]

SENATOR KOLOWSKI: Thank you. [LB506]

SENATOR SULLIVAN: Any other questions? Senator Haar. [LB506]

SENATOR HAAR: Do you know what's been happening to class size for those grades in Lincoln Public Schools? Do you have an idea of that? [LB506]

SENATOR BOLZ: I know that from the statistics and I know that anecdotally. The statistics show that we really are growing in those younger grades. And some of the information in front of you, you can follow the line from 2006 to today and see the disproportionate increase in those younger students. A simple way to answer that question statistically is that Lincoln Public Schools over the last few years has grown by a whole elementary school; that we're still putting all of those students in the same physical facilities. The second way to answer your question is that, you know, I'm recently off the campaign. Going door to door, I heard not only concerns about discipline in classrooms but about the size of classrooms leading to disruptions, leading to questions about whether or not kids were getting the attention they needed from their instructors. [LB506]

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

Education Committee  
February 12, 2013

---

SENATOR HAAR: Thank you. [LB506]

SENATOR SULLIVAN: Senator Davis. [LB506]

SENATOR DAVIS: Senator Bolz, I'm just curious, on page 2, the added language about the fall personnel report and adding the salaries, years of experience for both paraprofessionals and professionals. Can you tell me why that was put in? [LB506]

SENATOR BOLZ: Sure. I think there's great opportunity for innovation and for cost-effective innovation by better using our paraeducators. You all are members of the Education Committee so maybe you're already familiar with this, but I was surprised to see just how strong of a credential that paraeducators need to perform in the classrooms. And so I think understanding not only how many years of education they have, what their current salaries are, and who's being put where, will help us be more strategic in the future. Does that answer your question? [LB506]

SENATOR DAVIS: Well, it does, but I guess I don't see how that relates to the Department of Education. That sort of seems to me more like a local decision. And, you know, in fact, I mean it is... [LB506]

SENATOR BOLZ: Sure. [LB506]

SENATOR DAVIS: ...as to who is hired. So that was one question I had. And then I was going to ask you about this particular image. Can you tell me a little bit about the First Five Nebraska chart? [LB506]

SENATOR BOLZ: Certainly. First Five Nebraska, as the name would indicate, is focused on making sure kids start out in life right with all the supports and services they need, and really points to the science behind the value of early education as far as brain growth and social development. The chart that I shared with you earlier today illustrates the percentage of kids by county who are at risk of failure in school because they have multiple risk factors. Some of those risk factors are included in the school funding formula and some are not. So, for example, one of the risk factors is children who reside in a home where English is not the first language, and that is reflected in our school funding formula. And poverty is also an indicator that is reflected on that chart. But the other indicators are children whose parents are younger than 18 who have not completed high school; children who are born prematurely or at low birthweight as verified by a physician. So those are some of the other factors. And certainly there are other risk factors as well, everything from, you know, homelessness to an experience with domestic violence might put a child at risk. [LB506]

SENATOR DAVIS: Thank you. [LB506]

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

Education Committee  
February 12, 2013

---

SENATOR SULLIVAN: Senator Scheer. [LB506]

SENATOR SCHEER: Thank you, Senator Sullivan. Senator Bolz, I know they had asked previously as far as the class size. You don't have any specific number in relationship to Lincoln what their class sizes were two years ago, a year ago, rather than just bulk numbers. I mean... [LB506]

SENATOR BOLZ: We can get you some of those statistics. The example that comes to my mind because I looked at it most recently was that Omaha Public Schools, because they have some facilities that are older and not conducive to expansion, are seeing, you know, they're trying to keep the majority or the average class size around 20, 21; but in some cases they are forced to make those class sizes much larger. And most of them do not go over that 28 class size, number 28 class size. They really try not to do that in schools. But in some of the more urban areas and some of the areas that are seeing K-12 growth, we are seeing more bleed over into the 21-28 classroom size. And we can get you some more detailed statistics about that. [LB506]

SENATOR SCHEER: Yeah. I really would appreciate the...because a lot of this is based on that growth and... [LB506]

SENATOR BOLZ: Sure. That's right. [LB506]

SENATOR SCHEER: ...the only other comment that in looking at the inducement goes for the para up through 21 through 28, and perhaps it might be an unintended consequence, but I look, for example, perhaps in a rural area where you may have a combination class so it ends up at 29. And based on this, they wouldn't receive any benefit, but if a child moves out and they really have no other way to disperse those children because you only have so many in the two age groups. Response to that. [LB506]

SENATOR BOLZ: I would have two quick comments to that. One is related to the latter point that you brought up which is as I understand it, the class size allowance in the past was, it was allocated at the beginning of the school year and then reassessed at the end of the school year so that you did get a sense of what the actual class size was throughout the year. So there was a little bit of room for fluctuation. I would certainly be happy to work with the committee to address the issue that you're bringing up, but it would be my preference that if you had a blended kindergarten and first-grade classroom that did reach 28, that the class size allowance would still apply because those are still young students. And, you know, I think to Senator Davis' point, there are some local decisions being made here. And if the local decision is that we are keeping class size smaller, and more educated, trained people in the classroom to help those students, I truly believe in expending our educational resources in the classroom and in the interpersonal educational context. [LB506]

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

Education Committee  
February 12, 2013

---

SENATOR SCHEER: I don't disagree with that, but you also have to realize that other staff will look at staff and they have a class of 14 and they have a class of 28 with a para and they also would find a little discomfort in that as well. And sometimes you have just those little tweaks in population shifts in any school district. And I just, I didn't want to inadvertently cause a loss for a local district that may have no other alternative... [LB506]

SENATOR BOLZ: Sure. [LB506]

SENATOR SCHEER: ...than to utilize that, so. [LB506]

SENATOR BOLZ: Right. That's not my intention either. [LB506]

SENATOR SCHEER: Thank you. [LB506]

SENATOR SULLIVAN: Senator Bolz, I had a question. The operative date as you propose is July 1, 2013. Is the data going to be there? [LB506]

SENATOR BOLZ: That is the amendment that I understand...I'm not sure if it actually came around or that's the amendment that is the technical amendment that would move the operative date so that we could get that data underneath. [LB506]

SENATOR SULLIVAN: Okay. All right. Okay. Senator Haar. [LB506]

SENATOR HAAR: Yeah. One final question. When I was going door to door this summer, I ran into an 82-year-old grandmother that was serving as a para. She was absolutely excited. Would this allow for volunteer paras or just paid paras, do you know? [LB506]

SENATOR BOLZ: Only paid paras that have the appropriate credentials. And the definition of the credentials for paraeducators should be in your fact sheet, but it is generally at least two years of postsecondary education. [LB506]

SENATOR HAAR: Okay. [LB506]

SENATOR SULLIVAN: Any other questions? Senator Avery. [LB506]

SENATOR AVERY: Thank you, Madam Chair. Senator Bolz, I think you stated in your comments that you did not intend for this change to affect the overall allocation of equalization aid. Am I right? You did say that? [LB506]

SENATOR BOLZ: I would be happy to see the impact be an increase of aid, but it's not

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

Education Committee  
February 12, 2013

---

my intention to create such a change in the formula that we would decrease overall aid. Does that answer your question? [LB506]

SENATOR AVERY: If I'm reading this right, the estimate is about \$208 million cumulatively would be an increase to the General Fund because of a decrease in aid. This is a good illustration of how when you change one part of the formula, it has often unexpected and sometimes dramatic effects on the end of the road. [LB506]

SENATOR BOLZ: I couldn't agree with you more, Senator Avery. I recognize that it's a complicated formula and that moving one aspect does have impacts on other aspects of the formula. My main argument to you today is that we should continue to consider class sizes for K-3 classrooms in the funding formula and recognize, with resources, schools that are taking extra efforts and have extra pressures. [LB506]

SENATOR SULLIVAN: Thank you. [LB506]

SENATOR BOLZ: Thank you. [LB506]

SENATOR SULLIVAN: We will now hear proponent testimony on LB506. [LB506]

LARRY SCHERER: (Exhibits 4 and 5) Good afternoon, Senator Sullivan, members of the Education Committee. It's a pleasure to be here again today to offer testimony in support of LB506. At the start of the Legislature this year, Senator Bolz talked to our staff about her idea and some of the input she'd received while talking to people during the fall, and asked what she could do for early education and specifically with related to paraeducators and how they could be involved in that. And we mention that the allowance for the early childhood grade size was going away this year, so that would have been the vehicle to change in the future. And so that is what I guess the idea was. We have something there now; let's build upon it, not start something completely new. So that's how we became involved in it. But NSEA does support the concept. Our teachers not only benefit but the students in their classes benefit by the small grade size. I don't think I spelled my name, did I? No. I better do that for the record. [LB506]

SENATOR SULLIVAN: Thank you. [LB506]

LARRY SCHERER: It's Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r, and I'm with the Nebraska State Education Association. Smaller class sizes do make a difference in the early grades, especially for at-risk students, those living in poverty and with learning disabilities, and English language learner students. There's a study attached to this that we would like you to refer to that looks at some of the reasons, the research on why class size matters and why it's cost-effective. And I'll just leave that to you today. If we have time at the end and you have questions about it, I would try to answer those. Originally, as I understand it, the class size allowance came in with a number of other

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

Education Committee  
February 12, 2013

---

allowances that were added to the formula. And the idea then was to basically require class sizes to be a certain size by a certain date. The mandate, as I understand it, doesn't really exist anymore. The allowance to encourage it is set to go away. So the concern is that there, as Senator Bolz mentioned, there are a number of schools where they're dealing with enrollment increases where it's still a challenge. And there is some need to try to keep addressing this issue. We mentioned the data. I called the Department of Education to ask if there was class size data statewide; and they said, no, we really don't collect that. And I'm not sure what detail or how they collected this for the current allowance. But in terms of identifying class size, there's class size ratios, there wasn't that information there. So we concluded that it might be early to discontinue the allowance. And the concept of LB506 is to continue it, basically the same criteria for teachers, and then add paraeducators to the allowance which would create the potential for additional growth in the allowance. There's no doubt about that. If the...as I understand the fiscal note, if that change wasn't there, then you would see a reduction in the amount of aid. And that has to do, as I understand it, with when the allowance money is fed back into the General Fund operating expenditures, redistributed to the schools in their array groups, you know, that can cause money that was just going to some districts to go to all the districts, and they might have a lot of students, so that can increase the amount. I've done a little modeling with the teacher education allowance, and it's complicated. You have to look at each school. But that is the reason for the short-term savings. And Senator Avery is probably correct, long term this would probably increase. I have also a letter from a paraeducator in South Sioux City who reports that from her perspective, and she's both the secretary and a paraprofessional--that's often the case that people serve dual roles--that having a para in the room is very important. And, you know, she recognizes the need to coordinate with the teachers to provide better learning opportunities. So I provide that to you. And this is in the context of a larger issue of allowances I think that we started yesterday in the bill on the teacher education allowance and how those should be handled in the future. As I understand it, the allowances are kind of like a Chinese finger trap. We put your finger into them and then they're hard to get out of because once you do, it redistributes all the money. And so that's an aspect to it that was probably unforeseen at the time that needs to be addressed, and we hope it can be addressed in a comprehensive manner including this class size allowance which NSEA supports. So thank you for your time today. Appreciate your work and attention. If I can answer questions, I will. Jay Sears couldn't be here today. He's up in Omaha. But if there's a question on academic arguments for, and class size, that type of thing, I will take it back and we will get the answer for you. [LB506]

SENATOR SULLIVAN: Senator Avery. [LB506]

SENATOR AVERY: Thank you, Madam Chair. Mr. Scherer, not Senator Scheer, Mr. Scherer, do you remember why the allowance was taken out of the formula? [LB506]

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

Education Committee  
February 12, 2013

---

LARRY SCHERER: As I understand it, and this is partly state aid folklore, and you probably talked to some other folks about it, that it came out because there was originally a mandate that class sizes would be reduced by a certain date. And that was for whatever reason not found to be workable. And so it was looked at as an incremental thing to encourage schools to get there voluntarily. And then after that point in time, I thought everybody would be there, everybody would have their class sizes that way. But that hasn't happened. To the extent, I know there's been a big change. I know \$100 million, \$111 million flowing through this indicates that there's a lot of classrooms that meet this requirement in the state. I don't know what percentage, but that's it, Senator Avery, as I understand. [LB506]

SENATOR AVERY: So it wasn't necessarily ended because the program was successful. It was ended perhaps for budgetary reasons. [LB506]

LARRY SCHERER: You know, I think the size and scale of the program probably was a factor both ways, maybe as an indication that it was working but also as a budgetary consideration. But, again, the money is still there. It will still be spent. It will still be part of state aid to schools. And so it really doesn't...getting rid of it really doesn't save dollars per se. [LB506]

SENATOR AVERY: Okay. Thank you. [LB506]

LARRY SCHERER: Thank you. [LB506]

SENATOR SULLIVAN: Any other questions? Thank you. [LB506]

LARRY SCHERER: Thank you, Senator. [LB506]

SENATOR SULLIVAN: Any other proponent testimony? Opponent testimony. Anyone wishing to speak in a neutral capacity? [LB506]

JEREMY MURPHY: Good afternoon, Senator Sullivan, members of Education Committee. My name is Jeremy Murphy, J-e-r-e-m-y M-u-r-p-h-y, and I am the associate director for education issues for the Nebraska Catholic Conference. We would simply ask you to adopt AM177 that Senator Bolz referred to. Just so you know, I think most of you know this, but private denominational parochial schools do not receive TEEOSA funding. The data reporting requirement--the new ones in this bill, anyway--appear to be tied directly to TEEOSA. So we think it's unnecessary...it's an unnecessary unfunded mandate on private schools as written. If the committee would adopt the amendment, it would resolve our concerns about the bill. That's all I have. [LB506]

SENATOR SEILER: Any questions? Senator Avery. [LB506]



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

Education Committee  
February 12, 2013

---

SENATOR AVERY: Mr. Murphy, are there any regulations, requirements, mandates, or otherwise intrusive laws that relate to or apply to private schools in this state? [LB506]

JEREMY MURPHY: Senator Avery, we are participating in NSSRS to a limited extent with the Department of Education to report information to them. That's become easier in some cases than the paper trail. But I guess that would be one example I would give you of something that we are complying with. [LB506]

SENATOR AVERY: Well, you often appear before this committee to object to or ask for an exception to what it is we may be considering. And, you know, the constitution does require us to educate all the children in the state, not just the public students, but that, I would think, would include those in religious and on private as well. [LB506]

JEREMY MURPHY: Well, and Senator Avery, we do meet and exceed the standards for approval and accreditation under the state's laws. You know, as you're aware, as a longtime member of the Education Committee, TEEOSA funding goes exclusively to public schools. In our discussions with Senator Bolz, this was described as a TEEOSA bill, and the new data reporting mandates are tied directly to that. So it just doesn't make sense to apply the mandate to private schools in this case. [LB506]

SENATOR AVERY: I probably agree with you. But it does raise a larger issue for me because it seems that so often we have regulations, mandates, or guidelines, or whatever, relating to public schools. And they're important enough for public schools, but you come in almost every time and object to having those applied to the private schools or to religious schools. And it just seems to me that if it's good for the public school students it ought to be good for your students too. [LB506]

JEREMY MURPHY: Well, Senator Avery, the state does recognize some independence of private schools. That goes back many years. And private schools are complying with the mandatory compulsory education law. And private schools are also saving the state taxpayers millions of dollars of money. So I guess that's how I would respond to that. [LB506]

SENATOR AVERY: I don't want to get into an argument about the value of private education. I think it's very good. I had some of it myself. But it just seems to me that it's so consistent that when we have a bill before us that in any way might touch on your sector of education, you're always here to say, no, we want to be exempted. [LB506]

JEREMY MURPHY: Well, that...we make those determinations on a bill-by-bill basis, Senator Avery. And I guess I'll just leave it at that. [LB506]

SENATOR AVERY: Okay. [LB506]

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

Education Committee  
February 12, 2013

---

SENATOR SULLIVAN: Senator Cook. Oh, did you have anything? [LB506]

SENATOR COOK: I have just a question... [LB506]

SENATOR SULLIVAN: Okay. Yes. [LB506]

SENATOR COOK: ...for the testifier since he's here. [LB506]

JEREMY MURPHY: Yes, Senator Cook. [LB506]

SENATOR COOK: Yes, Mr. Murphy. I have a question. A couple of my little friends attend St. Philip Neri School in my district. It's the largest school in my district of any stripe. Would you happen to know the class size for St. Philip Neri or for a typical K-3...she's in third grade...K-3...I can ask her (laugh)...class size? [LB506]

JEREMY MURPHY: I would...Senator, I would not know that off the top of my head. Obviously, the... [LB506]

SENATOR COOK: Could you shoot me an e-mail? It doesn't have to be elaborate. [LB506]

JEREMY MURPHY: Sure. Sure. The... [LB506]

SENATOR COOK: Just to satisfy curiosity. [LB506]

JEREMY MURPHY: The archdiocese of Omaha would certainly have that information and so would the school, so I can get that from any source. But you're interested in the class size for K-3 for St. Philip Neri, is that... [LB506]

SENATOR COOK: K-3 or across the schools in... [LB506]

JEREMY MURPHY: Okay. [LB506]

SENATOR COOK: ...in Omaha and in particular for St. Philip Neri as it is the largest school in the district. [LB506]

JEREMY MURPHY: Okay. [LB506]

SENATOR COOK: Thank you. [LB506]

JEREMY MURPHY: Sure. [LB506]

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

Education Committee  
February 12, 2013

---

SENATOR SULLIVAN: Any other questions for Jeremy? Thank you very much. [LB506]

JEREMY MURPHY: Thank you. [LB506]

SENATOR SULLIVAN: Any other neutral testimony? Senator Bolz for closing. [LB506]

SENATOR BOLZ: I have just a few brief remarks in closing. The first is that this bill is not necessarily focused on the average class size, rather it's focused on those schools and those classrooms who either through demographics or facilities are facing significant class sizes in K-3 grades. The second is that I think this bill looks towards several trends that we can point to in Nebraska and in an education. The first is that we are seeing shifting demographics and we are seeing some schools that do have greater pressure in K-3. We're also hearing as a body and as a community about the value of early education in a whole new way, and I think that's due to some of the good work of the folks in this committee and in our state as a whole. There are two other trends that I would point to that this bill is directed at. One is that we are increasingly better able to identify special education needs and as a result we do have more students who are identified as special education. I think our ability to identify kids on the autism spectrum is a really good example of that. And as we work to mainstream those students and have them participate in classrooms, the paraeducator role becomes increasingly important. That's the final trend that I'll point to is that I think the paraeducator role is becoming more professionalized, it's becoming more valuable in the classroom. And just like we are better utilizing CNAs and LPNs, as well as RNs, in the healthcare field, I think specialization and support for paraeducators in the education field is useful, valuable, and strategic moving forward. So I appreciate your consideration of LB506. [LB506]

SENATOR SULLIVAN: Thank you, Senator Bolz. [LB506]

SENATOR AVERY: I have one more. [LB506]

SENATOR SULLIVAN: Yes, Senator Avery. [LB506]

SENATOR AVERY: Thank you. I don't see anything in the material you gave us that actually provides data on the class sizes. Is that because you couldn't get that data? Was it not available? [LB506]

SENATOR BOLZ: I do have it for a number of different schools and school districts. I wasn't able to pull it together for the state as a whole. But we will, in follow-up, to share some more of that specific class size data. [LB506]

SENATOR AVERY: Was your problem in getting this the fact that perhaps the Department of Education doesn't collect that information? [LB506]

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

Education Committee  
February 12, 2013

---

SENATOR BOLZ: That's right. [LB506]

SENATOR AVERY: That's what I thought. That's incredible. We've got an item in TEEOSA formula to encourage small class sizes; and the department, knowing that it's a part of state law, hasn't been collecting the data. Amazing. [LB506]

SENATOR BOLZ: I can't really speak to that, as my staff did do a lot of the research, but I think some of it did have to do with the fact that this provision was sunseting so we didn't necessarily look ahead to collecting that data. I will say one last thing since I have the mike again, which is I understand that there are some complicated pieces of the formula as a whole, and I just want to say to the committee that I'm eager and willing to contribute in any way I can to work things out and to work in the context that all of you need to work in. [LB506]

SENATOR SULLIVAN: Senator Bolz, Senator Davis had a question. [LB506]

SENATOR DAVIS: You're defining essentially a criteria for paraprofessionals in some respects, aren't you, with this bill? [LB506]

SENATOR BOLZ: Um-hum. [LB506]

SENATOR DAVIS: I just want you to think about this. In huge parts of rural Nebraska it's very hard to even find a para. So raising the bar is going to really complicate the life of a lot of rural school districts, and not just rural ones, some significantly large communities, because the salaries are traditionally pretty close to minimum wage and, you know, it's just something I want you to think about. [LB506]

SENATOR BOLZ: I'm glad you raised that and it gives me an opportunity to clarify a couple of things. One is that this bill does not actually raise or is intended to raise or alter any criteria for paraeducators, rather it is intended to use the paraeducator definition that already exists and is already expected in a slightly different way. So it's not intended to put additional pressure on schools to find more highly trained professionals, rather it's using the folks who are already trained and meeting certain criteria in those schools and filling those roles. [LB506]

SENATOR DAVIS: Thank you. [LB506]

SENATOR SULLIVAN: Thank you, Senator. This closes the hearing on LB506, and now we'll move onto LB604. Senator Haar. [LB506]

SENATOR HAAR: (Exhibits 1-4) Thank you. And then I'm up next on the next one, correct? Yeah. Okay. Good. Well, if you've ever been a teacher, you understand that

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

Education Committee  
February 12, 2013

---

sometimes you really begin to understand that you have to know a subject before you try to teach it to someone else. So I've spent a lot of time preparing for this, including trying to learn to use a yo-yo, and I've just been unsuccessful, so I'll just set it here. Sorry I can't demonstrate it. My grandkids picked it up on Sunday and they could all make it work. Much of what I'm doing this year and what I'm doing today really has several goals in mind, and that's to take the up and down school funding out of play and instead to make school funding more dependable and smooth it out. And so I want to start with the yo-yo. I love words and so I got my thesaurus and I looked up yo-yo. And if you use it as an adjective, here are some of the synonyms: arbitrary, careless, erratic, impulsive. And the antonyms of course are: constant, dependable, steadfast, and steady. And my goal is to try to move from the yo-yo kind of school funding that's been so much a part of the past, especially a few years, to a more, the word "predictable"--being anticipated, certain, expected, likely, prepared, and sure. So the first thing I want to talk about today--and this actually refers to both of my bills, so I'm going to start with this then--is the school spending lid. So if you take the piece of paper that says "school spending lid," it's where I'm going to start. First of all, it applies to all schools. It doesn't matter whether you get TEEOSA funding or not, there's a spending lid that's applied to Nebraska schools. And there's three ways, three different ways to look at a spending lid, and a spending lid for a school district is the greatest of the three. The first one I have listed is called the basic allowable growth or BAG. In the past, it's been traditionally 2.5 percent. For 2012-13, it was .5 percent. And in the current law right now it says 2.5 percent for future years. LB407, Senator Sullivan's bill, would place that at 1.5 percent, I believe. And my LB604 just leaves it. It doesn't change the current law when it comes to the BAG. The second kind of spending lid is 116 percent of the formula needs. So, you know, every school goes through TEEOSA calculations, and this would be 116 percent of what TEEOSA says are your formula needs. And the third kind of spending lid applies to rapidly increasing student growth. And then a couple...and it's the greatest of one of those three and you don't have to spend that much money, but that's the spending lid that's placed on schools. Some examples from 2013, from my district, Malcolm got the BAG and Lincoln used...got 116 percent. Again, that's in terms of spending lids, not how much they had to spend or actually spent. So with that in the background, then I want to back into my first bill which is LB604. I'm an environmentalist but I believe paper is okay to be used if you recycle it, so I had this passed out and I know it's a takeoff of the work that Tammy did. The one that I just grabbed onto was the one presented by Mark Shepard, who's with Lincoln Public Schools, to a NASB conference. And so I'm going to walk you through the first steps and then, like I say, I'm kind of backing into LB604. If you turn to page 2, little 2 not big 2. So it's a couple of pages in, page 2. Really this is the most basic formula in TEEOSA. Equalization aid equals needs minus resources. And every school in Nebraska goes through a determination of the needs. Now some schools get equalization aid and, of course, others don't. So needs then takes you right below to basic funding. Needs is defined as basic funding plus allowances plus or minus adjustments and so on. So the needs, when we look at the needs of a school district, we look at the basic funding. And

that's going to take us to page 8. And some of you already are really familiar with TEEOSA, but the basic funding for a school district is based on, as you can see from this graph on page 8, what's called the GFOE. And I'm going to get to that in a minute. And schools are placed in context to the other schools that are of a similar size, and then the average becomes the basic need. So this chart and where it places your school for basic needs depends on the adjusted GFOE. And for that, I'd like you to turn to page 3 or, I'm sorry, page 5, page 5. Page 5 talks about the GFOE, the general fund operating expenditures. And, again, I'm saying some of this so I understand it myself. What we try to do in TEEOSA is determine the needs of a school district, and obviously you can't determine the needs for next year without taking past data and projecting it the best we can to what next year's operating fund would be. And if you go down the page to where it says cost growth factor, that's just what it sounds like. Using the GFOE and previous years of expenditures, we try to project how much we have to take the two-year-old data that we get and project it to next year. That's what the cost growth factor is all about. Now the current one, I'm not going to go through that because...you can if you wish, but I'm proposing a new one. So LB604, if you look at the cost growth factor on page 5, and just take away everything else, I'm going to tell you what I'd like to replace that with. And, again, I present this because I believe it makes funding for schools more predictable and it also makes it more predictable for those who are trying to run a school. Right now, the way the cost growth factor, it depends on the BAG. And if you go back to the BAG, that's kind of set. It can be set year to year. It goes up and down. It bounces. And so this whole thing of cost growth factor, how we project two-year-old data will become current data, bounces around a lot. And what I'm suggesting I believe would make that much steadier and smooth it out. Okay. So if you then take the piece of paper that says "cost growth factor model LB604," this is what I'm proposing. This cost...this proposal would decouple the cost growth factor from the budget lid. Remember, I introduced the BAG as a matter of limiting the budget. So this would decouple the cost growth factor from the BAG, and it establishes a formula for the cost growth factor based on economic trends. As you see then, the second sentence across: the cost growth factor below uses the lower...here's the data you'd need. You'd need the five-year average annual CPI, consumer price index. And then you look at the five-year average annual school expenditures. Okay. In this case, for this sample, the five-year average CPI increase is 2.16 economic index. And I think in this bill it talks about a certain index, but we've been talking to people, we think there might be a better way to...than to name one index, but it's the consumer price index basically. Then the second line, there's the five-year annual school expenditure. In this case, it was bigger than the average of the CPI. You take the difference between those, take half of that, and that becomes the cost growth factor. In this case, if the CPI average were at 2.16 percent, the five-year annual school expenditures was 3.2. Then the cost growth factor would be 2.68. Now this would vary a little bit year to year as you get into different CPIs and different school expenditures. But it's much more steady than what you see on page 5 where the cost growth factor bounces up and down depending on whatever BAG we establish. And the BAG again, the basic allowable growth is something that's

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

Education Committee  
February 12, 2013

---

done...it's done outside TEEOSA. It's done separately. So this cost growth model I believe would introduce predictability and stability into the TEEOSA formula. I also realize that this has been one of the areas in the past where we have controlled that final amount we come out with is by changing the cost growth factor which in the past has depended on the BAG. So we just change the BAG and so the cost growth factor can go up and down and we can control the final spending number. On this one, if you accept LB604, the concept, then the amount that comes out of TEEOSA will be much more predictable and you would probably admittedly need something like the Hadley bill where you'd just say, okay, here's what the TEEOSA formula comes out with, now everybody is going to have to share in the pain. We multiply by .95 or .9 whatever it comes out to be. It's complicated. And, again, I believe that it helps me with my goal in this Education Committee working towards a more stable and a more predictable growth of TEEOSA and getting away from the yo-yo effect that I think we see right now and I think makes it very difficult not only to predict for each school district but also it creates winners and losers. Because when you start messing with this or that item in the TEEOSA formula, often...well, you always create winners, you always create losers. So with that, I wish I'd had a PowerPoint but...(laughter). [LB604]

SENATOR SULLIVAN: Thank you, Senator Haar. Questions for Senator Haar? Senator Seiler. [LB604]

SENATOR SEILER: Under your proposal, do you then do away with the basic lid? [LB604]

SENATOR HAAR: No. The basic lid is a whole different issue, as I tried to point out to begin with, that the school spending lid or the basic lid or whatever you want to call it, that's set up separately with those three components and we can change those three at any time. And, again, in Senator Sullivan's bill, she sets the BAG, the basic allowance growth, at I think 1.5 percent, so. [LB604]

SENATOR SEILER: Right. You just mentioned that a couple of times... [LB604]

SENATOR HAAR: Yeah. [LB604]

SENATOR SEILER: ...the basic lid, and I wondered if in your mind you were going to also change that. [LB604]

SENATOR HAAR: No. That's a...and that's where I started and when I got all mixed up. I've tried to separate those two out... [LB604]

SENATOR SEILER: Okay. [LB604]

SENATOR HAAR: ...that the basic lid is really a separate issue and it's worth talking

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

Education Committee  
February 12, 2013

---

about, but it's not affected by LB604. [LB604]

SENATOR SEILER: Right. The last clause or...and this may be picky, but the way you worded your proposal, plus 50 percent of the difference between the two, I think what you meant there was to add the lesser of the...add the 50 percent to the lesser of the two indexes. [LB604]

SENATOR HAAR: Yeah. I can't tell you how long we argued over the wording of that sentence. And I think the... [LB604]

SENATOR SEILER: But is that your intent, to add it to the lesser of the two indexes? [LB604]

SENATOR HAAR: Yeah. The lesser of the two, yes. Yeah. [LB604]

SENATOR SEILER: Okay. [LB604]

SENATOR HAAR: And that very clearly comes across in this model sheet that I have shown you. Yeah. Another point that we've sort of evolved through is in the original bill, the green copy, and so on, we've stated a certain consumer price index. But I think we'd leave that up to the Department of Education because of those names change and so on and so forth. [LB604]

SENATOR SULLIVAN: Senator Avery. [LB604]

SENATOR AVERY: Thank you, Madam Chair. Senator Haar, are you...when you refer to the CPI, are you referring to the nationally calculated CPI? [LB604]

SENATOR HAAR: Yes. It'd be some...and there are various CPIs. One is a labor CPI, another is kind of an economic CPI. And, again, we...in the green copy, we stated a certain one but I think we would...we will offer an amendment that leaves that up to the school board. [LB604]

SENATOR AVERY: How accurate is any CPI that you might use? How accurate is that in actually measuring the prices in Nebraska? We often say Nebraska is different from the national economic trends and we are in many ways. So I'm not sure that I see this as a better way to go if we're using an index that's not clearly one that measures pricing behavior in our state. [LB604]

SENATOR HAAR: That's a good point, Senator Avery. And I think that also my other remark, instead of specifying a CPI, I guess you could talk about a consumer price index for Nebraska or whatever. But that would be a charge for the Department of Education to come up with a CPI that accurately reflects what's going on in Nebraska.



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

Education Committee  
February 12, 2013

---

[LB604]

SENATOR AVERY: May I continue? [LB604]

SENATOR SULLIVAN: Yes. [LB604]

SENATOR AVERY: I know you think this is going to smooth things out and avoid the yo-yo effect and peaks and valleys. But have you done any running of any numbers just as a kind of a test run to see what would this actually do; say, comparing Malcolm with Lincoln? What you do in your...one of your handouts. [LB604]

SENATOR HAAR: No, I haven't done that. But if you look back again on page 5, at how the cost growth factor is determined now, it's bound and determined if you look at the cost growth factor for 2012-13 compared to '13-14 and thereafter, .535 percent. Right now it basically guarantees that yo-yo effect. And this may even take some fine tuning, but we actually involved some economists in helping develop this formula. And it may not be perfect but it's going to be smoother. [LB604]

SENATOR AVERY: Were your economists my economists? [LB604]

SENATOR HAAR: Of course. [LB604]

SENATOR AVERY: If not, maybe we have a difference of opinion. One more question, Madam Chair. [LB604]

SENATOR HAAR: Yes. [LB604]

SENATOR AVERY: This .52, that's one-half the difference between the five-year average annual school expenditures and the difference between the CPI in those school expenditures. Isn't that an arbitrary number? Why half? Why not one-third? [LB604]

SENATOR HAAR: Why half? Well, because again the economist that we worked with, first of all, we take the lower of the two and then you split the difference. And I don't know a better way to say that. There probably is no magic way to do that. But, you know, we could even go with the higher of the two and then split that. But the way this is defined now is the lower of the two, the CPI or the school expenditures averages, and then you just split the difference and add that on. [LB604]

SENATOR AVERY: So if you had a really tough year, like 2008 where the consumer price index moved pretty significantly, as I recall, wouldn't that have a pretty significant impact, one-year impact on the cost growth factor and, therefore, disrupt that smoothing out that you're trying to achieve? [LB604]

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

Education Committee  
February 12, 2013

---

SENATOR HAAR: Yeah. I mean, smooth is always a...just like fair, it's a definition. And so the theory behind this is that this would be smoother than us just playing with the BAG every year as we've done, like in 2012-13, and so on. [LB604]

SENATOR AVERY: Well, that was a budget manipulation technique that we were using... [LB604]

SENATOR HAAR: Exactly. [LB604]

SENATOR AVERY: ...and doesn't necessarily reflect previous tenures. [LB604]

SENATOR HAAR: Yeah, yeah. But we seem to be doing that. And at least if you look at these three time periods, that certainly has a lot more up and down to it than LB604. And since I participated in setting the BAG every year and I participated and voted for that, but that was used to get to a final number in my estimation. Whereas if you use things like the consumer price index, it's more an accurate prediction of what's going on in society and how costs are really changing instead of, gee, we got to get that final number up or down. [LB604]

SENATOR SULLIVAN: Senator Scheer. [LB604]

SENATOR SCHEER: Thank you, Senator Sullivan. Senator Haar, the growth rate is essentially trying to represent the value that local budgets have gone up over the last five years. [LB604]

SENATOR HAAR: Correct. [LB604]

SENATOR SCHEER: And why then would we not be compensating districts for that growth that they've had over the last five years? [LB604]

SENATOR HAAR: That's what we're trying to do, in my opinion, with the cost growth factor. Since the only data we have is I believe now two years old, what we're trying to do is our best projection of what that...you know, everything that happened in those two years to bring that cost up to date. You know, if we could just waive a magic wand and know in advance what all the expenditures were, then we wouldn't need the cost growth factor. [LB604]

SENATOR SCHEER: Well, but what I'm looking at is your proposal. [LB604]

SENATOR HAAR: Okay. [LB604]

SENATOR SCHEER: And I'm sorry I didn't probably specify that. I apologize. In your proposal, you used the CPI five-year average, and it's at 2.16. Then you used the

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

Education Committee  
February 12, 2013

---

school's average annual expenditure at 3.2. And then the difference you give half of that back to the CPI and we end up with the 2.68 and the average has been 3.2. And I guess when I look at that, if a district was on the average at 3.2, the best they could expect is to lose .5 percent of their expenditures. And how do we...how in this model does it reflect the continuing growth of a school district? Because if we're going to be honest with ourselves, school districts will go up in costs. If we have...there's probably no district that represents this, but if you have a district and it's got 1,000 kids and it has 100 teachers and it has the same thousand kids and the same hundred teachers next year, by the time you pay the additional compensation for whatever their negotiated agreement is and the additional social security and retirement and so forth, if that actually was 3.2, you're only allowing them to go up 2.68 or only compensating, they going to go in the hole. And at some point in time they have no longer the reserves to utilize to offset that. I mean, they're going to go broke. So certainly probably better than what we have. I'm not trying to imply that. But at some point in time they go broke. [LB604]

SENATOR HAAR: Right. I think anything that we do with the TEEOSA formula, the school districts, as someone used the term, go chasing after, to make themselves fit. And I think the incentive here is to say, you know what, school expenses should grow about like the rest of society, and that's what this would do. [LB604]

SENATOR SCHEER: But in fairness, Senator, we don't allow school districts to do like the rest of society. I mean, teachers have forgone the ability to strike, or anything, in Nebraska, and for that they are provided under the CIR. And based on the arrays and negotiations, those raises normally will be in somewhat normalized amounts. But I would venture to say it would be an impossibility for that salary base and their additional benefits as far as health insurance and your Social Security that just went up again 2 percent this year which, you know, started in midyear for about every school district's budget. You know, they aren't like the rest of us. If you or I...well, I shouldn't say you but, you know, if I can't afford something, I can make immediate changes in my family's lifestyle to try to offset that. School districts cannot. Once they have their employees hired by April 15, they have no ability to really make any type of finite change midcourse that would allow them to be like the rest of us or react like a CPI does. So, you know, I applaud a new approach. I'm just, I'm having difficulty following the rationale that if they truly have those expenses going up, that why we would not fund at least the average, not necessarily the high, maybe not the low but the average at least to try to make them whole. [LB604]

SENATOR HAAR: Well, you have me thinking. And I think what I could say for sure, it's more predictable and it's smoother than what we've had and even with what we've had...well, especially perhaps with what we've had, schools face exactly the thing you're talking about and we have lids. And, you know, if you can't reach the lid, you have to cut expenses. And we're always talking about next year, for next year. So you either have

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

Education Committee  
February 12, 2013

---

to make a budget cut or you have to go to your voters and ask for an...you know, an increase. Yeah. [LB604]

SENATOR SCHEER: I understand. I'm just saying if we're looking for a new approach, let's not start with one that's somewhat flawed a little bit to begin with and try to work as a resolution that maybe it's better. Is it the best? I don't know. But, you know, I still see some inherent flaws even within this one. But you're absolutely correct, it's better than what they have, so. [LB604]

SENATOR HAAR: Yeah. And I'd like to talk with you about this further because, again, the goal is to make funding more predictable. And part of being predictable, I believe, is a school district may have to say, you know, we have to cut back in some way. And... [LB604]

SENATOR SCHEER: Well, and I think a lot of them have, in fairness, Senator. [LB604]

SENATOR HAAR: Yeah. And it's not like in my household. I just use my credit card. (Laughter) [LB604]

SENATOR SCHEER: Well, I won't waste more of the committee's time. But thank you, Senator. Thank you, Senator Sullivan. [LB604]

SENATOR HAAR: No, but I will...I'd be more than happy to continue the discussion with you because if this isn't...you know, hasn't reached the goal of being good enough yet, we need to keep working on it. [LB604]

SENATOR SULLIVAN: Senator Davis. [LB604]

SENATOR DAVIS: I guess just a few comments, you know, along the lines of what Senator Scheer said. You know, I've been around for a long time and every attempt they've ever made to develop a stable TEEOSA formula has within two years shattered and had to be restructured because of a lot of different variables. But I think we all think that we're going to be in a CPI situation with the inflationary mode. And that really hasn't been the case, at least according to federal statistics. So isn't that going to maybe...by looking at that as one of the defining factors, don't you think that's going to complicate things down the road if the projections aren't quite what they are and school costs increase faster than some of the other things? [LB604]

SENATOR HAAR: Yeah. And, you know, if this is probably not the perfect solution because we tried some other things, we added in this and that and subtract a little bit here. [LB604]

SENATOR DAVIS: I mean, if we ended up in a deflation, if we were deflated by 2

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

Education Committee  
February 12, 2013

---

percent, are you going to have a negative 2 percent on your CPI because that's really going to play havoc with what you're trying to do? [LB604]

SENATOR HAAR: Yeah, and that's exactly what happened just, well, when I got on this committee and, you know, we had the economic downturn. And if it weren't for the ARRA money, we would have been in exactly that situation. So, again, I think this is more predictable. Will it predict perfectly? Obviously not. But, again, it probably with this method, you'd have to use somewhat of a Hadley method then because you couldn't use the cost growth factor to determine the final income...outcome, I'm sorry. You'd have to see the final outcome, say that's what the needs are, and then you'd have to adjust that with an index, so. Good questions, though, and hope we can talk about this further. [LB604]

SENATOR SULLIVAN: Thank you, Senator Haar. But just based on what you said, your proposal really has to work, be tied to a temporary aid adjustment, and then doesn't that possibly potentially remove any predictability at all in terms of finally determining what school districts get? [LB604]

SENATOR HAAR: Well, and, you know, I suppose we each have a different story on this one. But when I've talked to my superintendents and other people around, that there would be a preference, everybody sharing the pain to the winner and loser thing that we get right now where...and, you know, at least it's been my experience being on the committee when those numbers come out and everybody looks at their districts and there are always winners and losers. And we've heard from some of those in the last few days. So I think everybody shares the pain is preferable and I think that's what I've heard from superintendents to the up and down and up and down, the yo-yo. Just my opinion. Thank you. [LB604]

SENATOR SULLIVAN: Any other questions? Thank you. [LB604]

SENATOR HAAR: Yeah. Can I kind of...I'm going to be back up here. I'm going to leave some of my stuff right here. [LB604]

SENATOR SULLIVAN: (Laughter) Proponent testimony, please. [LB604]

LARRY SCHERER: (Exhibit 5) Good afternoon, Senator Sullivan, members of the Education Committee. For the record, my name is Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r, with the Nebraska State Education Association. And we're here today to support the concept of doing something about smoothing the state aid overall amount of dollars that goes into it in the future and making it more predictable. I would...I hope I can try to engage in a little conversation with the good questions you three have asked, but I'm going to hit a few highlights in my testimony first. And then if I forget, ask me again. As Senator Haar indicated, we're basically looking at a way to update two-year-old

spending information that the Department of Education collects. And right now that information is collected but it's not really used as a basis for creating the cost growth factor. What is used more so is that there's probably some informal work the committee does to look at past and then come up with a number for the future. And it has to do with how much money is available, what the final dollars are, and that is part of the logic and part of the calculus of state aid. I mean, it has to balance to some extent somewhere. So predictability is wonderful, but it reminds me of the old adage: nothing is certain but death and taxes. And we're trying to just make state aid a little bit more certain if we can. And this might not be the ultimate solution, but hopefully it's an idea that can take the committee down a road to something that would work. The idea that Senator Haar had, and we met with him a number of times this summer in a group he called the smoothing group, and it included a number of different representatives of different groups and the other people outside of education. And we looked for ideas to try to reach that goal. One of the ideas was, you know, increasing...I mean a straighter line on state aid trend. Another was to some sort of a reserve system where there would be money in the tough years, and the state has a cash reserve for that and to a certain extent that works already. But I know that is something that is probably part of this long-range discussion as well. As far as the specifics in the bill, the consumer price index for Midwest is as close as you can get with sort of a regularly reported information. I believe Omaha and Hastings are the two cities in the state that are surveyed separately. And so there's some information related to the cost of living that's a little unique there, but whether it's still representative of the state is a good question. So I received input from the OpenSky Institute about a different indicator called the implicit price deflator that is used for deflating or inflating services provided by government. And that may make more sense in the context of estimating schools than CPI. Obviously prices...schools aren't as worried about the prices of clothes and food and things like that. Their costs are salaries, primarily, and diesel fuel and that type of thing. So there might be a better indicator and perhaps it shouldn't even be specified in the bill. How do you balance things at the end if you have a cost growth factor that goes up sort of on autopilot? You know, what gives? Does it have to be the overall funding percentage like LB640 or some change within the formula that would be disruptive as well? In the olden days, the local effort rate used to float at the end. And depending on the amount of state dollars available and the total formula needs and payout, that local effort rate would float up and down. So that's a possibility. The idea of some sort of a special cash reserve fund is something as well. I just wanted to point out in closing that there has been a statute on the lid, setting the lid rate, that says the base limitation rate, the BAG as Senator Haar said is, may be adjusted annually by the Legislature to reflect changes in prices and services of products used by school districts and political subdivisions. That's easier said than done because there is no specific measure of that. But it reflects at least, you know, probably eight years ago when the Legislature looked at that, that they wanted some sort of an indicator we'd attract, so. That's all I would say for now. We encourage you to continue looking at this idea. And having a steady rate of growth over a period of time is better and more predictable for our teachers in

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

Education Committee  
February 12, 2013

---

negotiation than having the ups and downs, and that's very destructive for school boards as well. So thank you and I'll try to answer questions if I could. [LB604]

SENATOR SULLIVAN: Thank you, Larry. Following up on just what you said, though, as far as the basic allowable growth rate somewhat being reflective of what's going on with current economic conditions in our state, isn't that a more accurate reflection of what is going on rather than using something like the consumer price index that is more removed from the realities of our state? [LB604]

LARRY SCHERER: I don't know. I mean... [LB604]

SENATOR SULLIVAN: I mean, the... [LB604]

LARRY SCHERER: How I...I don't understand how it's more related than...I agree that, you know, perhaps CPI, something outside the state, looking within the state is better if you can find something. But what is the 2.5 percent based on? What is the 1.5 percent based on? What was the .5 percent based on? It was based on political reality and logic and best estimate of what would make the formula work and try to control spending, as I understand it. Is that related to schools' actual cost? No. It's not. It's not a predictor of...or an analysis of what happened and then trying to predict ahead. It's a way of using the reality of the situation and coming up with a lid rate that will fit the situation. And I understand your question about going outside the state. That's very difficult to find something in the state that works. And maybe it would be better just to use school spending averaged over five years than look outside. One of the reasons to do that though is the things like the CPI or the price deflator are more sensitive to recessions. They go up and down, as Senator Avery mentioned. We actually had a negative CPI for one year, and if you look at what that does to a five-year average, it does bring it down. If we have negative CPI for more than one year, we're in big trouble economically, and certainly at that point in time, you know, there would have to be some adjustments made in the whole system and some probably reductions in state aid. So the...why not provide the full amount? Senator Scheer asked that. And indeed, you know, that would be the best. The economic aspect of that if schools have been growing at a certain rate faster than the economy, what has happened in the past is that a lid rate has been set to try to slow it down. And that has worked in some respects. I think that the average growth rate of 3.2 percent in spending is pretty reasonable and it's probably something that won't change that much over time. But that's why, you know, something connected to school, actual school spending is probably the best you can do. So I don't know that I've answered questions, but if there are any others, I will try to, and enjoy the discussion that's always...it's always sort of mental gymnastics. (Laugh) [LB604]

SENATOR SULLIVAN: Any other questions for Senator...Mr. Scherer? (Laughter)  
Senator--there's too many similarities. [LB604]

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

Education Committee  
February 12, 2013

---

LARRY SCHERER: Thank you. [LB604]

SENATOR SULLIVAN: Thank you. Any other proponent testimony on LB604? Opponent testimony. Anyone wishing to speak in a neutral capacity? Senator Haar to close. [LB604]

SENATOR HAAR: Okay. Well, good discussion. There is a solution, by the way. And in some of the summer meetings I had this summer, one of the participants was Tom Bergquist from the Legislature's Budget office. And he said if you take the last 30 years and you look at that 30-year period, the expenditures have gone up about 5 percent and so has revenue. And he said if the Legislature had enough discipline to...in the years above that to put the money away, you know, the years below that we could spend it, we'd have no problem whatsoever. So that's kind of the perfect solution. But I think later, probably next year, I will try to work with some of you and also the NSEA and so on to find out if...I think an education trust fund might serve some of the same purpose. But it would almost have to be a constitutional amendment so that it couldn't be robbed by other entities when there was an excess, because as you know, that's always the temptation. When things get bad, we go looking for the cash funds and...but if we could have a cash fund and have a certain amount in it, we put money in the good years and take it out in the bad years, I mean, that's ultimately the smoothing solution. I talked this morning for a little while with Larry Scherer, and he brought up the implicit price deflator and I kicked him out of my office (laughter). I mean, that might be another thing to look at because it was suggested by the OpenSky people and their economists. So that's certainly worthwhile doing. And then I can't speak for other organizations. However, I will tell you a little bit about some of the meetings I had this summer, and the message I got from some of the other organizations that I met with was that they would prefer the "everyone take a hit if we have to" to the "winner and loser," the "up and down." And so, again, this is an attempt and there may be better indexes to throw in this and so on, but this is better than what we have, I believe. And my goal will continue to be to get rid of the yo-yo effect for...and it's hard on school boards, it's hard on administrators, but it's hard on the kids and that's really what I care about, so. [LB604]

SENATOR SULLIVAN: Senator Seiler. [LB604]

SENATOR SEILER: You've mentioned this before, the "winners and losers" versus the "share the pain." Are you talking about only the TEEOSA recipients or are you talking about all the school districts? [LB604]

SENATOR HAAR: Well, I was thinking in particular about the people, the school districts that get equalization aid. But when we changed some of these other things like the BAG and so on, I mean, we're affecting all school districts. And the winners and losers...let me back up a minute because every school gets TEEOSA...they get run through the TEEOSA formula. [LB604]



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

Education Committee  
February 12, 2013

---

SENATOR SEILER: No, they don't all get TEEOSA. They get state aid. [LB604]

SENATOR HAAR: No, no, no, no. No, they get run through the formula. [LB604]

SENATOR SEILER: They do. [LB604]

SENATOR HAAR: They get run through the formula. So if we...when we change this or that thing in the formula, you might have people dropping in or out of the equalization aid. So that's another...not only the people who get equalization aid are going to experience winning and losing, but also there would be some districts that fall in and out of equalization aid. [LB604]

SENATOR SEILER: But are they the winners or the losers? What about the ones that don't qualify for anything and then we throw a lid on top of it so they can't even raise their levy? [LB604]

SENATOR HAAR: Yeah. [LB604]

SENATOR SEILER: Aren't we playing super school board? [LB604]

SENATOR HAAR: Well, I think we do that because we...there was a time when there weren't lids and things like that. And that was a decision of the Legislature, and that's the...kind of this awesome responsibility that falls on us. [LB604]

SENATOR SEILER: We've made a lot of mistakes before, so. [LB604]

SENATOR HAAR: Not while I've been here. [LB604]

SENATOR SEILER: I have no further questions. [LB604]

SENATOR SULLIVAN: Senator Haar, when you talk about winners and losers versus share the pain, aren't there potentially some winners and losers in share the pain as well? If you look at the 249 school districts that we've got and the difference in sizes and the difference in their amount of equalization aid, wouldn't, say, for example, a 5 percentage adjustment downward of aid impact some of these districts significantly more than some of the others? [LB604]

SENATOR HAAR: There would be more pain in some districts than others. (Laughter)  
Good questions. Good questions. [LB604]

SENATOR SULLIVAN: Okay. Very good. Okay. [LB604]

SENATOR HAAR: Okay. [LB604]

SENATOR SULLIVAN: I think we're ready for your LB357. [LB604]

SENATOR HAAR: I'm up next. Okay. And it was worth waking up at 4:00 this morning to polish my...okay. LB357 talks about one of the factors in the TEEOSA formula. Again, all schools are evaluated according to the TEEOSA formula, not everyone gets equalization aid. One of the factors is...has to do...well, it actually goes outside TEEOSA, it has to do with an exception from the budget lid. And so LB357 talks about that exception. It's called the voluntary separation from employment. And it's very common anymore. I know my brother who taught at Burke and then at Millard took...and actually taught for Senator Kolowski, took early retirement, was paid a certain amount of money, and then retired early. What this bill does, it adds really accountability to that concept. And I want to...I'll explain that with some examples. Payments made to certified school employees in return for voluntary separation from employment have been exempt from the budget lid for a number of years. So actually right now we're not talking about TEEOSA. We're talking about the budget lid. The current exemption sunsets at the end of this current school year. However, voluntary separation payments have enabled school districts to reduce staffing costs in reaction to tight budgets and to avoid reductions in force. Some concern has been expressed that voluntary separation programs do not save money or, if they do save money, a lid exemption is not necessary. Savings from voluntary separation agreements will accrue over more than one school year. The out-of-pocket costs in the first year will be recouped in savings over a period of time and according to my...according to LB357. And if you look at the chart, basically what this bill does, it leaves the budget lid exemption in place but it says you can't exempt more than the benefit that you got. It adds some accountability to things. So here's the example of two teachers, and you have a teacher making \$53,000 a year, and that person is being given \$50,000 to retire at the end of this current year. You're hiring a new teacher and her salary will be \$32,750. What this bill will do, by way of example, if you look at the savings, if you go over a five-year period--and we could adjust that to three or whatever; but a five-year period--it shows the savings that the school district would receive by hiring that new teacher or at least a teacher at less salary. And it would say that you can't get a budget exemption greater than \$120,000. So in this case they gave him \$50,000; they could use that as a budget exemption. But there have been some cases in the past where it looked sort of like a golden parachute. You give a large retirement pay to somebody and then you exempt all of that. This would say you can't exempt any more than the benefit that you gain from it. And that's basically...it's also...it gives the Department of Education some responsibilities because they would have to verify that this is actually happening. So, again, it leaves it in. It says it's an important way that schools are meeting their budgets, and it also gives some accountability and says you can't take an exemption for more than the savings you would realize. That's kind of it. [LB357]

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

Education Committee  
February 12, 2013

---

SENATOR SULLIVAN: Okay. Questions for Senator Haar? I'm just looking at...okay, we're looking at this in terms of figuring aid for the 2015-16 year? Is... [LB357]

SENATOR HAAR: Um-hum. [LB357]

SENATOR SULLIVAN: So then how can we...can we calculate the five years of...can we use that formula that you've come up with for that amount of time? I mean... [LB357]

SENATOR HAAR: Well, you know, that again would be up to the Department of Education. And I'm not sure of the details of that, but there are ways of projecting the salaries into the future and the cost savings. And if I'm wrong about that, then if the next testifier I'm sure will correct me on that. [LB357]

SENATOR SULLIVAN: Okay. [LB357]

SENATOR HAAR: But again it adds accountability and it does not allow for golden parachutes. [LB357]

SENATOR SULLIVAN: Okay. Senator Kolowski. [LB357]

SENATOR KOLOWSKI: Thank you, Madam Chair. Senator Haar, overall just from looking at the impact upon the school districts, will this lessen or impact to the greater side their ability to offer these kind of programs for early retirement as you're looking at your formula? [LB357]

SENATOR HAAR: Yeah. Well, for one thing it extends it. It's bound to expire now and it extends it. So that's one important thing about it. Again I would say this adds some predictability to schools, and I think then they would start to look at this thing when they make their buyouts to teachers because they can't exempt more than the benefit. [LB357]

SENATOR KOLOWSKI: And you're saying they have been exempting more than that across the board? [LB357]

SENATOR HAAR: Well, there are rumors like that. [LB357]

SENATOR KOLOWSKI: Okay. [LB357]

SENATOR HAAR: Yeah. And, again, it extends it but then it also makes it real certain that you have to get cost savings from what you're doing, so. Yes. [LB357]

SENATOR SULLIVAN: Senator Davis. [LB357]

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

Education Committee  
February 12, 2013

---

SENATOR DAVIS: Senator Haar, you're talking about early retirement and things like...is there anywhere where these figures are reported to anyone in the Department of Education or anything? [LB357]

SENATOR HAAR: Currently? [LB357]

SENATOR DAVIS: Yes. [LB357]

SENATOR HAAR: Good question. [LB357]

SENATOR DAVIS: When a teacher takes early retirement, the benefit that is paid to that person to do that, is that a reportable event? [LB357]

SENATOR HAAR: Good question. I don't know that. But right now the way it stands is it doesn't matter what the amount would be. I don't know if the...but we'll find out for you whether it's reported. This says you have to...you can only exempt a benefit, so. [LB357]

SENATOR SULLIVAN: Any other questions? Thank you. [LB357]

SENATOR HAAR: You bet. [LB357]

SENATOR SULLIVAN: Proponent testimony. Mr. Scherer. (Laugh) [LB357]

LARRY SCHERER: (Exhibit 1) Thank you. I'll be very brief. I just wanted to try to answer a few questions. One, we support the concept, and the idea, is a lid exemption really needed, brought up the idea. If you're saving money that year, you don't need an exemption. So you need to look further back if the amount is large. Obviously, in Senator Haar's example, if the person would have been given a \$250,000 severance, they would have only been able to claim \$150,000 or \$100,000 of that, I forget what the number was. But they wouldn't have been able to collect the whole thing. I can tell you that teachers are not receiving those kind of amounts. And so I think this applies to all certificated staff, administrators as well as teachers. So I don't know, I don't think there's any record on specifics of who receives these things. And I do know the department does collect the data on lid exemptions and that is available. I saw it last year, I believe. I can't remember what the number was, but it is available and I'll try to find that or if you can't find it. And so it is there. The question, there was another question someone had or...I can't remember. [LB357]

SENATOR SULLIVAN: Thank you, Senator...Larry. (Laughter) [LB357]

LARRY SCHERER: I do not want that promotion. [LB357]

SENATOR SULLIVAN: Have you seen the fiscal note? [LB357]

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

Education Committee  
February 12, 2013

---

LARRY SCHERER: Pardon? [LB357]

SENATOR SULLIVAN: Have you seen the fiscal note? [LB357]

LARRY SCHERER: No, I have not. What...shock me. [LB357]

SENATOR SULLIVAN: Okay. All right. I'll...no, it's just there's...since you haven't, maybe I'll wait and ask Senator Haar about it because you've probably seen it. So that's fine. Any other questions? Thank you, Mr. Scherer. Any other proponent testimony? Opponent testimony? Anyone speaking in a neutral capacity? Senator Haar. [LB357]

SENATOR HAAR: Larry Scherer has told me he really doesn't want to be a senator. He gets paid better (laughter). I don't know. Well, just in closing again, it extends the lid exemption. And, again, I would even tie this one to predictable. It says that you have to have a benefit in doing this besides just getting a cheaper teacher. And I think that's positive. And, again, everything I've talked about today, my goal is to go from yo-yo, impulsive, erratic, to predictable. We'll never get there perfectly, but I feel some of these things can do a better job of it, so. [LB357]

SENATOR SULLIVAN: Okay. Have you...thank you, Senator Haar. [LB357]

SENATOR HAAR: Yes. [LB357]

SENATOR SULLIVAN: Have you seen the fiscal note? [LB357]

SENATOR HAAR: I have and that's one of the things I haven't studied real carefully. So point and we'll talk about it. [LB357]

SENATOR SULLIVAN: Well, my concern was right at the bottom where it talks about it would allow expenditures that do not produce savings. And so it goes on to basically say this would create a disincentive for a school to demonstrate cost savings which could result in less TEEOSA aid. [LB357]

SENATOR HAAR: Yeah, I disagree with that statement. It doesn't...this...yeah, it just doesn't sound right, doesn't sound right to me. [LB357]

SENATOR SULLIVAN: Okay, okay. Senator Kolowski. [LB357]

SENATOR KOLOWSKI: Thank you, Madam Chair. That was a little of the disconnect I had was back to your statement that you just made. Senator Haar, I think one of the things I was looking at is a generalization in your sample here of the leaving teacher being paid \$50,000 to retire at the end of the current school year. Many of the systems,

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

Education Committee  
February 12, 2013

---

including the Millard one your brother and I graduated from...graduated, retired from, had the opportunity to retire early, but it was also based on a number of years you would be paid a certain amount of money. So whatever that lump sum, \$50,000 as you're talking about, if this person retired at age before 65, say 61, he was paid that over four years. That \$50,000 was spread over four years and he was getting a proportion of that over that time. That impacts your proposal in the sense of the longevity of those four years compared to a single-year, lump-sum payment. So I'm just... [LB357]

SENATOR HAAR: Yeah. [LB357]

SENATOR KOLOWSKI: I had other factors kind of flowing through my head that weren't matching what some of the things I know about early retirement systems that save a district money compared to the lump-sum idea or what we've read in the papers about superintendents and some of those kind of things. Thank you. [LB357]

SENATOR HAAR: Yep. So we'll look at that as well. [LB357]

SENATOR KOLOWSKI: Thank you very much. [LB357]

SENATOR SULLIVAN: And, Senator Haar, I should mention, too, to clarify, I think that part I'm referencing in the fiscal note didn't come from Legislative Fiscal Office; it came from the Department of Administrative Services. [LB357]

SENATOR HAAR: Okay. [LB357]

SENATOR SULLIVAN: Not...you know, just kind of point of clarification. [LB357]

SENATOR HAAR: Okay. I will go back and study that now. Literally, I was...well, until 1:32 today I was working on this and I didn't study the fiscal note real closely. Yeah. [LB357]

SENATOR SULLIVAN: Okay. All right. Thank you. [LB357]

SENATOR HAAR: Thank you very much. [LB357]

SENATOR SULLIVAN: Okay. That ends the hearing on LB357. We'll go onto LB469. Senator Scheer. [LB357]

SENATOR SCHEER: Thank you, Senator Sullivan and members of the Education Committee. I'm here to...my name is Jim Scheer, S-c-h-e-e-r. I'm representing the 19th District in the Legislature. And should be a fairly short hearing for you folks. Essentially, I would argue that of the two bills we've just heard, mine is the predictable one, and

from this vantage point. First, let me specify, the only difference between Senator Haar's bill and myself is his extends it for another two years. And I think it is truly a waste of not only this committee's time and the Legislature's time to have to revisit this every two years when it is an ongoing, working program that school districts have the option to either use or not use. We're not trying to implement anything different. We're just only allowing it to continue on. My case, it's predictable because it goes on forever. And you take the predictability to the school district because what no one has talked about is on that four-year payout, two years, what happens the third and fourth year if it sunsets? They're in a world of hurt. What this does is it now brings predictability and consistency to a program that is an optional one that school districts can either participate or not. You don't have to if you don't want to. But at least it allows the districts to know with certainty that this program is going to continue. Now I will play the devil's advocate. At some point in time, maybe this doesn't produce a service. And at that point in time the Legislature can revisit it. Is that in 6 years or 16 or 60 years? I don't know. But it seems like a gigantic waste of all of our time to revisit this every two years when you haven't had anyone come and say it's not working, it's broke, don't keep using it. It's a live, functioning system that the school districts use, those that wish to. That's it. It is allowable, not required. And this brings what I consider now the predictability, using Senator Haar's own word, to the extent that it now makes it a consistent tool that school districts use. Some school districts might not be using it only because they don't want to put themselves in a jam. And I will tell you that, as Senator Kolowski pointed out, some use a four-year payout, some put a five-year payout because it's dependent upon the age. And if we're going to be honest, what a lot of times this is used for, fellow members, is so that it eases the transition from teaching into retirement by allowing some substance pay to help offset the loss of their health insurance. That's what really this formula is trying to do is offset the loss of those benefits so that it allows the person to retire and not go into the hole. And it also saves school districts money in the long run. So that's the substance of the payouts from districts. This makes it uniform for a long period of time and it does not bring into question every two years is it going to be survival or not. It just makes it part of the statute. We don't have to keep looking at it. It just remains alive until somebody does abuse it. And if it's abused, we can always get rid of it. But let's look at it when it's not working, not necessarily every two years while it is working. That just doesn't make sense to me. And with that, I would close and answer any questions. [LB469]

SENATOR SULLIVAN: Thank you, Senator. [LB469]

SENATOR SCHEER: Excuse me, and it does have the same premise as Senator Haar's to the extent that it does have to be cost effective. And if you're paying somebody a million dollars and their set salary is only \$185,000, pretty easy to figure out that that's not going to be an exemptable amount. But in the point that Senator Haar showed you, it was a distinct cost savings to the district. It helps every district, regardless of large or small, help offset those budget limitations that we just got done

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

Education Committee  
February 12, 2013

---

talking about in the previous one. And I apologize. [LB469]

SENATOR SULLIVAN: Okay. No, that's fine. Questions for Senator Scheer? Senator Seiler. [LB469]

SENATOR SEILER: Just philosophical because all you have served on school boards and have been active in the schools have a better perspective than I do. But doesn't this...I know it's voluntary by the school district, but doesn't it run contrary to what we talked about yesterday in getting the best teachers to stay as long as possible when you're teaching from fresh? [LB469]

SENATOR SCHEER: Yes and no. And I will respond to this, that a high-quality teacher that is still liking and enjoying teaching probably will not utilize this because it's at the option of the teacher. What this does give the option to is a teacher that, bear in mind, has probably been teaching at 30-years-plus. And I'm going to tell you right off the bat, I couldn't teach for 3-years-plus let alone 30-years-plus. (Laughter) I don't have the patience. So god bless them. But having said that, it is no different than any of us. After doing something for 30 years, do you give them the opportunity to be able to exit that profession, retire, receive the retirement they have been paying into for the last 30-some years, and allow for some type of an offset expense by a school district to help pay for that health insurance until they get to the Medicare point? And so it doesn't...it's not meant to get rid of good teachers; it's meant to help teachers that want to choose to retire and think that they should be retiring because of that, an opportunity to exit it. [LB469]

SENATOR SEILER: I just wondered if you had observed any good teachers bailing. [LB469]

SENATOR SCHEER: Well, sure. I mean, good teachers are no different than anybody else. You can still be a good teacher but be tired of teaching. You know, there's a lot of good attorneys and they continue to work and there's... [LB469]

SENATOR SEILER: They never retire. [LB469]

SENATOR SCHEER: ...and never retire. But there are some that (laughter) will find some point in time that, you know, enough is enough. And this allows, because they are part of the public sector, the opportunity to be able to do that. [LB469]

SENATOR SULLIVAN: Any...Senator Davis. [LB469]

SENATOR DAVIS: I essentially just wanted to make a comment to Senator Seiler that it also gives the school districts the opportunity if they've got someone who has been in the tenure ranks, if then maybe it's time for them to move on, it gives them the



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

Education Committee  
February 12, 2013

---

opportunity to move them out and maybe replace them with somebody better. So...but the same question, Senator Scheer, that we had earlier with regard to Senator Haar's bill on the fiscal note. Do you know anything about that? [LB469]

SENATOR SCHEER: That would be an impossibility because when you look at it from the TEEOSA or any type of standpoint, those dollars in their budget, it doesn't go exclusively to individuals; it goes to your dollars in payroll. So the fact that an individual may retire that's making \$85,000 and is replaced with a person that's making \$35,000, the other 242 teachers that are in that district, again, going back to our comments earlier, when they're getting an increase overall of 3.5 or 4 percent, that...and your budget limitation goes up 1.5 percent or 2 percent, that's where these dollars are utilized. They're offset because it's already going into someone else's salary to help maintain at least the teaching force that's there in numbers. So I will tell you that I...from my perspective that is an inaccurate assumption on their part because the additional dollars that it would free up are just labor dollars, and they would be utilized via the negotiated contract for that upcoming year. [LB469]

SENATOR DAVIS: Thank you. [LB469]

SENATOR SULLIVAN: Yes, Senator Kolowski. [LB469]

SENATOR KOLOWSKI: Thank you, Madam Chair. Mr. Scheer, I just wanted...Senator Scheer, I just wanted to back you on the comments you made, especially on having seen staff leave for a variety of reasons, excellent staff. But things happen in people's lives. It can be your personal health, can be family situations, it can be a lot of different things that may impact a person into their 30-some years into the profession. And having this option as Millard had it starting at age 55 at one time but now it's been modified, it is a stretch to 62 before Medicare would kick in or at Social Security or other benefits at different ages. So you're exactly on target. There's...it's bridge money to help those things take place in life for someone who's served very well and has done an excellent job in the profession. And districts wouldn't do this if it didn't work. It works and that's the bottom line on the option that we have here. Thank you. [LB469]

SENATOR SULLIVAN: Senator Haar. [LB469]

SENATOR HAAR: Mine is a comment. Viva la predictability. Touche. (Laughter) [LB469]

SENATOR SCHEER: Thank you. [LB469]

SENATOR SULLIVAN: Any other questions for Senator Scheer? Thank you. We'll now hear proponent testimony. Welcome. [LB469]

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

Education Committee  
February 12, 2013

---

JON HABBEN: Good afternoon, Senator Sullivan, members of the committee. As a former superintendent who wrote one of these that existed for seven of the nine years that I was there, writing it in my second year, I will tell you that all of the things that you've heard about why they are effective are absolutely true. We sat down and we worked on how it is we could create this program for all of those reasons. Now, for me, it was a business reason. You project how you can develop savings because you have a picture of how you want those savings to be used down the road. You might want those savings to improve the salary of the rest of the teachers. You might want those savings to go to support another program. All kinds of reasons that you might use. I always expected the principals, and I expected this out of myself when I was a principal, that if there was a problem with a teacher, a TERIP policy wasn't the solution. You needed to address the policy, the issues with the teacher. I always believed...and the reason I call it TERIP is Temporary Early Retirement Incentive Program. Okay, the reason I felt that they were so important is if the board uses this program, the local board is in total control of the program. Annually, the board determines how many to fund, what the total amount of money is that they are willing to lay out, and they choose if they don't feel they can fund it. Everything rests with the board once you have put this policy in place. It's an excellent tool. It's a tool that allows you in tight budget circumstances, it allows you some pieces of flexibility that help you manage your circumstance. Now why the exclusion? It simply makes it easier to financially have the rationale to continue the program. It helps you with your budgeting. It allows board members to not get caught up in the, "Well, what are you paying them that for? They're going to retire someday anyway." It allows you to get away from some of those types of discussions and focus on the business rationale for having it and the rationale for allowing teachers to make other decisions. When I wrote our policy, to answer a couple of questions, the superintendent was not included in the policy. There was a reason for that. Essentially, I was the one writing the policy. The school since I've left, they have removed their principals from the policy. Their decision. Whoever you include in the policy, the local board is going to determine how much, how often, and whether it exists. And as I said, this is an excellent tool. I found it very useful in my management. It allowed me to make projections. It allowed me to think in terms of how we would compensate staff, as well as how we would fill positions. All of those become very important tools. Okay. Thank you. That's all I have. [LB469]

SENATOR SULLIVAN: Thank you, Jon. Any questions for Jon? Thank you very much. Proponent testimony. [LB469]

LARRY SCHERER: For the record, Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r, NSEA. We support this bill, too, and if it came to a preference between the two, we'd prefer to make it ongoing as LB469 would do. And, you know, if there's a problem with it, come back later on and fix it. So no offense, Senator. [LB469]

SENATOR HAAR: No problem. [LB469]

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

Education Committee  
February 12, 2013

---

LARRY SCHERER: You know, in terms of what Mr. Habben just said about the early retirement policies, most of them are in school board policy, and sometimes they're created for a couple of years and then go away as circumstances arise that they're needed. Sometimes they're in collective bargaining agreements. Most of the time we don't see an advantage from the teacher's side to have them in the contract necessarily because things change so much and you're locked into one. But there are a number of them out there that are negotiated, and there's always a concern about discrimination against, you know, people of a certain age, and they have to be written correctly and the legal counsels for the school boards need to be involved in that aspect of it too. So they're important. They're a good tool. And we support LB469. [LB469]

SENATOR SULLIVAN: Senator Kolowski. [LB469]

SENATOR KOLOWSKI: Thank you, Madam Chair. Larry, do you know if superintendents are usually excluded from...ours was a VESP program, Voluntary Early Separation Program, are they excluded because they have independent contracts, the only one that has an independent contract in a district with the board of education so they might have something different or special for themselves... [LB469]

LARRY SCHERER: Right. [LB469]

SENATOR KOLOWSKI: ...but not for anyone else. [LB469]

LARRY SCHERER: Right. And those are usually negotiated between the superintendent and the board directly. [LB469]

SENATOR KOLOWSKI: So they're usually separate from a voluntary program. [LB469]

LARRY SCHERER: I think yeah. I would think the way Mr. Habben... [LB469]

SENATOR KOLOWSKI: Or they could be involved in the...included also. [LB469]

LARRY SCHERER: You know, I would think in most cases they're not included because the superintendent is hired directly by the board as a contractor. [LB469]

SENATOR KOLOWSKI: That's my understanding. Thank you. [LB469]

SENATOR SULLIVAN: Any other questions for Larry? [LB469]

LARRY SCHERER: Thank you. [LB469]

SENATOR SULLIVAN: Thank you. Any other proponent testimony? Testimony in

opposition for LB469. Neutral testimony. Senator Scheer for closing. [LB469]

SENATOR SCHEER: I'll try to make this very, very quick. In relation to Senator Kolowski's comments, normally the superintendent would not be included in these type of programs, because as a pretty routine matter, they're receiving some type of annuity as part of their contract and would not participate in those type of programs. In relationship to Senator Seiler's comment, you know, why would you? And I gave you a good reason, and thank god for staff because my staff Katie brought in a report that we had looked at, and I'll just read you this. And, again, studies can say anything you want, but it sort of makes sense to the extent, it said: This and other research shows that on average, teachers with more than 20 years of experience are more effective than teachers with no experience, but they are not much more effective than those with five years of experience. Studies have also documented that evidence that effectiveness declines after some point in time, particularly among high school teachers. In fact, the evidence suggests that most experienced teachers greater than 25 years of experience and high school mathematics teachers may be less effective than their less-experienced counterparts with their...and less experienced colleagues. So I guess the point is at some point in time attrition takes its point in any profession, including teachers. And so consequently this is an opportunity for those teachers that really...and honestly, I've been around teachers a long time. I'm not a teacher. I've never taught. I've just been on school boards. And when you talk to them they tell you, you know, I needed to get out. I have run the gamut. I have done everything I can do. But at some point in time you hit the wall. And this is the opportunity for school districts to recognize that and give them the opportunity. As a closing remark, I think great minds think similar as Senator Haar and myself. Mine is maybe a little farther reaching. And so of the two, I would hope that you would find mine more friendly and more consistent and move it to the body for debate. And with that, I would be glad to close or answer questions. [LB469]

SENATOR SULLIVAN: Senator Haar. [LB469]

SENATOR HAAR: Well, would you forgive me for being more conservative in my approach (laughter) to yours? [LB469]

SENATOR SCHEER: I understand. I understand. [LB469]

SENATOR SULLIVAN: Senator Seiler. [LB469]

SENATOR SEILER: Just for my lack of experience... [LB469]

SENATOR SCHEER: Sure. [LB469]

SENATOR SEILER: ...is this...are all school boards voluntary that the people that submit their names or do they come up on an age basis and they have to...or some of

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

Education Committee  
February 12, 2013

---

them are involuntary. [LB469]

SENATOR SCHEER: No, no, no. These are voluntary. [LB469]

SENATOR SEILER: Voluntary. [LB469]

SENATOR SCHEER: And some districts don't have this program available. It's voluntary. But normally what will happen is teachers...as teachers begin to be eligible for retirement, and by that they have to have served 30 years and their age and years of service have to equal 85, and so as they start becoming close to that point, they will start looking if this is available to them. It...there are probably 50 different programs. Some of them pay a percentage over a four- or five-year period. There's probably some out there that pay a lump sum because they just want to be done with that and not have...in those cases, you may see more of the staggered amount if we make this a continuous program because most districts don't want to get caught with their pants down. And having an unpaid expense hanging out there that they will not be able to have outside their limit would be daunting. So that usually is the case. [LB469]

SENATOR SEILER: Thank you. [LB469]

SENATOR SULLIVAN: Senator Kolowski. [LB469]

SENATOR KOLOWSKI: Thank you, Madam. I believe the math teacher longevity is increasing with the use of SMART Boards and less chalk dust problems, (laughter) so. [LB469]

SENATOR SCHEER: That could be. Hazardous airway stands. [LB469]

SENATOR KOLOWSKI: That's the last comment. Thank you. [LB469]

SENATOR SCHEER: Anything else from the committee? [LB469]

SENATOR SULLIVAN: Thank you. [LB469]

SENATOR SCHEER: Thank you very much. [LB469]

SENATOR SULLIVAN: This closes the hearing on LB469. [LB469]

SENATOR SCHEER: And I will now open the hearing on LB599. Senator Sullivan. [LB599]

SENATOR SULLIVAN: Thank you, Senator Scheer and members of the committee. My name is Kate Sullivan, K-a-t-e S-u-l-l-i-v-a-n, representing District 41 in the Legislature.

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

Education Committee  
February 12, 2013

---

I'm here to introduce LB599 to you. This bill is about the School Employee Retirement System and how it might fit into the state aid formula. By way of background, first of all, to remind ourselves that this is a contractual obligation by law and it's a partnership of the employee, this being the teacher, the employer, this being the school district, and the state of Nebraska. And there are certain percentages for all three to buy into this partnership. We've had admittedly challenges from the state perspective of keeping it funded, and this is a huge obligation for school districts as I mentioned yesterday. And because of this challenge of keeping it funded, the state has had to step in and help with these challenges. In 2009, with the passage of LB545, we provided an additional \$15 million in retirement aid to school districts. With LB545, we added some details, and I can expand on those later if need be. But under current law, the contractual obligations for all parties are as follows: The employee has a 9.78 percent contribution; the employer is 9.88 percent because law says the employer has to match that employee contribution at 101 percent; and the state has a 1 percent contribution. All of these percentages under current law sunset in 2017 and return to the original percentages, which is at about a 2.5 percent decrease. With that decrease it would be the employee at 7.28 percent, the employer at 7.35 percent, and the state at .7 percent. And I should indicate that there's a little differentiation here with Class V. We only have one Class V. That's OPS. And in that respect, the employee contribution would be 8.3 percent, the employer would be 8.38 percent, and the state would be at 1.7 percent. Now I would say, too, in the case of OPS, there is no sunset for that under current law. Now these percentages and the sunset decisions have all been made or are being made by the Retirement Committee, so we really don't enter into that. And I will say that the Retirement Committee is considering removing those sunset provisions. And, quite frankly, LB599 takes those all into consideration, and that's one of the reasons I'm bringing this to you today. First of all though, what currently exists within the state aid formula is this. The bulk of the districts, the employer contribution, is currently in the GFOE for calculation of state aid and in the budget limitations which dictate how much the district is allowed to spend. The contribution amount above that 7.35 percent, and 7.37 percent for Class V, is currently excluded from both the budget limitation and the GFOE. Now, under LB599, it would change like this. For the 2013-14 school year, school districts would still be able to exceed their budget authority for those contribution amounts listed above, and that amount would be included in the calculations for future budget authority. The amount would also be included in their GFOE on which aid is calculated for 2014-15. In doing this, LB599 seeks to recognize that funding retirements is an ongoing obligation of school districts and, quite frankly, the funding formula should reflect that. We also recognize that the retirement aid that approximately \$15 million provided four years ago in LB545 goes away after the 2013-14 school year. And as I mentioned also earlier that the Retirement Committee is looking at a more permanent mechanism to fund retirement. You will note that the fiscal note for LB599 recognizes this will add approximately \$23 million in state aid for 2015-16. So in closing, I just remind you again that retirement funding for our school districts is an ongoing obligation. LB599 recognizes this and proposes that the funding formula should reflect

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

Education Committee  
February 12, 2013

---

that. Thank you. [LB599]

SENATOR SCHEER: Thank you, Senator Sullivan. Any questions? You're the last one. [LB599]

SENATOR SULLIVAN: I totally confused everybody. [LB599]

SENATOR SCHEER: Thank you, Senator Sullivan. Are those proponents? [LB599]

JOHN BONAIUTO: Senator Scheer, members of the Education Committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, registered lobbyist representing Nebraska Association of School Boards, Nebraska Council of School Administrators here as a proponent of LB599. And I borrowed Senator Haar's yo-yo because we have been...the folks I represent and I have been all over the place on this bill, and just before committee I explained to Senator Sullivan why we were going oppose it. So it's one of those bills that we had misread, so I have to go back to remedial bill reading. But having been around for a while I can tell you the discussions that were held with the Retirement Committee past Chairs and as far as how we got to where we are currently. And we've started in 19...or excuse me, in 2009 with discussions about needing to have an infusion in the retirement system to help with the economy and the market, and so it had an increase. And then since that time in 2011 to present, we've had two more increases. So, yes. Yeah, we've moved from an employee's share of 7.35 or an employer's share--I'll speak to the employer's part and I'm only speaking about the School Employees Retirement System, not the OPS system--we moved from 7.35 to 9.88. And because we were very optimistic and we're "glass half full" kind of people and we swore to our members that these were temporary increases, heavy on the temporary, we really did not do a lot of whining when the amount between or the difference between 7.35 which had been in statute, and then the increases were put in to have that as part of the GFOE. It was put in statute as an exclusion. Well, I can tell you that our optimism and the market has not worked out the way we would have hoped. And in LB553, which Senator Nordquist has presented to the esteemed Retirement Committee, which there are two members sitting here, and it's a very good bill, it will remove those sunsets. And so the employees are going to be paying a higher amount. The employers are going to be paying a higher amount. And we're not sure what that higher amount is going to look like, if it's going to be beyond what the current levels are or it will be a little bit higher. From my discussions with the Chair of the Retirement Committee, I know that there's a great deal of nervousness about getting to the point where you're over 10 percent, where the employee is paying over 10 and the employer is paying over 10. So I...there's not much room there to try to work with the system. In LB553, there are also other provisions that will help to manage the overall cost, and you'll learn about those as they become more developed and final. But I really believe, and Senator Sullivan does such a great job of describing and explaining her bills, that the employers should be able to use what they're paying for retirement as part of their needs, as part of their expenses.

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

Education Committee  
February 12, 2013

---

It's an expense. It's a real expense that's being paid. And so, yes, it will reflect as an additional cost for those equalized school districts in state aid, but it is a legitimate expense. I mean, right now, the 7.35 is part of the GFOE. We're just talking now about the difference that has not been claimed in these past years. With that, I'll conclude my testimony. [LB599]

SENATOR SCHEER: Thank you, John. Are there questions by any of the senators? [LB599]

JOHN BONAIUTO: Well, thank you, and I thank Senator Haar for the use of his yo-yo. [LB599]

SENATOR SCHEER: Thanks, John. [LB599]

SENATOR HAAR: Break it. [LB599]

SENATOR SCHEER: Obviously you don't know how to use one either, John. Welcome. [LB599]

JASON HAYES: (Exhibit 1) Hello. Good afternoon, Vice Chair Scheer and members of the Education Committee. For the record, my name is Jason Hayes, J-a-s-o-n H-a-y-e-s, and I represent the 20,000 members of the Nebraska State Education Association. NSEA supports LB599 and thanks Senator Sullivan for introducing the bill. LB599 changes the TEEOSA computation by adjusting the general fund operating expenditures in the school aid formula to include retirement-related contribution increases. The bill also permits school districts to exclude these amounts from their budget authority. These retirement contributions increase a 2.5 percent increase for both employees and employers went into effect in 2011 and were scheduled to sunset in 2017. Until now, because the contribution increases are set to expire, the amount was not included fully within the TEEOSA calculation. LB553, introduced by Senator Nordquist in the Retirement Committee, seeks to remove these sunsets as a result. These contributions will become permanent and a regular expense incurred by school districts. Now in order to explain the need for removing these sunsets and incorporating the expenditures fully within the formula, it is important to discuss what is included in LB553, how it helps to solve the financial issues associated with the school retirement plan, and what happens if nothing is done. LB553 is a proposed long-term solution to resolve the solvency issues associated with the school retirement plan. And I'm just talking about the state plan, not the OPS portion of it. Current funding issues and recent stock market declines have created an additional funding need of \$48.1 million in 2013 and \$60.2 million in 2014 for the school retirement plan. The long-term actuarial projection indicates that if no changes are made, then the annual funding requirement will continue to grow and reach a high of \$138 million in 2018. It should be noted that under current state law, Section 79-966.01 requires the state to fund this entire amount.



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

Education Committee  
February 12, 2013

---

To address these funding requirements, this long-term solution in LB553 would eliminate all contribution sunsets scheduled in 2017 for employees, employers, and the state. The proposal would continue the school employee contribution rate at 9.78 percent of pay with an employer match of 101 percent. It also increases the state contribution rate to 2 percent of pay which equates to about an additional \$17 million annually. The proposal also adds an adjusted benefit schedule for new school employees. The adjusted schedule would determine the average final salary over the five highest year salaries rather than the current three highest year periods. The cost of living adjustment cap would be set at 1 percent for new employees during their retirement years. Finally, the actuarial accounting method would be changed to a level percent of pay-closed method. This is proposed in order to spread the effects of these new schedule benefit changes over the entire future cost funding projections of the retirement plan. Based upon actuarial modeling projections, this proposal will eliminate all estimated funding shortfalls due to both market downturns and an expected Public Employees Retirement Board change in the assumed rate of return from 8 percent to 7.75, which is anticipated this summer. And I included a chart on the back or stapled to my testimony just showing the actuarial modeling projections. And I know there are two members who have already seen it from the Retirement Committee. But you can see the blue line represents the amount that the actuarial required contribution is projected under this modeling software. The red line indicates what would occur under LB553 with the changes to the retirement plan. And that amount, the gap between the red line and the zero line represents the surplus. What is not shown on here is what the lowering the assumed rate of return from 8 percent to 7.75 would do. But LB553 seeks to also cover those at an additional cost that would come into play. Given current state law requirements that I referred to earlier, this long-term solution will save the state approximately \$30 million this year and \$43 million in 2014. I arrive at these amounts after factoring in the additional state contribution contained within LB553. Again, I want to stress, if nothing is passed this year, the state is required by law to make an actuarial required contribution in the amount of \$48.1 million in 2013 and \$60.2 million in 2014. This annual amount will continue to rise and reach \$138 million in 2018. We believe this long-term plan is a balanced approach and requires each funding source to marginally contribute additional amounts in order to help ensure a financially viable school retirement plan. It will eliminate the sunsets and lower the plan liability by creating a reduced retirement benefit for new employees. And that concludes my testimony. Any questions? [LB599]

SENATOR SCHEER: Thank you, Jason. Senator Avery. [LB599]

SENATOR AVERY: Thank you, Senator Scheer. I am wondering who manages the retirement fund. Is it the NIC, the Investment Council? [LB599]

JASON HAYES: Yeah, Nebraska Investment Council. That's correct. [LB599]

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

Education Committee  
February 12, 2013

---

SENATOR AVERY: They must really use a conservative investment model because it doesn't make sense given the current rate of return that most funds are producing, rather impressive ones, that there would be that much projected need. You're talking about a shortfall, right? [LB599]

JASON HAYES: Um-hum. Well, these...since 2008, there have been unprecedented losses to the retirement plan given the recession. I met with Jeff States recently, the SIO of the Investment Council and it's my understanding that they're ranked 14th in their peer group. And my work when I was Deputy State Treasurer and working with the Investment Council, what I noticed is that they were going from a very conservative approach probably about eight or ten years ago to a more diversified portfolio. They've gone into REITs, they've gone into private equity. So, you know, what you would compare the Investment Council in terms of conservative investments, maybe 10 or 15 years ago, I'd say they're closer to where their peers are at this point. [LB599]

SENATOR AVERY: Well, that ought to bode well for the future because, you know, just a stock index fund would earn what appears to me to be better than what you guys have been doing or expect to do in the future. [LB599]

JASON HAYES: Well, the assumed rate of return has been 8 percent for a number of years. The state's actuary has, I believe in August in 2012, indicated that that should be lowered to 7.75. So that is typically a standard in terms of pension plans across the country and lowering that assumed rate of return. And that is mostly due to the downturns in 2001, 2002, and then in 2008. So I'd say that public pension plans are now reacting to some of the downturns that have occurred over the last decade. [LB599]

SENATOR AVERY: Well, yeah, I suppose that might be so. But over the past year, a good diversified fund or investment portfolio should have gained 12 percent. [LB599]

JASON HAYES: Um-hum. [LB599]

SENATOR AVERY: We're at record highs now. And I know you can't anticipate or at least depend on that into the future, but I just find those numbers to be rather large considering how the stock market has done over time. [LB599]

JASON HAYES: Yeah. [LB599]

SENATOR AVERY: You do dollar cost investing with the council. The NIC, do they do dollar cost investing? [LB599]

JASON HAYES: I'm sure they do readjustments and rebalancing every quarter, but you'd have to ask Jeff States about that. [LB599]

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

Education Committee  
February 12, 2013

---

SENATOR AVERY: But each retiree or each employee preparing for retirement would be putting in a certain...this percentage each month and the state would be matching that, right, or close to it. [LB599]

JASON HAYES: The school district, so does the employer. [LB599]

SENATOR AVERY: School districts, okay. [LB599]

JASON HAYES: And one of the things with a defined benefit plan is, is you're not looking at each person having an individual account. It's actually, you know, what I like to say is more like a life insurance plan where you have policyholders that put money into a pot and then that provides retirement insurance, so to speak, or a monthly benefit once they retire. And so you kind of spread the...you increase the pool, so to speak. But... [LB599]

SENATOR AVERY: And, of course, as a defined benefit plan, the school districts are obligated to meet their...provide the benefit even if the overall fund is low. [LB599]

JASON HAYES: That's correct. And what's a little bit different in the School Employees Retirement Plan is that that obligation is actually a requirement or a liability of the state, not necessarily the employers of the plan. This was something that was put into law back in I believe 2002 where the state assumed the responsibility for those actuarial required contributions. That certainly makes sense in the terms for the State Patrol and judges because they are the employers. But in the case of the school employees, they come in, in terms of guaranteeing the sustainability of the plan. [LB599]

SENATOR AVERY: Okay. Thank you. [LB599]

SENATOR SCHEER: Any other questions? Senator Kolowski. [LB599]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Mr. Hayes, there's also flexibility at the end of the teacher retirement plan when you take...you have a choice of the kind of plan you desire to retire with. And that can add to the mix of how you have different results because of how a person would take that plan. Is that correct? [LB599]

JASON HAYES: Well, you're true, I mean, it's correct to say that a school employee can choose upon retirement what type of retirement plan they want or what annuity benefit they want. But in terms of the actual cost to the plan, that is the same for every member in terms of once you utilize the formula benefit, come up with what the amount of their benefit would be, they can then take that benefit amount and purchase different types of annuity with it. So there's no additional cost to the plan in terms of that flexibility that a person may choose by the type of annuity that they pick. [LB599]

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

Education Committee  
February 12, 2013

---

SENATOR KOLOWSKI: Okay. A person taking the highest monthly possible salary and dying six months into retirement, and there's nothing left for his or her spouse... [LB599]

JASON HAYES: Um-hum. [LB599]

SENATOR KOLOWSKI: ...or family compared to the 50-year-guaranteed plan, that's a different kind of payout. [LB599]

JASON HAYES: That's true. That would be two different types of paths, but in terms of the cost of when that monthly benefit is calculated right at retirement, actuarially that would be...there would be no difference to the plan actuarially from one choice to another. Now what may happen based upon somebody dying before their life expectancy, that may result in a gain to the plan. If they live beyond their life expectancy, that may be a loss to the plan. [LB599]

SENATOR KOLOWSKI: I understand. [LB599]

JASON HAYES: Yeah. But just when it's calculated, it's...there's no... [LB599]

SENATOR KOLOWSKI: The calculation versus the reality. [LB599]

JASON HAYES: Right. Exactly. [LB599]

SENATOR KOLOWSKI: If I had died six months into the plan, I took it as that's it. [LB599]

JASON HAYES: Yeah. [LB599]

SENATOR KOLOWSKI: You just saved 14.5 years... [LB599]

JASON HAYES: Yeah. [LB599]

SENATOR KOLOWSKI: ...of not paying me or my beneficiary. [LB599]

JASON HAYES: That's correct. [LB599]

SENATOR KOLOWSKI: Thank you. [LB599]

SENATOR SCHEER: Any other questions? If not, thank you, Jason. [LB599]

JASON HAYES: Okay. Thank you. [LB599]

SENATOR SCHEER: Any other proponents? Any opponents? I see no one jumping up.

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

Education Committee  
February 12, 2013

---

Anyone from a neutral standpoint? Senator Sullivan to close. [LB599]

SENATOR SULLIVAN: Thank you, Senators. And I'm awfully glad that we have a couple of members on this committee who are also on the Retirement Committee because you can see how intertwined the two are. And that's precisely why I've introduced LB599 because this is an enormous cost to school districts. It's not going away. It's a contractual obligation that needs to be met. And LB599 recognizes and establishes and proposes that this obligation be made part of the state funding formula. [LB599]

SENATOR SCHEER: Any final questions for Senator Sullivan? If not, I would close this hearing. Thank you. [LB599]