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April 22, 2013

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[LB3 LB9 LB23 LB99 LB240 LB274 LB407 LB466 LB467 LB469 LB483 LB487 LB496  
LB511 LB522 LB545 LB553 LB563 LB566 LB613 LB640 LR154 LR155]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-fourth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Father Paul Rutten of Lincoln, Senator Bolz's district. Please rise.

FATHER PAUL RUTTEN: (Prayer offered.)

SENATOR CARLSON: Thank you, Father Rutten. I call to order the sixty-fourth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

SENATOR CARLSON: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB553, LB240, LB23, LB487, LB563, LB3, and LB99 to Select File, some having Enrollment and Review amendments. And that's all that I have at this time, Mr. President. (Legislative Journal pages 1061-1067.) [LB553 LB240 LB23 LB487 LB563 LB3 LB99]

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

CLERK: Mr. President, LB407 is a bill offered by Senator Sullivan. (Read title.) The bill was introduced on January 22 of this year, referred to the Education Committee for public hearing. The bill was advanced to General File. There are Education Committee amendments pending, Mr. President. (AM1018, Legislative Journal page 1007.) [LB407]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Sullivan, you're recognized to open on LB407. [LB407]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. And good morning, students, up in the balcony. This discussion this morning is in large part all

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about you. And so we begin, or perhaps it already has. Have you made up your minds? Drawn the line in the sand? Manned your battle stations? Well, I guess we're going to find out. But first this soldier needs to tell you where she stands. I stand here as your state senator certainly elected to represent my constituents, but also chairing a committee that shoulders the responsibility of bringing you good, sound, education policy that provides funding for the education of our children in the common schools; education for our children in Omaha and Lincoln and Cedar Rapids, Scottsbluff, Lexington and so many other communities where 249 school districts are located across this great state. And when I asked for your vote to be Chair of the Education Committee, I promised to bring you that good, sound educational policy; policy that's built on a tradition of concentrating on equity and program funding, accessibility, accountability and quality. Well, I've discovered that that's no easy task. But I've listened to my committee, to school officials, to the lobby, and even with all of that, it's been a difficult task. You may even wonder if I'm up to the task. Well, remember a woman is like a tea bag; you don't know her strength until she's in hot water. That's not to say that I feel I am in hot water, but you've seen the vote on the committee, a divided one. You've probably been called out by the lobby. No, I'm quite certain that all of you have been called out at one point in time. TEEOSA has been the subject of conversations a lot the past several days. We've been put on notice that this will not be an easy task. But I am resolved, resolved to meet my constitutional responsibility to provide for that free education for our children in the common schools. Resolved to stand by what I think is the right thing to do based on the principles of equalization. Resolved to be a statesman looking out for the educational interests of all students. There is no perfect state aid formula, but it is the one that we have right now. Is it complex? Yes. Is it complicated? Perhaps. But we have 249 very different school districts with varying circumstances and needs; needs, by the way, that we the Legislature will determine. Most of you know that for the last four years, as we've weathered a tough recession, we have asked a lot of school districts. Through the formula, we've held down their spending and their growth. Certainly the ARRA and EduJobs monies help them deal with those tough times. And while it's truly not realistic to look back to the good times, if they really ever existed at all, we have to help districts come back from the brink and grow a little; maybe not as much as they'd like, but to grow nonetheless. And that's precisely what we're trying to do with LB407, grow a little, about a 6.3 percent increase over last year from a little over \$852 million to a little over \$905 million with LB407. Granted, it's not what we would have under current statute, which amounts to about an 11 percent increase, but it is a reasonable increase. And I will also tell you that LB407 does not represent an attempt to change the formula to a count to accommodate a number. The committee deliberations focused on policy, not numbers, even though we knew we ultimately had to have a number that the Appropriations Committee could live with. I will also tell you that the components of LB407 came about after a summer-long effort on the part of the Education Committee staff, fiscal staff, and the staff of committee members and also included several Education Committee members who participated in meetings and public hearings with school officials, students, parents, and

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others all across the state. LB407 was gleaned from those conversations. In some ways it was crafted before I became Chair, but I saw the changes as positive and subsequently those components became the bill I introduced. This interim study on TEEOSA established some goals, the goals that were to be the focal points on making changes to the formula. Those goals were to look at the formula in terms of improving equity, predictability, sustainability, and simplicity. And I will tell you there was general agreement among school officials early on in the process that we were on the right track. So here are the main components of LB407. And we can discuss each and every one of these to be clear on what we're trying to achieve. First of all as I said, a 6.3 percent increase over last year; 4.7 percent increase the second year of the biennium, for an average increase for the biennium of 5.5 percent. In dollar figures, that's \$905 million for the first year and about \$923 million the second year. One of the key components of LB407 was to build growth and aid into the formula, helping districts ease out of the restraints that we've put on their spending the last several years. We propose to achieve this by increasing the basic allowable growth rate to 1.5 percent for 2013-14 and 2.5 percent in the year 2014-15 thereafter. That says to districts they can grow their budgets and their spending in these ensuing years. We're also proposing to drop the local effort rate to \$1.03 for 2013-14 and 2014-15; thereafter it drops to \$1.00. That tells districts the formula expects you to exact a certain amount from your local property taxes. Lowering that local effort rate generally sends more aid to districts. Both of these component changes to the basic allowable growth rate and the local effort rate, the two biggest drivers, by the way, of establishing what state aid goes to districts, build sustainable growth into the formula and enhances equity because it gives all districts the ability to grow their budgets and increase their spending. In an effort to build in more predictability and simplicity into the formula, LB407 also proposes to remove the following allowances: teacher education, instructional time allowance, and also to repeal both the local choice adjustment and averaging adjustment. I'd like to note here that I realize that I may not be able to explain all of these changes in the time in my introduction. If that happens, I'm going to continue my explanation of them during the introduction on the committee amendment. So by way of explanation, getting back to the allowances and adjustments, while they each work a little differently in the formula, they seek to look at unique circumstances of districts and help districts support those situations. The teacher education allowance was added as a component to the formula several years ago. And as I understand it, it was put in to reflect the fact that some of the districts, because of their proximity to an institution of higher ed, were experiencing higher than normal impact from staff having advanced degrees. Well, in today's world, with advanced degrees even being able to be accessed online, it was determined that it no longer reflects the unique need of a district, but rather just the cost of doing business, so to speak, and as such would be reflected and supported through a district's general fund operating expenditures, or as we refer to it, the GFOE, and ultimately reflected in their basic funding. In addition, because this allowance is awarded only if a district falls below the statewide average, the average continues to move every year and thus does not contribute to predictability. The second allowance that would be

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repealed is that of instructional time. Certainly there's no doubt there's value in having children in the classroom for a longer period of time. But again, in hearing from schools, business managers, superintendents, they have had difficulty calculating it and because of that, it lacked predictability. And again, because of that moving average and oftentimes confusion in figuring it, some years a district received it, other times it did not. [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR SULLIVAN: Thank you, Mr. President. Also the question was raised whether an increase in instructional time really constitutes an improvement in student learning. Does the addition of three minutes to a class period really make a difference? Well certainly there was agreement that to really make a difference a longer school year would be desirable. So again, reaching for those goals of improving predictability and achieving simplicity, LB407, as I said, seeks to repeal the instructional time allowance. And now we'll go on to the adjustments under LB407. First of all, LB407 proposes to repeal the local choice adjustment. For lack of a better explanation, this adjustment, basically, penalizes a district for being, what we say, small by choice. [LB407]

SENATOR CARLSON: Time. [LB407]

SENATOR SULLIVAN: Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Sullivan. (Visitors introduced.) As the Clerk mentioned, there are committee amendments. Senator Sullivan, as Chair of the Education Committee, you are recognized to open on AM1018. [LB407]

SENATOR SULLIVAN: Thank you, Mr. President. And I will continue as I was mentioning earlier about one of the adjustments that we proposed to repeal or to remove in LB407, the local choice adjustment. It says if a district has 390 students and below and they are not sparse or very sparse in location, that will be reflected in taking away some of their aid. Well, we all know what's going on with the population in rural Nebraska. Many school districts continue to see declining enrollment. School consolidations and reorganizations are happening out of necessity and by choice because of the circumstances. Therefore, it was determined that this adjustment, viewed as overly punitive by some, was selected for repeal. And now the infamous averaging adjustment. It was earmarked for repeal because under current definition no district qualifies for it. When averaging adjustment was first implement, again as I understand it because it was put in place before I was in this body, it was put in to reflect sort of a way to lift up certain midsize districts who were up against their levy and really had no way to grow. They were trapped, so to speak. The adjustment helped bring them up a little closer to the statewide average of per pupil spending. In other words, if they were below a certain threshold in adjusted GFOE and they were levying

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at a certain amount, they would receive additional aid through the adjustment. But under the current definition, if a district is above that specified threshold they wouldn't receive it. And, as I said, currently no district qualifies for the adjustment because they are above the threshold. These are the main components of LB407, components that seek to build equity, predictability, sustainability, and simplicity into the formula, components that I believe are based on good policy, not forcing the formula to reach a certain dollar amount. There's value here and I believe it is good policy. It stays true to the philosophy of equalization and the true essence of our formula: needs minus resources equals equalization aid. Now with AM1018, it reinstates that teacher education allowance that I spoke of in the introduction. So why am I proposing to reinstate it? Well, it's, quite frankly, a compromise; a result of committee deliberation, listening to school officials, and trying to speak to both. Actually, I'd still like to see the teacher education allowance repealed as suggested in original LB407, but this is a compromise. A departure from what the majority of the committee thought was good policy; but I compromised, I gave a little. It is reinstated in a modified way from the original allowance, so here's how it works. First, it's important to note that this change does not increase the aggregate amount, that \$905 million I talked about in the original bill. It does, however, devote \$30 million to this effort using two approaches. With the first approach, some of this \$30 million flows through the needs calculation as a teacher education allowance to determine formula needs. So if a district has any teachers with advanced degrees, then they will receive the allowance as part of their formula needs. In the second approach, 50 percent, or \$15 million will work much like we currently handle retirement aid. If you look on your models that you may have brought with you this morning, A1 represents the modeling for the committee amendment and you, on that, will see on that column for teacher education aid. With AM1018, that teacher education aid goes to all districts. That amount that a district gets is based on their teacher education points tallied up by how many teachers they have with advanced degrees. The majority of the committee believed that, okay, if we recognized from a policy standpoint that an advanced degree for a teacher is important, then we should assist all districts in that respect. So as I said, a portion, \$15 million, goes out to all districts in this method. Now I fully realize that some may disagree with this approach that this aid is given outside the equalization formula. However, the majority of the committee, as I said, also believe that if, in fact, we believe advanced degrees are important for the quality of education, then all districts should receive support for it. And as to the concern that this approach...with this approach, a portion of it is going out in aid rather than the allowance and going to some nonequalized districts, that amount represents only about \$1.8 million and will be spread over all the nonequalized districts which includes 114 out of our 249. And on average, that represents less than \$16,000 per district. But I think we all agree that teacher education is important. If we take it away, it sounds like money goes away. No, that money now resides in the pot for basic funding. But if we remove the allowance, how can we recover the increased cost in a negotiated agreement? Well, how can you? That's a local decision made by a local board and it's largely accounted for in a district's general fund operating expenditures, that GFOE. And if you recall early on in this

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session when we had the discussion on changing the certification date to June 1, I think it was brought out that the majority of districts had already settled knowing that there was the potential that this allowance would go away. And even so, this allowance was never designed to cover the cost of an increase in the negotiated agreement. And please remember that salaries are the bulk of what is represented in basic funding. One thing I've discovered, once schools take advantage of an allowance, they don't want to see it go away. They resist change even though early on they were part of the discussion that said, yes, it's not the best policy, but this amendment really doesn't represent, in my mind, good policy. We know that putting qualified teachers in the classroom is of utmost importance. But does having an advanced degree guarantee that? Or is it more important, if, in fact, advanced degrees help build quality and competency, that the degree be in the area that the current...the teacher currently teaches? Right now, that's not how the teacher education aid works or will work in AM1018. It simply gives aid based on the points a district counts up based on the number of advanced degrees among the teachers on their staffs. But this amendment also sunsets the teacher aid in two years. In that amount of time there is determination on the part of the committee to look at a better way to handle this. So as I said at the onset, this is a compromise. I listened, I moved, I departed from that original statement of a policy, but I would appreciate your support on AM1018. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Sullivan. Mr. Clerk for an amendment. [LB407]

ASSISTANT CLERK: Mr. President, Senator Sullivan would move to amend the committee amendments with AM1044. (Legislative Journal page 1010.) [LB407]

SENATOR CARLSON: Senator Sullivan, you're recognized to open on AM1044. [LB407]

SENATOR SULLIVAN: Thank you, Mr. President. Colleagues, AM1044 is both a compromise and an opportunity. I first say it's a compromise because over the last several weeks I have met several times with several different groups. I have met with lobbyists. I have met with school business managers. I have met with school superintendents. And I have listened carefully to their concerns and tried to craft some solutions to those concerns. And what I heard most of all is that districts need the ability to grow. They have been squeezed down through this recessionary period and they need a mechanism to grow their budgets. This amendment continues to do that. It builds growth into budgets and helps districts increase spending and it achieves that by changing two components of the formula. If you recall in the original LB407, it increased the basic allowable growth rate to 1.5 percent. With this amendment, it is increased to 2 percent for 2013-14. It also changes the local effort rate from the \$1.03 as proposed in the original LB407 to \$1.025 in the year 2014-15. I say this came as an opportunity as well as a compromise because of recent information we received from the Legislative

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Fiscal Office and the Department of Revenue. The department's preliminary valuation figures for 2013 are coming in higher than what the Fiscal Office was using to calculate state aid for 2014-15. The higher valuation figures equate with more resources and thus a savings in state aid, or as I would call it--found money. Hence, I'm proposing with this amendment that it be used to benefit our schools by putting it into that basic allowable growth rate that favorably impacts all school districts. Now I also have to tell you though that this does add to the total dollar amount of this aid package the first year. Under this amendment, total aid would increase to \$917 million the first year and the second year would be \$940 million. But it still results in a two-year average of 4.9 percent, which is lower than what LB407 proposed. The Appropriations Committee is aware of this. But I also know they are aware of the report that just came out, I think, over the weekend regarding the potential federal loss of Medicaid funding to the tune of \$8 million. So I realize fully that this may enter into our conversation on this amendment. I mention all of this because...and I mentioned the compromise because what I've tried to stay with is what I believe is good policy. But of late I believe that discussion may have strayed beyond that into more politics and maybe even beyond that into an area of "it's all about winning." But you know, I can't do that. I don't believe I have that luxury as Chair of the Education Committee, nor would I even want to go down that path. And neither do I want this to be a rural versus urban fight about state aid. I'm quite sure that some, maybe even some of you here in this body, thought I would have too much of a rural slant as my focus as Education Chair. Well, you can take that for what you want, but I'm telling you that I have tried to craft statewide policy here, staying true to that philosophy of equalization. And in so doing I may be doing it at the expense of some of the schools in my district. Over half of them are nonequalized and many others are struggling up against their \$1.05. They feel trapped. Oddly enough, that was the same argument I heard from some of the schools and their lobbyists that I've been listening to the past few weeks. The underlying message I heard was there is this widening gap, those with high levies and low spending who educate the majority of the students in this state compared to those districts with low levies and extremely high spending per pupil. I think we've, ultimately, will be passing out some handouts that I think that may be helpful in giving you some perspective in that respect. Those schools who educate the majority of the students, quite frankly I believe, already get the majority of the aid. And if you look at fairness and equalization, look at their property values; admittedly they have not increased so much. And in part that's why they're getting the increase in aid. The equalization formula is working. And what does that extremely high per pupil spending mean in a very small rural district? Those are schools with declining enrollments, but still needing to meet the qualifications of Rule 10 and I'll tell you what that means: no varied curriculum; one foreign language that more than likely is being taught through distance ed. But as I said, I don't want this to be rural versus urban. I don't want us to go down the path of winners and losers, because in that respect there is no winning and the real losers are our kids who deserve educational opportunities to grow and learn and thrive. I started with LB407 because I thought it was good policy and I still do. But in this discussion that I know will go on throughout the day, if this turns into something

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else, I will walk away from it and then where will we be? With an aid bill that increases the aggregate amount? Or even if it doesn't, it will send more of the aid to those who are already getting the majority of it. Or what would we do with no aid bill at all? Then we have a current statute, an 11 percent increase in state aid. What will that do to some aid bills that are out there? A tax credit for wind energy. An increase for judges salaries. You know, I don't want either one of those scenarios to happen and I hope neither do you. But I want you to know, truly, I have tried to compromise in this effort. Please know that I have tried my best to see if we could craft policy that addresses their needs. But let me tell you how this has worked, I've continued to talk and they say continue to talk, Kate, that's a good thing. Translated, that means come a little closer to what we want, Kate; compromise a little bit more. But then I say, wait, you aren't compromising. Just come a little bit more, Kate, continue to compromise; continue to visit because we don't want to fight on the floor. Well what I finally decided, better to have it here because now the people all over Nebraska can see this. This is where the policy discussion needs to take place. We tried in committee; in fact, weeks and weeks of discussion. That's one of the reasons the bill wasn't reported out sooner. Early on there were the five votes to advance, but I sought understanding, information, and compromise; which you've seen, I hope, in the amendments that I've introduced. Colleagues, I have so much respect for all of you, just for the mere fact that we're here giving your time and effort to make really tough decisions. But where and why should the word "state" get left off our title. We are state senators. We make policy here. We establish how this state aid is distributed. We determine the needs that we will fund through the formula. This should not be about rural versus urban. It should not be about winning or losing. We have an obligation, yes to our constituents, but with this bill and my amendments we have an obligation to our kids; all of our kids in Omaha, Lincoln, Cedar Rapids, Scottsbluff, all across the state, to provide the funding that gives them educational opportunities. I sincerely ask for your support of AM1044. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Sullivan. Members, you've heard the opening on LB407, committee amendment, AM1018; and Senator Sullivan's amendment, AM1044. The floor is now open for debate. Senators wishing to speak include: Cook, Ken Haar, Mello, Hadley, Scheer, Adams, and others. Senator Cook, you're recognized. [LB407]

SENATOR COOK: Thank you, Mr. President, and good morning colleagues. I rise in opposition to AM1044, AM1018 and legislative bill proposal, LB407. As a new member of the Education Committee, I was very encouraged to be able to offer a voice for the 48,000 students in the Omaha Public School District and learn more about how to advocate equitably for students across the state. I would like to stand here and report that for the most part we have accomplished that in the Education Committee and I welcome to the opportunity to discuss with each of you how we can move forward from the proposals that are proposed and the ones that will be mentioned in upcoming amendments. As I mentioned, the district that I reside in is the Omaha Public School

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District. I will freely admit to having a long history, including having parents that were educators and retirees from that district and having the issues and social issues that emerge, in addition to educational issues, achievement gaps, etcetera, be something that are a priority to me in this role. In my mind, public education is America. Not only as our Chair said, is this the sole constitutional requirement of our role here? It is the opportunity that is available to every single child born here or residing here to be able to participate most fully as a citizen, as a responsible parent, as a responsible worker, as someone who is contributing in a positive way to our state and to their communities. We have within the Omaha Public School District area two new school buildings that are going up at this time. It's a thriving area since the last time we visited this issue. More than 2,500 students have joined that district. I feel it's important as we develop state policy, which by its definition is long term, that we take into account the factors that have heretofore made up for inequities in terms of taxation in the TEEOSA formula. A widening gap between the amounts that is spent on students within the districts that have more than 900 students and smaller districts has been mentioned. Many of you represent districts that have both kinds of schools in them. The policy position that was represented with the introduction of the averaging adjustment addresses that. What we are continuing to dialogue on, and what I hope we continue to dialogue on now, is how we address that gap, that widening gap if we were to take out this mechanism, which from my review of the transcripts from the hearings over the summer and from the introduction of the original bill in 2008, this averaging adjustment was introduced in part to address the widening gap between the amounts that are spent per student in those districts that have more than 900 students and the districts... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR COOK: ...that are small by choice or are experiencing decreases in population. With that, I will yield the balance of my time to the Chair. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Cook. Senator Ken Haar, you're recognized. [LB407]

SENATOR HAAR: Mr. President, members of the body, I rise in opposition to AM1044 and AM1018. But speaking to that, I was a teacher for about 20 years, and since we can't use PowerPoint in here, I'm going to go over some stuff that I've spent the last two months researching and thinking about. The first one is called districts by the numbers. And I'm going to go over each of these in detail because otherwise it's just a handout with a bunch of numbers. The first row, row 5, is comparing equalized versus nonequalized districts. You notice in nonequalized there are 36...about 37,000 formula students. The average is 322. We do have a gulf in a way between the big and the small schools. Percent of the formula students in the nonequalized schools is 13 percent. And 114 out of 249 districts are unequalized, that represents 13 percent of the students in this state. It's 46 percent of the districts, but 13 percent of the students.

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Under 900 formula students, 54 percent over 5 percent, the average General Fund levy is, as you can see, .8877. The equalized school districts, the bulk of the students in Nebraska are in equalized student districts, 254,000; the average formula schools per district is 1,880. And the equalized districts represent 87 percent of the students and 54 percent of the districts. And the average General Fund levy is \$1.01. Okay, then the next one...the next thing I looked at is in row 13. Let's take the over and under 900 students. So under 900 students there are about 70,000 students. The average school under 900 is 338; that represents 24 percent of all the students in Nebraska. And that's 208 of the districts. So by far, the majority of our districts are under 900 students; that's 84 percent of the districts, but again, it represents 24 percent of the students. The average mill General Fund levy for schools on your tax bill would be \$.9397. And then over 900, again, 220,000; the average is 5,400. That represents 76 percent of the students. There are only 41 districts; 16 percent of the districts, but it represents 76 percent of the students and the General Fund levy is \$1.04. The average of those 41 districts is \$1.04. And then I have been looking at the 10 largest...the 10 districts with the largest enrollments. So comparing those, you see that the 10 districts compared to the other 239 districts represent 54 percent of the students in Nebraska. It's only 4 percent of the districts, but 54 percent of the students. And the average mill levy is \$1.065 and the average for the remaining 239 districts is \$0.95.17. And then I list the 10 districts we're talking about... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR HAAR: Thank you...that I'm talking about at the bottom of the page. And all these numbers come, by the way, from the NDE model. But it shows to me what a difference there are when we're talking about different groups of schools. And I think it's important we recognize that. Einstein said, things need to be simple, but not too simple. We are state senators, and so on my next time at the mike I will go on with my handouts. Thank you very much. [LB407]

SENATOR CARLSON: Thank you, Senator Haar. Senator Mello, you're recognized. [LB407]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Good morning. I'm going to briefly try to provide the body, I think, a more global context of, one, how we got here today with LB407 fiscally; and ultimately where we stand with the latest amendment, AM1044. First off, every year the Governor provides a budget submission to the Legislature with a dollar that the Governor puts in for K-12 funding. That number, to some extent, is an arbitrary number because, and recently, the Governor has not introduced legislation or corresponding legislation instructing the Legislature how to get to that K-12 funding number. So this year's number was roughly a 5 percent increase over where the current funding formula was last year. Senator Sullivan introduced LB407 which roughly had about a 7 percent annual increase over

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the biennium in which the Appropriations Committee in our preliminary budget released very similar numbers to the Governor. That was our starting point, understanding that Senator Sullivan had a TEEOSA bill that was at roughly 7 percent increase year over year. Ultimately, the way the process works is that the Appropriations Committee does not dictate to the Legislature what the appropriations amount will be for K-12 funding. Instead what we do is we work in partnership with the Education Committee in the sense that the policy area of how do we get to a funding formula rests solely in the Education Committee. We take a number and put it in our preliminary budget to serve as a guiding point for us as we move through the budget process. That's how Senator Sullivan and myself have operated this year. Ultimately, Senator Sullivan's 7 percent increase, which was the original green copy of LB407, was changed dramatically, which now you have in front of you, AM1044, which that increase roughly equates to a 7.3 percent increase the first year...or 7.4 percent, I'm sorry, and a 2.5 percent increase the second year which averages out about 5 percent increase over the biennial budget which is about the identical average which the Appropriations Committee has had in our preliminary budget. The differences though, essentially, is about a \$21 million increase under AM1044 in comparison to where the Appropriations Committee was in our preliminary budget. As part of those negotiations that occurred between our committee and the Education Committee, the Appropriations Committee adopted the number in AM1044 last week in preparation for us to finalize our budget. So right now as we finalize the last stages of the state budget, we have the exact number in AM1044 as our TEEOSA number for the state budget and that's a \$21 million increase, but as I've argued before to members who are interested, Senator Sullivan's number originally was significantly higher than this. And I applaud her for her leadership and her due diligence of negotiating with our committees to come to a number in which we can agree upon. I've had extensive conversations with those various school districts and lobbyists, as many of you have, in the sense that the issue that we're going to debate today is not about the number; it's not about the appropriation. I believe the work that Senator Sullivan and the Education Committee, as well as my fellow Appropriation Committee members, have come to an agreement that the number is what the number is. The argument and the debate that no doubt we'll see today is how does that number get disbursed. That's full and fair debate which I fully anticipate learning more from colleagues today in regards to different methodologies, different amendments, different means on how individual senators feel... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR MELLO: ...we can get to that point in time. But make no doubt, or make no illusion, colleagues, that we have to come to a solution soon. That with no LB407 we have a \$95 million hole in our budget; similar to what Senator Nordquist brought us last week with the state retirement bill. Without that state retirement bill, we would have a \$108 million hole in our budget. We cannot blow up our state budget based on an argument and a debate today on who gets more and who gets less. Cooler heads must

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prevail at some point in time. I envision it will last an awful long time, but at the end of the day that has to occur. I appreciate the work that all members of the Education Committee and all members of the Appropriation Committee has done in regards to discussing this very important issue. [LB407]

SENATOR CARLSON: Time. [LB407]

SENATOR MELLO: Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Mello. Senator Hadley, you're recognized. [LB407]

SENATOR HADLEY: Mr. President, members of the body, oh, I wish I could be like Senator Mello to be so eloquent and to be able to speak with both hands at the same time, but I can't. I rise in opposition to AM1018 and AM1044. But I do want to thank Senator Sullivan and the members of the committee. I know they've worked real hard; it's been very difficult. I think she and I would both agree that the glamour of being a committee chair has a tendency to wear off a little bit as you get beat on on the floor. So I want to thank Senator Sullivan for all of her work. We have a large state: Benkelman to South Sioux City, Omaha to Scottsbluff, Valentine to Red Cloud, Fall City to Crawford. We actually have about 77,000 square miles. We have about 1.8 million population, really, a relatively small population for the number of square miles we have. And that's one of the problems we have when we start talking about school aid. We have one metropolitan city; one primary-class city; 29 cities of the first class; 116 cities of the second class; and 382 villages. I was absolutely amazed, our populations run from Omaha, about...it's population to a village called Monowi, which is a village of 1 in the state of Nebraska. When we do this we have school districts. We have 249 school districts; service about 304,000 public students. Part of our job is to divide up approximately 900 and some odd million dollars to get the best education, an equalized education for those students. We have one Class II students which have districts with less than a thousand; we have 18 Class III, a thousand to 99,000 inhabitants, we have 229. We have one Class IV, that's Lincoln; one Class V, that's Omaha. And then we have a Class VIII which are state operated school districts. I see the problem we have is trying to come up with that equalization. Omaha has 48,267 FTE students. Elba Public has 67.4 FTE students. That's the range we have in school districts, a tremendous range. Omaha spends on average, per FTE student, \$7,176. Elba spends \$17,926.39. Omaha is up against levy limit of \$1.05; that's exactly where they're at. So our discussion is going to be those low average spending school districts that have...do not have an access to resources. That's what our discussion is going to be about. I want to take you back about four and half years ago to a meeting that the freshman class, I would call it that, my colleagues that came in in 2009...seems like a long time ago, 2009; 2008 we sat and we sat in one of the meeting rooms here, and we had a discussion about the formula, TEEOSA. And it was...it was made to seem so simple, it

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really was, needs minus resources... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR HADLEY: ...equals aid. And the term "autopilot" was used all the time, "autopilot," it's just "autopilot." You've got the formula, you just run it on "autopilot." Well, we found out that "autopilot" doesn't work because we can't afford "autopilot." We can't afford a billion dollars right now in school aid. But it was amazing to me that that is exactly what we were told. We talked about "autopilot", we have a formula. In the five years I've been here now, every year we get in and we start turn this knob, turning that knob, because the "autopilot" is not working. If the "autopilot" is not working, maybe it's time to take an entire look at that formula if we have to sit around every year and turn this knob or that knob. I will speak later on different areas. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Hadley. (Visitors introduced.) Continuing with debate, Senator Scheer, you're recognized. [LB407]

SENATOR SCHEER: Thank you, Mr. President and good morning, colleagues. I want to talk a little bit about equity and policy. But I want to just comment one thing real quickly in relationship to Senator Hadley's comments. He's correct. OPS is the largest district and they're locked at \$1.05. Elba is the smallest district, they are locked at \$1.05. There's no difference between the two districts. The spending per child is different, but the taxation is not different. And each one of those kids deserve the same quality of education. But let me talk a little bit about policy versus equity. The TEEOSA formula was developed to try to reduce our dependence on property taxes and it looked at the needs of school districts. And the needs by that were the basics needed to provide an education for that district. And if the district couldn't provide those, under certain situations, that the state would provide them some additional funding. Think of equity as, perhaps, needs. What does a school district need? What can it not control? What do we have to offer funding for? Well, some of those things would be, for example, you can't control how many students come into your district. You can't control how much you spend on transportation costs. You can't control how many English language learners are within a district. You can't control your poverty levels. Those are all outside of what a school district has the capability of controlling. That's where state aid should and ought and does come into play. But let's look at the other side and that is policy items. And let's use policy and equate it to wants; because there are a lot of things that district wants and that perhaps this Legislature and the state would like to have or want. For example, pre-K education within school districts. Every district wants that. It's very important. That's the best bang for the buck that we have going right now. Additional school days, if we're actually going to add days to the schools. Class size, it's not an unthought of idea that if you have less children in a classroom that a teacher has a better chance of being able to develop a quality education with those students. But

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those are policy items. And policy items every district should have the same opportunity for those children to have. For example, teacher education, if it is important for a policy for the state, for our Legislature, to have teachers within districts at a masters level and above, it shouldn't make any difference if that child is in school in Bellevue or in Burwell or in Bayard. Those children all deserve the same education. So if that is the case, all school districts should be and need to be available to get to those funds in some way or fashion. I'm not trying to say that we're trying to rob Peter to pay Paul. TEEOSA...the equalization part is separate. We do need to keep equalization. Districts do need funds to operate. And it is determined based on their property level, but a multitude of other things. But if we talk about wanting to have teacher education, or classroom sizes, or pre-K, or additional school days, those are policy. [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR SCHEER: And if we want school districts to do that, we can't do it in TEEOSA or state equalization. Almost half the school districts will not receive equalization. Stop and think about that. We can no longer use TEEOSA as a policy format. It's for equity; it is not for policy. And that's one of the big changes you're going to start seeing is we need to have a policy portion; we need to have an equity portion. They aren't necessarily equal. I'm not trying to say that they are. We need both. But they can no longer be contained or combined in the same one. We are too diverse as a state and districts. We have to make sure that those things that are important for a student in Omaha or Bellevue reaches that child in Bayard or Scottsbluff or "Bingenton"...Benkelman, excuse me, way out west. [LB407]

SENATOR CARLSON: Time. [LB407]

SENATOR SCHEER: Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Scheer. Senator Adams, you're recognized. [LB407]

SPEAKER ADAMS: Thank you, Mr. President. Members, I have a lot to say. I'm only going to go to the mike a few times, selectively, and I'm open to questions at any time during this. This process that Senator Sullivan went through to arrive at this legislation started way back last spring. We had TEEOSA calculating out in a model that was going to show a 20 percent increase when we lifted all the controls off by statute. Revisions of those models then showed an 11 percent increase. There isn't anybody in here doesn't understand that's not going to work for the total budget. So she was put in a position where she needed to look for a way of slowing down the growth of TEEOSA. Started during the summer; hearings held across the state; she's gone through all of this with you. Working with a select group of business managers and superintendents on this. And her committee, and now here we are. And like every other debate on TEEOSA I will

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tell you, you're going to sit and you're going to look at the spreadsheets, I do, and you're going to pick winners and losers. But you've got to ask yourself, what's the best policy for this state? You know what complicates this even more? What complicates this even more, we're experiencing in this state going on five years now of residential valuation where the students are of not having grown much and ag values where we don't have as many students growing double digit. And the formula finds it difficult to respond to those kind of imbalances. A year or two yes; going on five? That's troublesome. We're also coming off the trail of a recession. And we have schools trying to reach back and recover. I can't blame them for asking. But I don't know that it's going to work. In whatever time I have left, here's the challenge to all of us, me included. The challenge to all of us is to listen to what Senator Sullivan and the committee has to say. Listen to what we all have to say on this. She hasn't worked on this stuff in a vacuum, I'll tell you that because I worked with her for a long time. Now we have a vacuum. And the vacuum is that glass right there and we're inside of it and we're going to make the policy. Listen to what's being said. Listen to these amendments...some frivolous, some substantive, but listen to them and decide as a Legislature what the best policy for distribution for this state is. Listen to your schools. Listen to your schools. I challenge you. Whether it's mid-morning or mid-afternoon or into the evening or some other time this week, if you're having questions, I'll try to answer them. Senator Sullivan will try to answer them. Education Committee staff will try to answer them. I'll guarantee you that the lobby is more than willing to try to answer them. It doesn't hurt to pick up the phone and call your superintendent and ask them. Get all the information that you can. But when it's all said and done, this is our decision to make, nobody else's. And there will be some winners and some losers. [LB407]

SENATOR CARLSON: One minute. [LB407]

SPEAKER ADAMS: There always has been. But I ask you to do this, besides listen, keep the debate civil; be of an inquiring mind because you know how important this is to the 249 school districts in our state that do not all look alike; and to the budget. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Adams. Those still wishing to speak include: Kolowski, Davis, Avery, Gloor, Lautenbaugh, and others. Senator Kolowski, you're recognized. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. President. Good morning, fellow senators. I stand in opposition to both AM1044 and AM1018 and LB407 as written. And I think it's an important piece to look at the premises that...starting points, I'm sorry, that Senator Sullivan had mentioned, as far as objectives for improvement of the state aid formula as she outlined those to our committee at the very beginning. Equity, equitable, but not identical educational opportunities and tax burdens. Sustainability for the short and long term. Predictability for both the state and the school districts. And fourth, simplicity to

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avoid unnecessary complexity. All four very noble, very important steps to take to assist us in the TEEOSA formula evaluation and decision making that we have before us. But they're also very complicated in the sense that they're...they, at times go against one another and trip over one another as you're looking at the various issues in a complex issue such as TEEOSA. You have a sheet that's been delivered to your table location with a graph on it that has a red line going up and a blue line going down. A number of us will be referring back to this sheet throughout this day as we look at the whole question of our TEEOSA funding and the formulas and the amendments and the motion before us. We have a number of things we're going to be bringing up over time, some of us will be bringing up, and they all revolve around this statement at the top of that page. The amendments close the educational funding gap between Nebraska's school districts; between districts with sufficient local resources and lower needs and those with insufficient local resources and higher needs. We'll come back to that time and time again because of the gap you see on that map...on that graph, excuse me, is indicative of what's been taking place and will be accelerated by the motions that we have before us at this time. In preparation for this TEEOSA discussion, I went back to a number of items that were extremely important in some of my decision making and have played a role in my understanding of TEEOSA over the last four years. And I speak from that perspective because of the work with the Learning Community in the last four years with Senator Chambers as we were both members of that body. And we were reporting to Senator Adams, the Education Committee over those first four years. And the impact of TEEOSA did impact our metro area districts, all 11 of them, in Douglas and Sarpy County and therefore impacted some of the things we were doing in the Learning Community. The interpretation of the information that I looked at ranged from Dr. Mike Dulaney's Ph.D. dissertation on TEEOSA, as well as the summer transcripts from the meetings that were held at four locations across the state with the interim study impact. [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR KOLOWSKI: I will come back to the issues that I found in both the dissertation as I went through what Dr. Dulaney had talked about. And also some of the interpretations from the statements made by a number of school officials, as well as public members throughout their summer journeys to the four locations for the interim study impact. One of the things I want to leave with before I come back to the mike at a later time, is where Mr. Scheer was coming...Senator Scheer was coming from with the idea of policy and policymakers versus practitioners, I want to add that. I'll have a number of examples from the aspect of being a practitioner with my own 41-year career in public education and some examples and samples of impact. [LB407]

SENATOR CARLSON: Time. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. President. [LB407]

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SENATOR CARLSON: Thank you, Senator Kolowski. (Visitors introduced.) Returning to debate, Senator Davis, you're recognized. [LB407]

SENATOR DAVIS: Thank you, Mr. President and members of the body. I rise in support of Senator Sullivan and the committee amendments. I want to say that the committee worked extremely hard on this, took lots of testimony, debated the issues, debated the issues, and Senator Sullivan has done a diligent effort in trying to work through the problems that seem to have developed with the formula. But I got up to speak to the body because I wanted to talk a little bit about my particular district. You know I represent about 6.5 percent of all the school districts in this state, 5,713 students, so just barely enough students for one of our larger districts. We all have particular problems all across the state in how we educate our children. Our rural districts, and if you look at some of the handouts, you'll find on page...on the first page it lists many of the smaller districts and a lot of those are my districts. And they work awfully hard at providing a good education for their students. They have all kinds of enrichment programs, all kinds of staff development; but the fact is that small districts are simply going to have high costs because they have few students. And as long as rural Nebraska is declining in population, we're going to continue to see the smaller district costs increase because there is just simply no way around it. If you're going to meet Rule 10, you have obligations you have to offer to your students and those are going to add costs. I believe that Senator Sullivan passed out a chart which is LB407 with the committee amendment and AM1044 as the lead title to that document. And I just would like to kind of go through that a little bit with you because I know where some of this discussion is going to go which is these districts out in rural Nebraska are getting off easy because they have those low levies. I'm going to tell you there isn't one district out there that wouldn't love to be able to offer another foreign language class or another science program because a lot of these districts will have one English teacher who teaches English from 7 through 12, so that's six periods a day that's all that she's going to be able to do. They can't do anything else. But this document that was handed out talks about levies of schools below 95 cents and then talks about the student numbers in the second portion of that. And if you look at that, you'll see that about 24 percent of the district have levies below 95 cents. They represent 6 percent of the students and they got an increase of \$375,000 in aid; primarily because of the teacher education allowance which was offered to them as a policy decision on the part of the Education Committee. You heard Senator Scheer talk earlier about the teacher education allowance. I support it because I think if we're going to say to districts, you need to encourage people to have masters degrees in your school, then the body has an obligation to make that available to every district in the state and not just say we're going to allow that for equalized districts, but you nonequalized districts you're on your own. If we're going to get into policy, let's get into policy for everybody in the state. But if you go across that chart and you look at what's happened with state aid and you go down to the levies of a dollar or more and you'll see of the increase, \$58 million of the

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revenue is going towards those districts. And yet we still have people complaining that they're not getting enough. Drop down to the lower part of that chart and you'll see less than 900 students, 84 percent of the districts, 24 percent of the students and they took \$1,696,000 hit. Drop up to the 5,000 or more students and you see it's a \$50,466,000 kick-up. Twenty million dollars goes to Omaha; Lincoln gets a 20 percent increase; and they're not happy with this formula. [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR DAVIS: I do think the formula needs to be reevaluated. I'd love to see it restudied and I think we need to take that on as a body. But Senator Sullivan and the committee have worked extremely hard on this; it's really incumbent upon the body to look at the work that we've done and take it seriously, folks. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Davis. Senator Avery, you're recognized. [LB407]

SENATOR AVERY: Thank you, Mr. President, Good morning, colleagues. I have been on the Education Committee now in my seventh year. And for the most part I can say that it's been rewarding. But this year we have had the most difficult time I have witnessed in reaching consensus over the TEEOSA bill. And I find that...I think that's unfortunate, but it is true, it is a reality of life. We worked hard, as many in here have testified to. We worked hard to make compromise, but all compromises were rejected. You will hear today that the largest school districts need more money and LB407 doesn't provide enough. There is only one part of this that is true and it is the first part, they need more money. But so do the rest of K-12 schools in our state. They all need more money. We try as best we can in this bill, LB407, to provide as much money as we can and as fairly as we can. The TEEOSA formula is based first on fairness. And that is something we must never forget. The challenge however is the second part and that is to do this within the current budgetary constraints and to spread the money around as fairly as we can. LB407 with the committee amendment and with AM1044 will cost us a little bit more than we anticipated when we first started this enterprise. It will be somewhere around, I think, \$921 million. This is an amount the Appropriations Committee has determined to be affordable and compatible with other commitments and priorities that we have in this Legislature. The argument that the largest schools are somehow being treated unfairly in LB407 is simply not true and I part company with my own school district here. You have a handout, I will call your attention to it, it is on paper about the size of a legal sheet of notepaper and it shows data on nine or ten...nine schools that are the largest schools in the state. The top nine districts that have 5,000 students or more in student enrollment...it's interesting, look at the first column there at the bottom, this shows that these top nine districts comprise 52 percent of the students in all schools. Look in the second column at the bottom. They comprise 48 percent...a little over 48 percent of the formula needs. In 2012 and 2013, they received 58 percent

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of all the aid, this is 48 percent of students, 58 percent of the aid. Work your way over to column six, this is the 2013-2014 state aid total with LB407 and it's amendments included. [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR AVERY: You'll see there that the...these schools receive nearly 60 percent of the increases in aid. You go on over to the tenth column and you'll see that the percent change in aid shows that these schools receive 11.39 percent of the change in aid. That does not sound to me like school districts that are being mistreated. My question is, is this not enough? If not, how much is enough? I'm afraid we're being manipulated by the lobby on this issue. Large districts with the means to hire lobbyists are using their greater resources to try to muscle this body into adopting legislation that will give them more aid at the expense of the smaller rural schools. [LB407]

SENATOR CARLSON: Time. [LB407]

SENATOR AVERY: Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Avery. Senator Gloor, you're recognized. [LB407]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. I also rise in opposition to AM1044 and AM1018, but am very appreciative, as I'm sure everybody will relate, for the difficult effort put in by the committee, Senator Sullivan and others to try and work there through what is, obviously, a serious problem. But as we start playing around with percentages, winners, losers, apparently; we had a difficult discussion last year...last week on Medicaid and during that discussion I don't think anybody said: and what percentage of the Medicaid dollar gets spent in certain metropolitan areas versus rural areas? I would tell you that if you looked at those percentages, I think you would be surprised to find that there's a disproportionate amount of that money spent in some of the more urban areas of the state because that's where a lot of the providers are, that's where people go to seek services. How about roads? And where does the tax dollar that we allocate here go for roads? Probably a disproportionate share goes to where the largest number of people are, and so it goes with where tax dollars go. There's an inevitability here that we're going to talk about: where people live and where the tax dollars go. The issue is ultimately one of fairness and whether the formula and the changes proposed in the amendments, the committee amendments, reaches some degree of fairness. My family, direct family members, extended family members have been involved in education for a number of years and I hear the stories at family gatherings. I especially hear the stories as relates to within my community of Grand Island: how many times the police have been called to schools; how many times my sister-in-law, a principal, has to literally put herself on top of children to protect the child

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and other children. And so that's in the back of my mind, obviously, as I weigh the decisions we're making. I'm also well aware of the changes that have happened in my community, Grand Island. I had a bill during consent agenda, and as we whipped through those I'm sure no one remembers, last week in consent agenda, that had to do with the fact that Grand Island is now a metropolitan area. It's reached the 50,000-plus mark. A good thing for that community, but that growth has come from a lot of business and industry that's ag-related: manufacturing, meat processing. And it brings a flavor to the community that has its own challenges, obviously, with the work force that affect health and education and public safety. And that's the price the community pays for its growth and jobs that people from surrounding rural communities also benefit in; but perhaps they don't benefit in the social service challenges that the community faces. And so we're again back to the issue of fairness and equalization. Grand Island is a high-needs community. It has limited resources. It has low resources as the formula spells out. To me the heart of the fairness in our current formula is the averaging adjustment. And I've had four years to listen to these discussions and debates, this year to especially get involved; and to me the averaging adjustment... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR GLOOR: ...is the ultimate in equalization. I have an amendment. The amendment--AM1060, I believe--hopefully will be heard later today or tomorrow. It eliminates the two-year wait. It puts back in the staircase that's been eliminated with what's been currently proposed and gets us to a point where I think we address the inherent fairness that's supposed to be part of what we call equalization, and I ask for people to keep that in mind. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Gloor. Senators wishing to speak include Hansen, Conrad, Seiler, Christensen, Ken Haar, and others. Senator Hansen, you're recognized. [LB407]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. What Senator Gloor was talking about at the end of his five minutes about we're trying to find some fairness and equity in the TEEOSA formula/model, I don't think it's there. I don't think it's intended to be there. If you look at our constitution, it says every child shall...is...I don't know. You know, every child is supposed to have an equal education. It doesn't say anything about equal funding, and that's where we find ourselves again this year. It seems like this year we have a few more sheets of paper, a few more handouts. And I was talking to Senator Haar here about some of his, and he told me where he got them and I believe it. I don't think there's any discussion, any argument on the source and the accuracy of the numbers that we're talking about. When Senator Sullivan was opening and she was talking about in the original bill that they were going to take away the teacher education portion, I thought that was good, at least for my district, because my district, Lincoln County--we have six schools--North Platte is the

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largest one. It's still a Class A school, just barely on the bubble. But we're the only Class A school that's at least 100 miles away from a four-year college. And prior to the technology that we do have now finally, thank goodness, it was a very expensive proposition to drive to Kearney for a class or two classes or spend the day down there and drive back and do that three times a day. Extremely expensive. And we always ranked very low in teacher education and I think that was probably why that happened. We do have an increasing, enlarging the number of the nonequalized schools, and that does bother me. But I do understand, after seven years, the model and the formula on why that is. Just to give you an idea of schools in my district--I only have six of them: North Platte has 4,053 members that are at \$1.02, and their average cost per student is \$7,500. Compare that with Wallace, which is about 40 miles away in a very huge district, very rural district, they have 195 students, and they're nonequalized and their tax levy is .65. Have a lot of valuation from a lot of the comparable sales that's gone around this year. Their cost per student is \$14,000. So the handouts that we have so far and I'm sure there's more to come--and I appreciate the handouts. I wish there was a little better way to organize them because we don't know which one is going where, but the one Senator Avery was referencing, North Platte would be right in there. They're not on the list but they're right there, probably the next one. So the variety of districts...and then Senator Davis spoke about the number of districts in his legislative district--and there's a lot of them up there--and the cost per pupil is high. The people say, you know, we want these small schools, we want them...you know, some of them consolidated over the years. We're down to 249. It started out not too many years ago there was almost 600, so we're doing what we need to do. But the distance traveled...and the distance traveled is certainly a part of it. We don't want kids on a bus from 7:30 till 9:00, when school starts, and it's not good. The difference between--going back to my little example of Lincoln County, North Platte versus Wallace--we don't have people coming out of Kearney, we don't have people coming out of the university... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR HANSEN: Thank you. We don't have people coming out of the University of Nebraska coming to North Platte for interviews. What do you suppose it's like in Wallace and Sutherland? They pay those teachers a higher starting salary than North Platte does, just to entice them to come to Wallace; and that raises their cost per pupil, for sure. A lot of things in this formula that we look at every year, and I appreciate the Education Committee coming up with these two amendments. I think I agree with them right now. I've talked to several members that said they've got amendments coming to fix them, but I think they're pretty adequate right now. So I will watch and listen the rest of the day, and thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Hansen. Senator Conrad, you're recognized. [LB407]

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SENATOR CONRAD: Thank you. Good morning, colleagues. Happy Monday to you all. I rise in opposition to the pending amendments and the underlying legislation, and let me tell you why. I have had an opportunity to listen very carefully to members' divergent viewpoints on this important topic as we begin our...on these important topics as we begin our debate this morning, and I think that they are indeed legitimate and defensible perspectives. But let me tell you about where my opposition stems from. Senator Scheer, who is a new, energetic, and very thoughtful and bright member of this body, I disagree with the basic premise. You can't divorce equity from policy. And that's what troubles me about this debate because what it really boils down to is fairness. And it's not fairness, district to district, political subdivision to political subdivision, which in essence, of course, is important but an artificial creation. You have to keep the focus on the kids and keep the money following the kids. And that's something that I think is missing from LB407 and the pending amendments, even though they are good faith attempts to continually strive towards consensus and compromise, which I praise Senator Sullivan and members of the Education Committee for working on. But let me talk to you just a little bit about a couple other points that I think haven't been adequately addressed thus far. It's been noted that we can't do everything through TEEOSA. Well, I don't disagree with that statement. We don't do everything through TEEOSA. When it comes to different types of educational funding and support and resource questions, of course, TEEOSA is a driving factor in that regard. But we also have a variety of other pots of money, so to speak, or revenue streams that impact educational opportunity and equity as well, whether that's through apportionment dollars and special ed and high ability learners, whether that's through the proceeds that flow through insurance premiums, or the monies that come through the Educational Lands and Funds, again which don't have some of the same outcomes when it comes to this question of equalized or nonequalized districts but really keeps again the focus on ensuring the money follows the kids. And I think that that's really what's missing from this debate. Let me tell you just a little bit about our local experience from the Lincoln Public Schools. We've seen an increase of about 2,700 students. Just to put that in context, that's approximately the size of the entire Ralston Public School district. We've also had to recently open a middle school in 2010 and a new elementary school in 2012. We've seen our percentage of students in poverty increase to about 44 percent of the overall student body. We also see significant increases in the number of students who are immigrants and refugees because Lincoln is a refugee resettlement area. So it's not to complain or bemoan these underlying statistics, but it's to point out that they should be accounted for in an appropriate manner when we take up this debate because those local considerations are important and are reflected in various accounting mechanisms within the TEEOSA formula. And I think it's also important that we not divorce this discussion from equity and policy but really keep the focus on both of those. We can't divorce this discussion from recent history in regards to state funding and TEEOSA. Not all school districts have received significant increases in state aid over the past several years. For example, as LPS has continued to see significant increases in student enrollment, we received a 20 percent loss in state aid just in the 2011 and 2012 cycle,...

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[LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR CONRAD: Thank you, Mr. President...which I think members will remember I argued very strenuously against. So it's not just about Lincoln Public Schools though. It's about all districts, large and small, and ensuring that these dollars really follow the kids and that we keep our focus there, because that should be at the heart of this formula and at the heart of this policy debate. I promised Senator Haar I'd give him some time but I'm taking too much myself; so with that, Senator Haar, if you'd like a few seconds. Otherwise, thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Haar, 25 seconds. [LB407]

SENATOR HAAR: Mr. President and members of the body, I refer you to the three-pie colored chart that I handed out. And when I talk, I want to talk about this. It's really important to understand where Nebraska's school funding comes from, that all schools get state aid and all schools get some TEEOSA funding. Thank you very much. [LB407]

SENATOR CARLSON: Thank you, Senator Haar. Senator Seiler, you're recognized. [LB407]

SENATOR SEILER: Thank you, Mr. President. Members and colleagues, good morning. I'd like to visit with you just a little bit about not so much school bills that you have before you but a factor that runs through the entire part of this TEEOSA funding, and that's valuations. It's the skeleton that can cause large problems. The Speaker touched on it in his talk to you this morning, but let me expand on that. First of all, the valuations are made up for the communities, the homes, and the commercial by 93 separate assessors. For real estate, they are assessed by the state of Nebraska. The farm ground explosion does not show on all of your documents that you're being shown. It shows about a 9...or a 2-3 percent increase. I will tell you that isn't even close. That's how...they're closer to a 25 percent increase in farm ground. That's going to have a direct relation to this in the future because fewer and fewer of the districts will be nonequalized. We've got 114 nonequalized now, most of them rural, out of the 249 districts. We need to take a look at that. We need to make sure that that equalization is also equalized in the assessing and evaluation of this land and of the...both for houses and for rural. But guess what? Everyone in here would vote for a TIF program to tear down a \$2,000 building and put up a \$10 million commercial building; isn't that correct? Everybody would be in favor of that for your district. Every time a TIF program goes into your district, it hurts your school districts, because it freezes in the values at the time of the sale and it holds it there for a considerable length of time. If it took the \$10 million and put it in there, you'd be in great shape. That's not what's happening across the state in the larger cities, in the ten cities being listed. I would venture to guess they're all using

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TIF. It hurts us. It hurts the schools because of the assessing and the local needs and the local LER. So we've got to be able to be able to equalize that out. It's something we need to take a look at. When you talk about losers, my district has Wood River. Wood River had 530 students, formula students of 530.63. It's going to take a \$247,394.65 loss. Loss. That's \$466.21 per student in that school system they're going to lose next period. And yet, I get a letter from Cynthia Huff, superintendent of Wood River Schools, telling me to vote for LB407, AM1018. Think about that. They're going to take the biggest loss here. I think Al Davis has a school that's very comparable in his district, but I believe we nosed him out on total. [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR SEILER: Thank you, Mr. President. So these are the things that are not shown on here today but have direct effect, and we need to take that into consideration. But remember, land went up from 1979 to 1983 and then crashed, and who's to say it won't happen again? Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Seiler. Senator Christensen, you're recognized. [LB407]

SENATOR CHRISTENSEN: Thank you, Mr. President. I think Senator Adams said it very, very good: Everybody is looking at winners and losers. And I really wonder how many senators that are voting here really know what they're voting for or are they going by what an administrator told them, what a lobbyist told them, or what them sheets say. And that's the difficult part that we have here is sometimes you don't understand, and so you take up and vote according to someone that you trust. I want to explain a little bit what I don't think falls into this formula. And rural schools do have a high cost per student, but many of my districts...I have ten counties, I have 16 school districts. But when you start looking at them, I have...many of them only have one school. I have kindergartners getting on a school bus at 6:00 a.m. for an 8:00 start. They get out of school at 3:10; they get home at 5:10. I've heard senators say we need to even that cost out. Do you want to put my kindergartners on a school...for two hours, three hours, four hours? This Legislature took away the ability to have rural schools, out in the country schools. That's where our kindergartners used to go and the primary grades: one-room schoolhouses and things. This Legislature took that away. Why? In the name of efficiency, in the name of saving dollars. But now look what we do to the kids. I've heard a number of senators talk about we've got to have fairness to kids. I ask you, what's fair to my kindergartners that get on the bus two hours before school starts and ride that bus for two hours afterwards? I don't know what Senator Davis' district is like, but I'll bet it's worse than that. I have families in Imperial that own two homes: a home in Imperial and a home out in the country. And during school they live in town, during the summer they live in the country. We've had to learn to adapt and change. But do you realize what you're doing when you senators get up and say we've got to even that cost out? If

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you're going to do that, we're not going to have any schools west of McCook on the bottom end. We're not going to have any schools south of Ogallala, and we're going to truck them kids a long ways. You know, there is a reason why it costs more out there. There's a reason why it's been done like this. I just want you to think about what the rural schools have to deal with also. We don't like having a declining population. We don't like having less kids and higher costs per kid. But what are we going to do? If we was to get down to the Omaha numbers, the statewide numbers, we'd have to...we would have places... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR CHRISTENSEN: Thank you, Mr. President...we would have areas that we would drive out of your county, skip the next county to get to a school. I don't care if you went north out of Dundy County, you go to McCook, it's more than two counties over; you go north to Ogallala, you're more than two...you're skipping two counties. I mean, think about what you would be doing. That's why it is this way. We are a vast state, very diverse, and I want you to think about the whole aspect of this state. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Christensen. Senator Ken Haar, you're recognized. [LB407]

SENATOR HAAR: Mr. President and members of the body, I'd like to go back to the three-pie chart for a minute, because we're going to have to understand some of the...we're going to have to get down in the weeds a little bit. Nebraska funding is...start at what I call Level 1. And this shows you about 49 percent of all school funding comes from local property tax; 34 percent is state funds, and that's income and sales tax; federal funds are probably less than 14 percent in the coming year. This was somewhat because of the ARRA money that we got in...for 2012. So this gives you an idea where the money comes from for public school funding in the state. The next Level 2 shows that about 72 percent of the state funds--and again remember, the state funds comes from sales and incomes tax--about 72 percent of the state funding is through TEEOSA; 16 percent is special education, which everybody gets no matter what; property tax credits are something everybody gets no matter what; school lands are divided up. The rental from school lands are divided up on a per-pupil basis. It doesn't matter whether the school is equalized or not. And then there is some other money there. And then if you get down to what I call the third level, TEEOSA: Even at this level everybody gets some TEEOSA money. But the majority of that, 90 percent of it is equalization; and 6 percent is net option. This is when students go to a physically different district and schools get money back for that, the kids coming in from another location. Income tax rebate, which has been part of TEEOSA for some time--every school district gets some income tax rebate; and then retirement aid. So the items you see under TEEOSA, the four items, every school gets that. And some of the things we're going to talk about over the next hours talk about going...things that would go from Level 3 to Level 2; things that

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depend on TEEOSA going to everybody getting it as state aid. We'll come back to that. But I found these graphs very helpful in trying to understand where the money goes. I want to go back for a minute. My cell...I was going to say cellmate; but it's my seatmate, Senator Hansen, asked me where the numbers come from. All the numbers on my sheet, called "Districts by the Numbers," come from the model that NDE, the Nebraska Department of Education, ran. And all the data is in those 8 x 14 sheets that were handed out, all the data comes from that. So I've put...you know, manipulated data in certain ways from the spreadsheet, taking parts. But all this data is directly from the Nebraska Department of Education model. And these numbers really shouldn't change regardless of where the models that we've finally come up with, because these are about number of students and so on and so forth. And I think Senator...the Speaker Senator Adams made a great point, and other people are making the point, that school districts don't look... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR HAAR: Thank you...school districts don't look alike in Nebraska, and we're senators for the whole state of Nebraska, but there is such a difference in the school districts across the state. I would like to say real briefly that I wasn't at the summer sessions. I did read all the transcripts. I've talked to many superintendents. And you'll see later on that in the model that's going to be proposed by what I call a coalition of 12 school districts and the NSEA, that actually in that model the big schools will get less per formula student because of a policy decision on averaging adjustment, and that will come out in the next day or so. Thank you very much. [LB407]

SENATOR CARLSON: Thank you, Senator Haar. Senator Harms, you're recognized. [LB407]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM1044 and AM1018, as well as the underlying bill LB407. I have listened to debates like this in the short period of time that I've been here, and what I want to say to you is that when we look at rural Nebraska and we're talking about the cost, colleagues, this is going to continue to go higher and as a break point of profit where it no longer is inefficient at a certain number of students; and I know what that is in higher education but I'm not sure what it is in the public schools. So I know that that cost factor is going to continue to go up in our rural schools. But what I want to tell you today is that I think this...the discussion we have now begs the question of what are we going to do in the future with our rural school system? Because what we're talking about today and what we're arguing about and what we're debating about is where the money goes. Knowing of that, we have no plan, no decision has been made on what type of educational system are we going to put in rural Nebraska to start to address the issues. If we don't start to do this, the next time, colleagues, you go through this, it will be worse. It will be less friendly. I think it is time for this body to start to address the issue beyond the

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funding formula. What type of system do we want to put together that provides equal access to quality education for our rural schools? That's the issue. And this formula is going to continue to be argued until we are willing to answer that particular question. It's time that we put it aside and deal with the issue. I have spoken on this issue in several other committees over the years that I've been here. It just falls on deaf ears. Now we have larger urban public schools who want a greater percentage of the money. We have rural schools who are saying, you know what, the only thing we're asking for is to have an opportunity to get appropriate education so that we can lead and be competitive in college or prepare us so that at least we have an opportunity for a good job. Now let me ask you this, colleagues: Is this too much to ask? Is this too much to ask in a rural America that our children should have the same equal access; Should at least have the same opportunities to have quality education? For me that's what this is about. It's about equalizing this out, about setting the stages and starting to build the foundation to address education overall in this state. I would have to tell you that this funding formula is very complex. I spent the weekend reading this and studying it, and I have to say it's not the best reading in the world. It's complex. There's a lot of wheels that move. I think it ought to be simplified. I think we ought to try to find a way to do this. I support what the committee has done. I think they have done a great job with this. Don't get lost into all of these issues about who should... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR HARMS: Thank you, Mr. President...of who should get more money or not. We are state senators. We have to make sure that we provide equal access to education wherever our children are, whatever schools they're in. But again, I will tell you it begs the question, even deeper and larger than this, is what are we going to do with the schools in rural American, in rural Nebraska? That's the issue. And we've got to start to address that or I will guarantee you--I won't be here--but boy, the next time you have this discussion it'll be worse. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Harms. Mr. Clerk, any announcements or items for the record? [LB407]

ASSISTANT CLERK: Mr. President, I have a priority motion. Speaker Adams would move to recess until 1:30 p.m.

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. We are recessed until 1:30 p.m.

RECESS

PRESIDENT HEIDEMANN PRESIDING

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PRESIDENT HEIDEMANN: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I have nothing at this time, Mr. President.

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda. Mr. Clerk.

CLERK: Mr. President, when the Legislature recessed, pending was LB407. Senator Sullivan opened on her bill. Committee amendments were presented and there was left pending AM1044 as an amendment to the committee amendments. (Legislative Journal page 1010.) [LB407]

PRESIDENT HEIDEMANN: Would Senator Sullivan like to refresh us on LB407 and the pending amendments. [LB407]

SENATOR SULLIVAN: Thank you, Mr. President. Well, of course, LB407 is the state aid bill. It attempts to build growth into the spending and budgets of school districts, specifically with respect to AM1018. If you recall in LB407, the basic allowable growth rate was increased to 1.5 percent. With this amendment it increases to 2 percent for 2013-14. It also changes the local effort rate from the \$1.03 as proposed in the original LB407 to \$1.025 in the year 2014-15. What this says to the bottom dollar amount, in LB407, it was to be \$905 million the first year; but under this amendment total aid would increase to \$917 million for the first year, and the second year would be \$940 million, for a two-year average of 4.9 percent. Thank you, Mr. President. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. In the queue we have Senator Hadley, Wallman, Johnson, Scheer, Krist, Coash, Kolowski, Gloor, Davis, Seiler, and others. Senator Hadley, you are recognized. [LB407]

SENATOR HADLEY: Mr. President and members of the body, I just wrote down some notes as people were talking. First of all, again I appreciate the civil tone that we're dealing with because this is an issue that it's hard to get your hands around and it's important that people get a good understanding of it. I mentioned, I think it was Senator Mello talking about cooler heads working on this. I can't tell you whether it was the first year or the second year I was here, I remember that there was actually a filibuster of the TEEOSA bill. Those of you that have been around awhile remember that, and there

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were certainly not cooler heads in that, and those people that were here should know that the TEEOSA bill was actually filibustered that year and could not bring cloture on it, and it was a very disconcerting scene; and basically we had to go back and rerun the formula and it wasn't a pretty scene. I don't see that happening here. I see this, us having a discussion and reaching hopefully some agreement on these kinds of things. The second thing is winners and losers. I just...that's such a hard term. You want a system that is...try to be as fair as it is. And I will be honest, in the last few years we have had systems with winners and losers. And while we may not look at it, our districts certainly do look at it. The idea of need more money? I think the increase in TEEOSA this year is quite sufficient. The last thing I'll say again is this is not an effort to get more money in TEEOSA; it is the allocation. With that, I will turn my remaining time over to Senator Ken Haar. [LB407]

PRESIDENT HEIDEMANN: Senator Haar, 3 minutes 5 seconds. [LB407]

SENATOR HAAR: Thank you, Senator Hadley. And for someone who talks about getting their hands around something, I know he finds that difficult right now with his arm in a sling. First of all, I want to repeat what has been said a number of times: This is not personal. And I hope it isn't. There are obviously some differences of opinion with certain members of the Education Committee, and then we have to do our best. That's what I worked so hard for to come back here. Again just to reiterate real quickly, the three pie charts showing that about 49 percent of the local property tax...I'm sorry, 49 percent of Nebraska school funding comes from local property tax. Everybody gets state funds and everybody gets at least some TEEOSA, although most of TEEOSA is equalization funding. Then I want to go to something I handed out saying "Basic Funding Defined." And I know that, you know, we don't want to get too deep into the weeds here, but we're going to use some of these terms throughout the debate, so I think you need to know this. At the top of this sheet it says, "TEEOSA-Tax Equity and Educational Opportunities Support Act." And then there's the really important formula that we run upon all the time: Calculated needs minus calculated resources equals equalization aid. The needs for every school district are calculated. The resources for every school are calculated. And then when you take needs minus resources, if that's a positive number, you get equalization aid. So you've got to know that. Everybody gets needs calculated, everybody gets resources calculated, and then that's the equalization aid, the difference. [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR HAAR: Thank you. And what's important here, it's hard to separate out the calculated needs from the calculated resources. But in our discussions over TEEOSA, we're going to be talking about those; and it does pay to try to sort of keep those in mind, the difference between needs and resources, and I'll take up with that my next time at the mike. Thank you. [LB407]

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PRESIDENT HEIDEMANN: Thank you, Senator Haar and Senator Hadley. Senator Wallman, you are recognized. [LB407]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Good afternoon, everybody. And I think we probably knew we had to balance the budget on students or healthcare. It always seems to work that way. And we cut income tax last year knowing that we might be short on income. Why do we do these things? Taxpayers want tax cuts. We just shift the taxes over to the property tax owners. And I think a lot of us knew that but we still voted the way we did. But we have to start paying attention to what we're doing in here. We can't keep shifting taxes around. Winners and losers. It should be everybody should be dissatisfied maybe a little bit, but if we don't fully fund we always adjust the formula down so it works for a certain dollar amount. Does it make sense? Rural America is going to have a rude awakening pretty soon with the huge land value increases when the tax bill comes due. I mean, then I think you're going to see some activity in here and you're going to see farmers and ranchers and small business owners come in here and say, hey, what are you guys doing? State aid to schools is set up to fund more than it does but we choose not to do it because we pick out a certain number and make the numbers fit that. And why do we do this? It's a political thing. It's easier to do. But we have to wake up sometime. There has to be a study on school funding. Rural people have stepped up to the plate and paid more than their share, I honestly, honestly feel. And my ancestors, they gave some land to the school district so they could build a school, so I am not against public schools. But when we fund all these things, other things, and then take money away from school and we give tax increment financing; and that takes cash, takes cash out of your school districts, folks. And then if it fails, that's even worse. So let's pay attention here what we're doing. And I'm going to listen very carefully. Thank you, Mr. President. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Wallman. Senator Johnson, you are recognized. [LB407]

SENATOR JOHNSON: Thank you, Mr. President and colleagues. Today is truly an education day talking about education, but also an education for me to try and better understand state aid funding, TEEOSA, and all the implications of what happens when we tweak those changes. And I have enjoyed listening to the speakers and I kind of started out with Senator Hadley on some of his comments and then Senator Adams' comments, Seiler, and Harms. And I'll go just a little bit further on some of the comments that they've made. It seems like when we look at state aid, we go to the...if you look at a P&L statement, you go to the bottom line and see what the effect is. And the charts and things that we've shown, it goes to the right and it ends up there with the property mill levy, and we try to look at that to see what everybody is paying as far as a mill levy. And I think that's totally wrong, especially what's been happening recently with the changes in property values. We are going to have a study, LB613 of our property

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tax...or our tax structure, our codes. I'm sure that property tax will be looked at and scrutinized as much as any of the others. But when we get through with that study, I think we also need to incorporate the study of looking at state aid for education and not make that as big of a factor as it does because of the fluctuation. We've also seen, of course, the property values in the rural areas multiply, almost. Inside the cities, villages, we've not seen the changes, so I don't think they're at risk as much. But I do believe that we are going to have somewhat of a break of the bubble in our land values and that is going to decline, and then we're going to have bigger problems than we have out there now. I looked at scanning through one of the sheets that came out and just happened to notice the Rising City-Shelby school district. Rising City is in my legislative district. And the one right below it is Perkins County, which is in Senator Christensen's area. That's of interest to me because I have family living out there and a student in school. And, of course, they are right next to each other because of the number of students. Then I look at the next columns and then I look over at the mill levies and \$1.00 versus almost 60 cents. And the territory--I know a little bit about both districts--the territory, the square mileage of the Shelby-Rising City district is a lot more compact and not as many acres involved in that tax valuation. When you look at Perkins County, basically having the same amount of students and far more acres involved, and thus the valuation of each acre is less, and so the mill levy is less. They've got more acres to spread that over. So there's not two school districts alike. I'm not trying to make this a rural and big school, but that's basically what it is. And I think we need to...my points are I think we need to look at the formula, start all over somehow, and to take into consideration the results of the study that we will have with LB613 and property tax and how much of that should be a factor in our new state aid formula. Thank you. [LB407 LB613]

PRESIDENT HEIDEMANN: Thank you, Senator Johnson. Senator Scheer, you are recognized. [LB407]

SENATOR SCHEER: Thank you, Mr. President; and welcome back, this afternoon, to my colleagues. I wanted to talk just a few things that I think perhaps some of us in our conversation are forgetting. We talk about this vast large amount of resources that rural districts are not utilizing. Well, let's remember every school district in the state of Nebraska has an expenditure limitation. They have lids. So even if they are at 40 or 50 or 60 cents on a mill levy, they can't just spend up to a \$1 or \$1.05. We've placed budget limitations on them. They cannot go up that fast. So their budgets are able to live within the restraints because of population valuation growth, but they still...every district in the state has both an expenditure and a receipt budget limitation. Everybody is living by that. So let's not forget that just because somebody has resources doesn't necessarily mean they have access to them. I wanted to respond a little bit to what was said about Lincoln Public Schools, and there's been a great amount of this gap between rural costs per student and metropolitan. Well, under the current proposal, LPS state aid would go up to approximately \$89 million. Five years ago it was \$46 million. Now I was not a math major, but if I divide \$43 million by 2,700 students, it comes up to almost

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\$16,000 per student of additional aid. I think that should more than cover the costs of those students in LPS. Also there was a point about that I didn't realize what I was talking about as far as policy in that equity is policy. I agree. How much equity we produce is a policy decision. But my point was not about the equity but it was about the things above basic education, those being pre-K education, teacher ed allowance, additional school days, or class size allowances. If those are important enough to fund, then it should be important enough to fund it for all districts not just those receiving the equalization. And Senator Haar, in one of his graphs, talked about, in his Level 3, TEEOSA in 2012, that that was where all schools got money from those categories. And I'm not trying to nitpick but I just want to make sure that people understand not every district gets money in all four of those areas. We're talking about equalization for the most part today. That's the unequalized part and that will be 120 school districts next year that will not receive equalization aid. Most of those districts will not get a net option enrollment money. They are very sparse. In rural areas they aren't going to drive any farther than they already are. You heard Senator Christensen talk about people being on a bus for two hours. They're not going to be driving in their own vehicle for three hours just to option in to another existing district that's in their proximity. Most of your net option aid, almost exclusively, goes to your largest probably 20 school districts. There are probably a few that are a little lower than that, but for the most part districts do not share in that funding. So what it really amounts to, that we can safely say everyone participates in, is the income tax rebate and the retirement aid. And the retirement aid was placed there because the Legislature decided they were going to have the local districts put more money in the teachers retirement program. [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR SCHEER: And because those districts were locked, they gave them the additional dollars to put those into the retirement portion for the state-funded program. This is about equity and it is about policy. It's about resources. But just because somebody has valuation does not make it available to them. And when we talk about ag values, I want you folks from the metropolitan area if your homes had tripled in value and your taxes went up as much as the farm ground has and the ranch ground in rural Nebraska, you don't think we'd have a revolt on our hands on this floor because your taxes have gone up? I'm not asking for sympathy but I want you to realize that's the difference. Your home values, because of the current economic conditions, have not gone up. Farm and ranch ground has, and they are continuing to pay more and more dollars each and every year. [LB407]

PRESIDENT HEIDEMANN: Time. [LB407]

SENATOR SCHEER: So let's think about that. Thank you, Mr. President. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Scheer. Senator Krist, you are up next

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and recognized. [LB407]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues, and good afternoon, Nebraska. I don't intend to speak very many times on the bill itself or the amendments that are up, until we get to my amendment. If you want a preview and be prepared to talk to me about it, it's AM1041. AM1041 very simply is an amendment that I offered two years ago and received 22 votes without really trying to persuade anybody to look at it. To be honest, what it does is exactly the point of Senator Johnson, and in some ways, Senator Scheer's comment. It is a common levy. If you don't spend a dollar then you don't get any aid from the state of Nebraska for your school district. Any. There isn't one school in this state that doesn't receive some kind of aid from the state of Nebraska. Even the schools, as I will hand out, a sheet that shows a levy at 42 cents. Now the formula is supposed to equalize everything out, but let me give you my analogy after having sat with for a few minutes talking to Senator Raikes and having the privilege of talking to him about his perspective. You have a seesaw, and you have somebody the size of Senator Kolowski and someone the size of Senator Sullivan, and they're on opposite seats. In order to make that seesaw level, you have to put weights at different points on the seesaw to keep them on the same track. That's a pretty simple analogy. That's what TEEOSA is all about, and if it's not, I'd like somebody to stand up here and tell me that that's not what it's all about: getting the most money we can equalized or unequalized; supporting the kids of this state in the common schools of this state, which is our constitutional responsibility. Now imagine if you will that you have a disk similar to a Frisbee and all the school districts in the state are on the edge, on the periphery. Imagine the weights you'd have to put at different points to keep that Frisbee disk balanced perfectly on the tip of that pen. That's what it's all about. Now folks, in my estimation, if you're not doing locally what you need to do to balance the Frisbee or the seesaw, then you shouldn't come to the state and ask for more aid for your school. Do your fair share. Go to a common levy at a dollar. Some of you will argue a dollar is too close to the cap, too close to the margin; we should talk about 95 cents. I'm up for any reasonable discussion this afternoon or tomorrow, because I'm sure my amendment won't get there this afternoon. But let's talk about what TEEOSA is really supposed to do in terms of the balancing format and equation for this state, for our kids. The point is that if you don't do what you're supposed to do on a local level to help the state out and to educate our kids, then constitutionally we should not be held to the proposal that we need to help balance or overbalance that disk as it sits there. I didn't warn him, but I would say give my remainder of time to Senator Kolowski if he would like to use it. [LB407]

PRESIDENT HEIDEMANN: Senator Kolowski, 1 minute 22 seconds. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Thank you, Senator Krist. I will make one comment before I hopefully come up again in a few minutes. That would be to comment to something that Senator Avery said earlier and Senator Scheer

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mentioned as well. [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR KOLOWSKI: And that is the...thank you, Mr. President. And that is the sheet that Senator Avery gave us of the next year's proposals for the various districts, the nine largest districts, is a very handy sheet. It's helpful to us. But we have to keep in mind--and Senator Avery knows this as a poli sci major, the same as myself--that's one slice of the bread and not looking at the whole loaf. The whole loaf would be the last three to five years. If you look at what's happened to Lincoln Public Schools, as an example, with 2,600 more students than they had five years ago, they also went through, if you talk to the Lincoln people, a processing change, a reporting processing change that has changed how they're receiving their money and how much they'll be receiving. That is a reality. Senator Seiler also mentioned something about valuations as was mentioned by Senator Scheer, and if you... [LB407]

PRESIDENT HEIDEMANN: Time. [LB407]

SENATOR KOLOWSKI: Thank you very much, sir. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Kolowski and Senator Krist. Senator Coash, you are recognized. [LB407]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. This will be my first foray, I think, in my five years of weighing in on a debate regarding school funding. So I always try to equate what we're talking about as something that I understand a little bit better, and in this case, for me, I equate some of what we're talking about to a system that I see in the developmental disability field, which is an approach called money follows the person. And how that was set up was that whether you were a kid with a disability in Ogallala or a kid with a disability in O'Neill or in Lincoln or in Omaha, the cost for your service paid to the provider would be the same. So that way that person could vote with their feet and go to the provider that they thought met their best needs, and the money would follow them. And that approach has served that community well, and I think what we have here is a similar approach, or an attempt at a similar approach with our state aid to schools formula, because it is a good approach and the money should follow the person. And I've heard a couple of times here that we don't want to be picking winners and losers, and I don't believe any of us want to do that, because the winners in this debate ought to be the children and it does cost money to educate those kids. And one of the things that will weigh my decisions on these amendments is, does that money follow where the children are? And I listened to Senator Gloor this morning talk about the averaging adjustment and how that part of the formula seems to be at the heart of that concept. And at this point I'm not sure LB407 quite gets us there, and we're all doing this, we're all going to our own school districts in

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the long sheet there and we're looking at where we are, and I'm looking at what happened in my community and we had...we grew students by the same number as Ralston, and I think Senator Conrad mentioned that earlier. Think about that. Over a couple of years, we added Ralston Public Schools right here in Lincoln. And under LB407, you see a big jump in funding for the Lincoln Public Schools. Some people ask, well, wouldn't that be enough? Well, not if you have to add two schools, which is what Lincoln has to do to accommodate the needs of its growing student population. And while you do see a big jump, you also have to, as Senator Kolowski mentioned, look at the whole slice of bread here and see what happened four or five years ago where we lost 20 percent. But the needs didn't change. In fact, they are increasing. And so for that reason I'm going to continue to listen to the debate. I'm going to continue, because this is my responsibility, to see how these things affect my community and try to figure out how it all fits together. But I did want to stand up on behalf of my school district and say, look, this is what's going on. We lost a lot of money in the years past. We're getting a lot more money here, but we've added a lot more students. And with that, Mr. President, I will yield the balance of my time to Senator Gloor. [LB407]

PRESIDENT HEIDEMANN: Senator Gloor, 1 minute 20 seconds. [LB407]

SENATOR GLOOR: Thank you, Mr. President. No need to notify me at the 1 minute mark. And thank you, Senator Coash. Once again for the body, I am not in support of AM1044 and AM1018, but in the short amount of time I have I want to make it clear I'm not rejecting the concept, and I'm appreciative of what the committee is trying to do here. But I've got a problem with the methodology and a big, big, big problem with the methodology. It's the reason that I've introduced AM1060, which again goes back to redo the averaging adjustment. The averaging adjustment. The averaging adjustment. It is, I am convinced, from the look at it that I have had, and I've talked to Senator Sullivan about this last week on how important the averaging adjustment was for me. I think it is at the core of equalization. Change it. Change it the way we're talking about, and maybe you're talking about equalization with a little e, but you're not talking about equalization with a capital E the way I believe the formula was originally derived at. Thank you, Mr. President. Thank you, Senator Coash. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Gloor and Senator Coash. Senator Kolowski, you are up and recognized. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. President and I would like to go back to the comments made on the land issue, just to finish my train of thought on that. As Senator Scheer said, if we had house prices and taxes go up the same way land was going up in the rural areas, there probably would be a revolution in the state. Well, it's probably true. But the analogy doesn't fit because the same areas where the land prices have gone up, corn prices, soybean prices, and beef prices have also risen astronomically to new records in our country, and having the resources to pay for a higher tax bill would

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be very easy to meet compared to being on a stable yearly salary in an urban area if your house price or your taxes went up two or three times. So those are not quite fitting analogies when you get into those kind of examples. I would also like to mention a few things as an example of the Millard schools in the last couple of years, just to share with you where we are and what has been done. They've lost over \$10 million in state aid over the last three years. Along with that, 60 fewer positions exist in the district because of cuts due to those losses of state aid dollars, and at the same time the district has grown over 650 students. That's the size of a large elementary, a very large elementary school, or about the normal size of a middle school that you'd like to have. And that's very much analogous to the 2,600 students the size of Ralston that entered the Lincoln Public Schools in the last few years as well, over the last five years. When we're looking at our instructional time issue, the teacher education issue, or the averaging adjustment with those being desired to be polled on these bills that are before us, the amendments that are before us, there are 119 districts that will be impacted by the instructional time issue. Sixty-five of them also get teacher education allowance, and 25 of them get the averaging adjustment at this current time and none would get it next year. I would like to talk about the impact on students, and I think that's really important when we have those kind of cuts hitting a school district or hitting a school at the local level as a building principal the kind of impact upon your students, upon your staff, of materials, supplies, services, support staff are extremely impactful and it sets you back quite a ways when you're dealing with more students under your roof than you had the year before and less money to work with the entire program with the demands that are upon us at this present time. I think of Senator Coash's comments about following the money and it's much like a short story I want to share with you that happened a number of years ago in the Millard district when we were looking at the expansion west of Q Street in that particular southwest area of Omaha. We had Omaha's city officials out from the roads department and we had a large meeting at the board office, and we were expanding Millard High School, or Millard South High School was sitting at 150th and Q. We had Ackerman Elementary a couple blocks to the west of that, Willowdale Elementary a half mile down the road from that, Russell Middle School on Q Street also across from Willowdale, and Millard West High School being planned in 1993 through '95. And the city roads department was very upset with how much the Millard expansion was going down Q Street. [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. President. And one of their agents from the city department got off on a tangent talking about this very narrow two-lane road called Q Street, at that time, which is vastly improved as we sit here today. But they were saying, what is it with this district that you're putting all those schools right down Q Street? You know, you don't have the capacity on Q Street. And one of our exasperated board members stood up and gave back to him this particular answer: That's where the kids are. That's where the kids are. And we have to keep that in mind. Just like following the

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money that was mentioned earlier, we're putting the schools where the kids are, where the population exists, and doing the expansion that we have to do in order to meet our needs. [LB407]

PRESIDENT HEIDEMANN: Time. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. President. [LB407]

SENATOR HEIDEMANN: Thank you, Senator Kolowski. Those in the queue, we have Senator Gloor, Davis, Seiler, Christensen, Ken Haar, Carlson, Crawford, Burke Harr, Lautenbaugh, and others. Senator Gloor, you are recognized. [LB407]

SENATOR GLOOR: Thank you, Mr. President. Good afternoon, members. I'm going to stick with a bit of repetition on this because with this level of debate, with a lot of people talking, with a lot of information that gets thrown out there, sometimes repetition, boring as it may be, is the one thing that sticks in your mind. And so I'm going to go back to the issue of I'm not rejecting the concept here and we're talking about in the bill, or in the amendment specifically. I'm talking about the methodology and the fact that the averaging adjustment, my bill AM1060 removes the two-year hold off, makes that hold, and goes back to the tiering or stairstepping that was built into the original legislation, which again of repetition, is I believe the heart of equalization. It's what equalization is all about. Low resources, high needs. Low resources, high needs. That's what the formula is supposed to be about, and I think my amendment will accomplish that. It's also worth saying, because we're talking about a unique period of time right now when it comes to ag prices, ag land prices. This formula is blind. I mean, it wasn't...I don't remember what was happening with land prices, either rural or urban, ag land, residential properties, at the time that the formula was derived. I imagine there was a spirited debate about that one way or another: What if prices, personal property prices go up in urban centers; ag land prices go up in rural areas? I imagine there was a debate about that. With enough heads-up on this topic at some point in time, it might have been fun to go back and research it. But the formula is blind and prices with land are cyclical anyway, and there will be a period of time, I'm sure, where we will see property prices dive when it comes to ag, and prices skyrocket when it comes to some of the more residential and urban areas of our state. We should stick with a formula then, perhaps some tweaking, but I don't know that we need to take a look at significant changes. I wonder if Senator Sullivan would yield for a couple of questions? Mr. President, I wonder if Senator Sullivan would yield for a couple of questions? [LB407]

PRESIDENT HEIDEMANN: Senator Sullivan, will you yield? [LB407]

SENATOR SULLIVAN: Yes, I will. [LB407]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Sullivan, is this bill and its

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amendments, is this an attempt to simplify the formula in some ways? [LB407]

SENATOR SULLIVAN: That was one of the attempts when we took on the study of TEEOSA this summer. Yes, it was. [LB407]

SENATOR GLOOR: Thank you. And would you call this an attempt at some degree of reform of the TEEOSA calculation formula? [LB407]

SENATOR SULLIVAN: I wouldn't say, or go so far as to say that it's a reform. But I think it's looking at the individual components of the formula, seeking that predictability, sustainability, equity, and simplicity, and seeing how those components can be changed or eliminated to address those four goals. [LB407]

SENATOR GLOOR: Okay. Thank you, Senator Sullivan. I think probably where we differ is that for me efforts to simplify this formula fall under the category of I think it's significant reform of the overall calculation and of the overall formula. And I'm sure I'm going to run out of time here pretty soon. [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR GLOOR: Boy, I had that nailed, didn't I? When it comes to a formula that's this important, I don't know that simplification is something we should strive for. There is a saying--it's an old saying that's been around for a while--that if it's important, it should be difficult. I think we see that in the legislation that we find before us. Certainly for me the Medicaid discussion last week was very difficult. It was also very important, as is this formula, as is this discussion and its debate. And so I'm still trying to get my head around the simplification issue and whether that's the right thing to do. I suppose if it weighted things in a different way, I might be happier with it overall. But even then, every since the issue of TEEOSA has come up, I've wondered, should we ever expect it to be easy? [LB407]

PRESIDENT HEIDEMANN: Time. [LB407]

SENATOR GLOOR: Thank you, Mr. President. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Gloor and Senator Sullivan. Senator Davis, you are recognized. [LB407]

SENATOR DAVIS: Thank you, Mr. Lieutenant Governor. Just to address a few of the issues that have been talked about here today. The first thing I wanted to point out to Senator Krist and some of the people about levies and penalties is that a lot of districts have worked extremely hard to keep their costs down. And I will talk about my own district which is always the one you know best. And when we lost our librarian to

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retirement, we replaced her with a half-time person. We took another person and did that. And (inaudible) instead of hiring a \$100,000 superintendent, we contracted with another community and bought services for \$40,000. So you've got conservative boards out there that work really hard to manage the money. So if we are going to penalize everybody by saying you've got to have a certain levy, what you do is you drive up those costs. And it happened several years ago with one of my neighboring districts. They were a big benefactor of state aid. And the board president and I were at a meeting one time, and this was since then. They were levying it at a rate so that they got the maximum amount of state aid. They had a lot of staff and a lot of other things. They said, why don't you guys just lower your levy and cut things? Because, well, it's just free money anyway, so you know, it's just free. I said, well, you know, it isn't free money. That is not free money to you because you're taking money out of your local property taxpayers that you don't need to do in order to get this state aid. So state aid, if it's held out as a carrot or as a penalty, is a mistake. I hope that you will all think about that very carefully. I handed out a letter from Dan Hoelsing, who was superintendent of schools at Alliance for the last few years. Prior to that he was the superintendent of schools for four different communities up in northeast Nebraska. Dan is very bright. I think he's going to be at Schuyler, Nebraska, coming up here next year. I have a lot of faith in what he says. And if you'll look at his letter, he talks about the Alliance Public Schools. Alliance is the largest school district in my state with 1,500 students, so it is above that 900 level. But he said, before the most recent change to TEEOSA that added cost groupings were made, rural school districts received more state aid. The amount they received prior to this change was based on their fiscally responsible conservative administrative practices. In other words, they held costs down whenever possible. Once the cost groupings were added, the incentive for being fiscally responsible conservative disappeared. I hope the body will really think about that. That doesn't just apply to the schools that are small. That applies to everyone. And to talk about a few of the other issues, I'd like to talk a little bit about option enrollment as a function of state aid, although it's a minor one. In rural Nebraska, option enrollment is a big player in people who live closer to a school than they do to their resident district. We have kids that are in the Valentine school district. Valentine is 170 miles from Hyannis. We made a deal with them. We bring their kids in and they opt in to our school, and the state pays that option aid. But those kids have no other choice. They can't move to Valentine, Nebraska, which is a long way from home. So at least this way they are able to move back and forth from their ranch to town. Now, if you're going to do away with these things or penalize rural districts for their low levy, I just want you to think about what you're doing. I heard some talk earlier about consolidation. I'll talk about my district. There's just not any consolidation that's going to be doable out there that's going to save any money. Sixteen school districts in 20 percent of the state. You do the math yourself. One other thing that I've heard talked about was ag values and ag land, and I'm going to tell you I've been around a long time. In 1979, ranch country was selling for \$150 an acre. By seven years later it was down to \$50. Now it's at \$500. That stuff jumps around. But the people in the country on those farms and ranches a lot of times

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are paying 10 percent of their gross income to property taxes. [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR DAVIS: Think about what that is in a business. Ten percent of your gross income. Any of you guys who are businesspeople in here will know what I'm talking about, and that's before your feed, your labor, your gas, anything else on a farm or ranch. It's important to think about that because there is a possibility we're going to see a decline in valuation. And when that happens, I would hope that I would see money flowing the other way. This is a good bill. We've worked hard on it, and I guess I resent the fact that I see so many people just trying to throw out what the committee did to try to satisfy their own peculiar group of people. We have to work for all the state of Nebraska, all the residents, and not just our district. Thank you very much. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Davis. Senator Seiler, you are recognized. [LB407]

SENATOR SEILER: Thank you, Mr. President. Members of the Unicameral, good afternoon. I'd like to finish up just a little bit what I had started this morning on our Education Committee hearings at Gering, Gothenburg, Albion, and Gretna. There was a real interesting factor; at least, it was real interesting to me, totally an unintended consequence, that being the costs of doing things in rural and northern Nebraska. When you get to Gothenburg and head north or west, you will find a complete different program for repairs. For instance, your roof on your building. Where do your contractors come from? We had numerous testimony that they had to get contractors to fix roofs on schools from Laramie, Cheyenne, Rapid City. Those were as close. Of course, the bids came in. They had to...you had to provide motels and food for the employees. Just boosted the costs considerably. A simple automobile or a school bus, they had to travel some distance to get any kind of a bid and they were always a lot higher than the people elsewhere in the state could purchase. One of the things that I think we need to consider, and you can see this is a proven fact, if you look at your Exhibit A3 and if you know your counties, Sioux County has an average of \$22,722. As you start east, those numbers per student, cost per student, start dropping, until you get clear to the east and it's about \$7,000. A lot of that is built-in costs that they have no control over. They don't have contractors, plumbers, electricians close to some of those schools that aren't going to charge them an arm and a leg to do the simple repairs. You could probably get four or five bids in the Hastings area on fixing a roof on the high school. Out in Hyannis, you're going to have to scramble to get one. I think you need to take that into consideration when you're looking at those costs per student. I think a lot of it is misleading. The one that I think stunned me the most was at Gering we had a couple ranchers come in and testify, and they testified that they were paying 75 percent to 125 percent of their net income for real estate taxes. And I said to the gentleman that said he was paying 125 percent of net, how long are you going to be in business? And he

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said, about four years. And I think he's right. We've got to be careful what we're doing here and I'm sure it's on each and everybody's mind. Thank you very much. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Seiler. Senator Christensen, you are recognized. [LB407]

SENATOR CHRISTENSEN: Thank you, Lieutenant Governor. You know, local needs vary. Statewide, when issues are important, locals step up. There isn't a district in here that cannot petition their people to override the local levy, and you know we're hearing about the growth of people in their school districts and the need. When there's a need presented in my district, overwhelmingly it passes. Very seldom do they get voted down. Now there's bond issues get voted down. Either they didn't present the need well or people didn't believe in it. But when it comes down to education, basic education of the kids, if you've got too many kids attending, you can't sell an override levy? I guess I struggle with that one. It happens regularly and it can be done. I know nobody likes that, but it's no different than if you're going to...in our district, if they want to build a new school, which has happened too many times in my liking, they go out, they sell the issue, and they get it done. I can't believe people would turn and say, well, we don't need to educate this group of kids. That seems to be one of the softer spots in people's hearts. It's not that any school district here can't get the money if they really truly need it. Sometimes people don't agree with how the districts are spending the money. You know, I've asked a variety of senators here what's your superintendent make. I've only had one that could answer the question. I know where mine is at. That puts \$130,000 to \$300,000 range of just having two people new, huge range. So there could be a fact that people don't like how they're spending the money and they're trying to make a point, so you got to look at more than just the comments from your school administrators, your school board saying that we need more money. You got to talk to the people in the district. Each one of us represents 35,000 people. How many times do we go out and ask the people, do we believe in what the school board is doing? How often do the individuals go and talk to the school board members and say what they think they're doing? That's the difficult part of this. I can't believe you can't get the money if people buy into how you're managing the system and how the people, the school is treating, because I know there's a sympathy, I think, in my district, too often to build a new building that I don't think is necessary. I look at it from a long-range view because we've got a declining population. But again, I just turn around and ask, what do we believe is fair and really needed? I've not met a government organization that can't spend more money. I don't care... [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR CHRISTENSEN: Thank you. I don't care if it's the NRDs I love to support or if it's the schools I like to support. I know good and well each one of them could be managed better and can do a better job. But it's easier to go ask for more money first

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before it is to go in and make the tough decisions. That's the point I think you got to look here. It isn't always just give more money, because governments can spend it very easily. Thank you. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Christensen. Senator Ken Haar, you are up next and recognized. [LB407]

SENATOR HAAR: Mr. President, members of the body, this is my third time, is it? I think,... [LB407]

PRESIDENT HEIDEMANN: Yes. [LB407]

SENATOR HAAR: Yeah, it is. Okay. Thank you very much. First of all, I'd like to say I agree with Senator Gloor, and he put it in...he gave it really good words. I believe that LB407 is a significant reform and that's why I did not support it and I cannot support it. And I'm sorry that certain members of the committee are disappointed that not everyone accepts LB407, including some members of the committee, but that's the way the Legislature works. And we don't come here just to get along or go along to get along, so sorry about that. I want to go back to the TEEOSA formula. We're going to keep talking here again and again about taxes, and I read all 198 pages of the meetings that happened this summer several times. I took notes and I've added blue tabs. And, Senator Adams, I'm going to quote you. It's in the record from Gothenburg, September 18. There was a woman that testified, not as anybody connected to a school but as a concerned citizen about property taxes. And she says, "Is it appropriate to make education so heavily reliant upon ag?" She goes on to say, "quite honestly, I don't know if I'll be able to be,"...let me skip. "And so that would be my request to you, that you would consider your ag economy and work towards some equalization there of revenue." Senator Adams, quoting: Thank you, Mary Lou. And then he complimented her for coming and he said: I tell you that what we do with state aid certainly does affect your taxes. On the other hand, I'm a member of the Revenue Committee and what you're saying to me really belongs to that committee. The way that we value property and the emphasis on it belongs to the Revenue Committee. I'd like to repeat that again because I think it's a really great quote. He said...Senator Adams said: I'm a member of the Revenue Committee and what you're saying to me really belongs to that committee. The way that we value property and the emphasis on it belongs to the Revenue Committee. "Our aid distribution formula responds to the money that we get from those taxes." And so I know we're going to keep on talking about it, but the issue of how we value ag land, that's in state law: 72 percent...I'm sorry, 75 percent for ag land, of assessed value, and 92 percent of assessed value for residential. That's in state law. It's in a different section than TEEOSA. We're not going to solve the tax...any kind of tax inequities, whether it's a housing bubble or whether it's a land bubble. We're not going to solve that with TEEOSA. That is a part of TEEOSA, though, and we better realize it. And then as we go on through the amendments, AM1034 through AM1060 will actually

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show that the largest schools are willing to take less money than LB407, based on a policy issue of primarily averaging adjustment. And we'll get to that. We'll get to that. I've also been asked to explain the three-level charts again. There may have been some misunderstanding. But level three is all TEEOSA, and you see TEEOSA is a part of level two, and all of level two is a part of level one. If you have any other questions, I'd be more than happy. This comes right out of the little book... [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR HAAR: ...called "School Finance 101," which is my Bible these days. The reason I think it's so important that you all begin to understand how the TEEOSA formula works is we spend almost a billion dollars, well, it's only \$905...probably \$905 million, on TEEOSA. It's almost a third of the budget. Maybe that fraction is a little off, but it's a large amount of money, almost a billion dollars on TEEOSA and it's something that the whole body needs to understand as we talk about where that money goes and how it's distributed. And I think this is a great conversation. Thank you so much. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Haar. Senator Carlson, you are recognized. [LB407]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Of course, I was up in the Chair this morning, listened to debate those two hours. And now this afternoon I have an opportunity to speak on something, because we all know this is a very important issue. It's a very important issue. I think most of us realize that property taxes pay for 50 percent of the cost of K-12 education, and a lot of times in the Legislature we kind of take the position, well, we don't control property taxes, the counties do. But in K-12, we do control that. Indirectly, we control property taxes at the local level. And we're not really sad in the Legislature, I don't think sad enough, year after year as we discuss state aid. When we are battling for dollars for sales and income tax dollars and we, in a sense, get bailed out because whatever we decide on, if our resources don't reach as far as they should, property tax will bail us out. And yet we don't have anything to do with property tax; that's a local county issue. We do have something to do with it. How much of K-12 education should be funded by property tax? I wish we could have a vote up there in lights right now. How many of you think it's okay that we fund K-12 education 50 percent by property tax? And I think when it came down to a vote by each one of us, it's probably a minority of the body would say that's okay, and yet we let it happen. And we would have, we could have some control over that. There's an aspect, and I haven't studied it in detail, but that I like of Senator Krist's amendment, and I think that we could carry that further and say that K-12 education, a limited percent can be paid for by property tax. And I think that reasonable percent might be 40, that we can't pay more than 40 percent of the cost by property tax. Now we have the power to make that decision. We can do it. We can have a bill. We can have a hearing. We can pass a law that says not more than 40 percent of K-12 education can

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be paid for by property tax. Now if we did that, we'd take a little bit of the argument away and then we'll just have a big argument every year on where are we going to get the sales and income tax to pay for the other 60 percent? But that's what we're here for. And I think a simple possibility to this problem, I've talked about it before but I'm going to talk about it briefly again, would be a common property tax levy across the state for K-12 education, collected at the county level, sent into the state, put into the account with sales tax... [LB407]

PRESIDENT HEIDEMANN: Time. Excuse me. One minute. [LB407]

SENATOR CARLSON: Thank you...put into the same account with sales tax and income tax. Now we have 114 districts, literally get no state aid. They pay for everything on their education, K-12, with property tax. If we had this common levy and money came in here, every district would get state aid according to the number of students. Now it's not quite that simple and I understand that, but the concept I think is the right one. We argue so much in here on state aid or no state aid. We don't get what we want. We don't like as it goes down. Let's put everybody on kind of a similar playing level. That doesn't answer Senator Davis' problem with overpriced land, but we could work with that. And I think it's a concept that we need to study and we need to consider. Thank you, Mr. President. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Carlson. Senator Crawford, you are recognized. [LB407]

SENATOR CRAWFORD: Thank you, Lieutenant Governor. And good afternoon, colleagues. It's interesting to me to be in this body and learn about what's going on with TEEOSA funding and I just wanted to rise to raise a couple of points. First of all, as I know everyone in the body would join me in thanking the members of the Education Committee for the hard work on this issue. I know it's been months and hours and much struggle, and we really appreciate the work that you've put in to work on this issue that's important to all of our students in the state and, likewise, the work of our superintendents who end up making whatever we decide here work in their own schools. And that's...I value that effort that they make and I hope that...I'm wanting to do our best to make good decisions for them so that we make their job of educating our students an easier one, to the extent that we can. And so I appreciate their work in working for our schools at all times. Two things I wanted to raise. One, as a newcomer to this debate, when I first started learning about the formula, it was explained to me it's needs minus resources, and that makes a lot of sense. Great. Okay. So we consider the needs of the school and subtract the resources that they have. But then, as I dug a little deeper, I found out, well, you know what "needs" means really? "Needs" are how much you spent two years ago. That put it in a whole different perspective for me. I represent Bellevue up in Sarpy County, and it's the fastest growing population, you know, one of the areas with the fastest growing population in the state. And it's been interesting to

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me, as I've learned more about the needs of the county and this part of the state, there are a lot of costs that come with rapid population growth, and I believe that the same is true also for education as well. As your school grows, there's a lot of costs in that growth that may not be accounted for, just in thinking about it as a per-pupil cost. And the second component, and this...I think this applies not only to rapidly growing areas but another issue for us to consider as we think about our policy and what our logic is behind these formulas, is there's a core component of education for which there really is not an economy of scale, and that is a classroom of a small size with a qualified teacher in that classroom. So if you think about how important...and there's ample research to suggest the importance of keeping classroom size small. If we recognize that research and if we recognize it's important to keep our classroom sizes small, then it's important to recognize there's limited economy of scale when we get into larger schools. You still need enough teachers to keep those classrooms small. So there are some economies of scale, that's appropriate to realize, but there are limits to that economy of scale because it's so important that we make the choice to keep those classrooms small. I think that's a temptation in a larger school district, where you can put a few more chairs in the room, you know, and unfortunately it's too easy to fall into that putting a few more chairs into the room so that the class size gets larger. But then we're not really equalizing the opportunity of our student. And so one of the things I would like us to consider as we're thinking about equalizing funding for students, equalizing opportunity for students. I would like us to keep in mind the importance of equalizing the opportunity to be in a small class for our students across the state. And so for me, because of the importance of keeping the class sizes small and because of what I've grown to learn about the costs of rapid population growth, those are two of the policy reasons why I think some effective valuation... [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR CRAWFORD: ...averaging is important. And it's not on the board yet, but I know Senator Gloor has an amendment in terms of an averaging adjustment proposal for this debate, and he's introduced that a bit. I think it's important that we make sure we keep that discussion alive, again, because of the importance of equalizing opportunity to a small class size and also the importance of recognizing there are some diseconomies of scale that kick in when you have rapid population growth. And I'd yield the remainder of my time to Senator Gloor. Oh he's not... [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Crawford. Senator Burke Harr, you are recognized. [LB407]

SENATOR HARR: Thank you, Mr. Lieutenant Governor, members of the body. What we are debating is a very important issue here and it merits a large amount of discussion. My disappointment is I have heard very little talk about the children and asking what is best practices and are we funding best practices. What do we need to do to make sure

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our children are ready, career and college ready, to face the job market when they are done with their K-12 education? That's what this is really about. And I haven't heard anything from LB407, from the amendments, any of the...really any of the amendments we've heard so far. That's what's important. It's been about property taxes. It's been about how do we fund our schools. Well, I think the most important question is we have to set what our goal is, and our goal is to have kids who are college and career ready. How do we get there? And then work our way backwards: How do we fund that and how do we set our priorities? None of that debate has been about that. Is having teachers who have master's, is that best practices, having teachers who are well-educated who understand the subject matter? Is it having a small student-teacher ratio, more important than having a master's degree so that we fund a smaller ratio? I'm not quite sure. If it's 40 percent, we're going to have to raise our sales tax--and I was hoping to goad Senator Chambers out of his hole with that comment--but that's not the answer. We can't just keep raising the sales tax, we can't raise property taxes is what I'm hearing. Well, we've got to pay for this somehow, and if everyone agrees that education is important, which I think we all do, we have to set a goal and figure out how to pay for it. None of this conversation here, I mean it's on the periphery. It's more of a power struggle than it is about what best practices are. And I encourage...maybe we need to relook at TEEOSA. Maybe we can have a LB613 of TEEOSA next year. We seem to be big on studies. I don't know. I think we can do something this year. I think we can have some debate. But I encourage you to really start looking at what are best practices, what do we want to fund, and how do we fund that. I know the committee has done a lot of hard work and I commend them for that, but I think there's more we can do. I'm not sure if these amendments are the answer so I'm encouraged to listen to more debate. Thank you. Oh, and I'd yield the remainder of my time to Senator Haar. [LB407 LB613]

PRESIDENT HEIDEMANN: Senator Haar, 2 minutes and 25 seconds. [LB407]

SENATOR HAAR: Senator Harr, thank you very much. Members of the body, I want to go on now. Like I said, it's so important you understand some at least basics of TEEOSA because it's such a huge part of our spending. I'm going to get back to this sheet that I handed out that says "TEEOSA--Tax Equity and Educational Opportunities Support." Again, it starts at the top of the page. You calculate the needs of every school district, you calculate the resources of every school district according to the formula, and then if that's greater than zero you get equalization aid. So I want to talk about how we find the needs, the needs, because it's needs minus resources equal equalization aid. So you start at the top, needs equals basic funding plus allowances, and these are things like for special education and so on, and/or adjustments and so on. So the only data we can use for calculating a school's needs, that's the first box at the...second box at the top. A school district's General Fund expenditure includes almost everything, and we get that for two years ago. Then we follow the arrows. It's adjusted by subtracting certain exceptions. One of them is they can't... [LB407]

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PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR HAAR: Thank you...subtract the cost of the lobbyist, for example. And we get to the GFOE, the General Fund operating expenditure includes most general expenditures with specified exceptions. But the data is two years old. Now we have to adjust it forward two years, and so we call that the adjusted GFOE, is grown by something we call the cost growth factor minus all allowances. So we grow that two-year-old data by the cost growth factor, we get to the adjusted General Fund operating, and then we take schools and we compare them within groups, and that's called...what we finally come up with for every school district is called basic funding. And from the little booklet, "TEEOSA 101," it says the basic funding is... [LB407]

PRESIDENT HEIDEMANN: Time. [LB407]

SENATOR HAAR: Thank you. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Haar and Senator Harr. Senator Wallman, you are recognized. [LB407]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I appreciate this dialogue and it should be about the children, are we helping the children. Money doesn't necessarily help children. So we have to make sure we have educated teachers, educated staff and paras. And what have most school districts had to do during this budget shortfall? Cut teachers and staff. So did we help the children? I don't think so. And so I would yield the rest of my time to Senator Haar. [LB407]

PRESIDENT HEIDEMANN: Senator Haar, 4 minutes and 25 seconds. [LB407]

SENATOR HAAR: Thank you, Senator Wallman. Okay, so what I'd like to compare the basic funding, you notice it says estimated amount required to generally operate a school district with a specified number of students based on historical average. The basic funding is kind of like the mannequin. Okay, we start with the General Fund at the top, we take off certain things, we adjust it two years in advance, and now we have a mannequin. And then the TEEOSA formula dresses the mannequin with allowances and adjustments. And for example, one of the allowances is transportation. So if the mannequin is a student in a school that requires a lot of transportation, they get a transportation allowance, and so on. The others include distance education and telecommunications; teacher education; instructional time; and so on and so forth. And there's an important one here--limited English proficiency, poverty. We dress the mannequin back up to respond to the needs of that particular school. That's the calculated needs. That's the calculated needs. So when you look at this, the paper that I handed out initially that goes district by district, I hope this will help you understand that a little bit more. For example, formula students aren't just students, but we give a

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different weighting to high school students, elementary students, and preschool. So formula students are those weighted students. Then we have the adjusted GFOE. Look at my chart there. And then we wind up with the basic funding per formula student, per FS I put. And I understand when you look at Elba, \$24,000 is the basic mannequin before we dress it up with TEEOSA, \$24,000, but look it, it's got 66 students. And generally, as you go down, it's not just stepping down by students, but I hope this will help you understand a little bit better this, these pages of numbers. And I understand that the basic mannequin, the basic funding for a school like Elba is much larger because of the...probably, most of all, because of the staffing requirements. You go, you keep going, and then all the way on the end on page 5 you find the largest schools, and generally they also have the largest...I'm sorry, the smallest basic funding per formula student. The most students but also the least basic funding per formula student. And again I show on this chart whether a school is equalized or nonequalized. If it's kind of grayed out, that shows it flipped. For example, on page 1, Newcastle Public Schools used to be equalized, now it's nonequalized, and so on. [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR HAAR: There are a few school districts in here that were nonequalized that are now equalized. But this just gives the overall picture and certainly we understand that it costs more money to educate a student. The basic funding, the basic mannequin before we dress it with allowances and adjustments, the basic funding for a very small school is greater. And then the argument comes along, well, maybe it's just economy of scale. The bigger the school, the cheaper you can educate a kid. And I'm going to talk to that my next time at the mike. Thank you very much. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Haar and Senator Wallman. Senator Avery, you are recognized. [LB407]

SENATOR AVERY: Thank you, Mr. President. I was struck by something that Senator Gloor said twice on the mike now about averaging adjustment being probably the most important thing that we could look at in this discussion. Briefly, the averaging adjustment was intended to be available to school districts when their basic funding per student is less than the statewide average but they have a levy of at least \$1 per \$100 valuation. That's true, but this...I remember we discussed this and adopted it I believe in 2008, and almost immediately it became apparent to the committee that we had created a very volatile element in the TEEOSA formula, because we discovered quickly that this was responsible for wild fluctuations in the total spending that TEEOSA would produce, and we started talking then in committee about whether we ought to eliminate it altogether from the formula. Now eliminating something from the formula is not easy, as we are seeing, but now, as I remember, we tweaked it almost every year after we introduced that element, and we talked about repeal but never quite pulled the trigger on it. Now we are in a situation where nobody is benefiting from this element--the averaging

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adjustment. So this is the time, folks. This is the time to get rid of it. I believe, however, in these amendments, at least AM1044, it's adjusted again or it's tweaked again but not eliminated. I bring that to your attention to give you some historical context. There's another element that appears in these amendments, I believe--the teacher education allowance. This is available to districts that have a greater percentage of teachers with graduate degrees compared to statewide averages of schools with higher educated teachers. The problem with the teacher allowance, the teacher education allowance, is that most popular areas of study for teachers who go for master's...into master's programs appear to be administration and curriculum. Now there's nothing wrong with those except that the teachers need...that are teaching in history and math and science, and they are not going after master's degrees in the areas where they teach. Too many teachers study outside these subjects, getting degrees, higher degrees, in curriculum and administration, which is not directly applicable to the classroom. It doesn't make sense to require this allowance to contribute to...it does make sense for this allowance to contribute to the ability of teaching in content areas of the classroom. Another criticism of this allowance is that it is not equally available to all teachers around the state. I think that is a problem particularly for sparsely populated areas and areas not near a college. So the interest within the education community for ending this allowance is fairly significant. We've heard from a number of teachers and schools that say, yes, we would be willing to see this changed, and if it's not eliminated at least change it so it's relevant to what happens in the classroom. By the way, this allowance is an allowance. It's not an adjustment. It does not decrease or increase overall school spending. It does...it is, however, redistributed among schools within the formula. [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR AVERY: All right, one more subject to consider, and that is the impact of what we do in here on this bill with respect to rural communities. UNL's Business...Bureau of Business Research recently issued, from its Business Forecast Council, a study that shows that farm income fell from \$7.5 billion in 2011 to \$5.2 billion in 2012. Farm income will fall further in 2013, back to \$4.5 billion, as crop prices moderate and lingering drought impacts crop yields. Farm income is predicted to fall even more in 2014 to \$4.2 billion, as farm income stabilizes at a new normal for Nebraska. Why is this important? Rural areas are likely to suffer even more. But let's not pile on by taking more than we need in the cities in school funding,... [LB407]

PRESIDENT HEIDEMANN: Time. [LB407]

SENATOR AVERY: ...not at the expense of the rural communities. Thank you, Mr. President. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Avery. Senator Bloomfield, Kolowski,

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Scheer, Karpisek, Cook, Gloor, Hadley, and Davis are in the queue. Senator Bloomfield, you're recognized. [LB407]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I had decided to kind of sit over here and be quiet and I was doing a pretty good job of it until Senator Kolowski stood up and said how easy it was for the farm people to pay that additional property tax burden because the price of corn was up. Yeah, the price of corn is up. So is the price of seed, fertilizer, fuel, and everything else we put into a bushel of corn. That \$7 bushel of corn that was \$2 is being fed to the same livestock to produce the meat that we all enjoy. So, yeah, the price is up. That doesn't mean it's any easier to pay twice the amount of property tax we paid five years ago. And with that, I'd yield the rest of my time to Senator Sullivan. [LB407]

PRESIDENT HEIDEMANN: Senator Sullivan, 4 minutes. [LB407]

SENATOR SULLIVAN: Thank you very much, Mr. President. Well, first of all, this has been a good discussion and I hope it continues to be that. There's no doubt about it that this formula could be...needs to be examined, and I would suggest to you that it always is. That's the job of the Education Committee and we are dedicated to it. And also Senator Ken Haar mentioned how the tax study may impact this. And certainly I'm in full agreement, because when we look at TEEOSA, it's as much a revenue issue that the Revenue Committee deals with. So I think that's fully important for us to look at what that tax study generates and then what ultimately is the impact for our school districts. Senator Conrad talked about how the money needs to follow the kids. Well, I couldn't agree with you more. But I would suggest to you that I think that the formula is already doing that: 4 percent of the students...50...4 percent of the districts educate 53 percent of the students, and they're receiving about 60 percent of the aid. When she talks about an increase in students from one year to the next, well, within the formula we have a student growth adjustment and also a new school adjustment. So those things are part of the formula that take into account the needs of the district. But there does seem to be a continuing concern about what one district is getting versus the other and this widening gap. Well, I guess that bears some discussion and attention, because it's brought up, I think, with trying to build the case that there is some inequity and unfairness in all of that. And when you talk about what's going on in the smaller school districts and the potential unfairness there in their spending, well, keep in mind that as students go down it looks like their spending goes up, but, in fact, their spending stays the same. For example, Senator Haar referred to Elba. They've had a 40 percent decrease in their students, a 9 percent increase in basic funding. So that says there's been an 85 percent increase in their basic funding per student, but, by and large, it's because of that huge decline in the number of students. Howells-Dodge, a 23 percent decline in basic funding, a 38 percent decrease in students. And then ultimately it says a 25 percent increase in basic funding per student. So it's, yes, we have to do the math, but it gets a little lost in translation. You can carry that a little farther to some of the

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larger school districts. Elkhorn had a 50 percent increase in basic funding and certainly a large increase in students--40 percent increase in students. [LB407]

PRESIDENT HEIDEMANN: One minute. [LB407]

SENATOR SULLIVAN: But then that says a 7 percent basic funding...increase in basic funding per student. So while I think that this discussion of the whole picture and how some of these features impact individual districts is certainly important, and when we talk about the averaging adjustment, Senator Crawford talked about that and I have to remind her that I, too, have an amendment that introduces...reintroduces and reinstates the averaging adjustment. Senator Gloor talks about having it instigated in the 2013-14 school year. But I will caution you, you have to remember at what price that comes into play. There will be a cost to the aggregate amount. And if it's not, then it will impact another part of the formula. In AM1044, I'm suggesting an increase to the basic allowable growth rate that will... [LB407]

PRESIDENT HEIDEMANN: Time. [LB407]

SENATOR SULLIVAN: ...impact...thank you, Senator...or Lieutenant Governor. [LB407]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield and Senator Sullivan. (Visitors introduced.) Senator Kolowski, you are recognized. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. President. Fellow senators, I do want to just remind everyone what we were talking about earlier in the morning and the main point of what we're trying to get across as far as the separation of averaging expenditures for students in rural versus urban centers. The differences between the districts with sufficient local resources and lower needs, and those of insufficient local resources and higher needs is extremely important and the heart and soul of this issue that we're dealing with. We have and will be proposing solutions to that issue with the amendments and other things that will be coming forward, and I think it's important that we continue to state what we're trying to do here and to drill that home, as far as the gap that we see enlarging before us. For Senator Sullivan and Senator Adams and all the members of the Education Committee, all of which I know and believe that they are people of goodwill, the great deal of work that went into the proposals that you see before you are meant to be a starting point. And I do also enjoy this discussion and thank everyone who's contributed to it at this point in time. We are senators for all Nebraska students, not just, in my case, of Millard and Elkhorn students in the Omaha area but for all Nebraska students. Earlier, a number of senators, and I've been marking these very specifically, have been talking about some creative, newer ways of thinking about what we're dealing with and I'd like to thank them: Senator Carlson, Senator Johnson, Senator Harms, for your comments on the rural issues. I think you're really getting to the heart of the matter and of the issues that are extremely important to us. As

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I look through the Nebraska state aid history over the last 23 years, as I was reading that in Dr. Dulaney's dissertation, LB1059, LB1050, LB806, LB149, LB540 are all historical facts of our past that have gotten us to where we are today, 23 years after the formation of TEEOSA in 1990. That point with the historical background that we have up to where we are today is part of the proposal that I had made at an earlier time within our committee and to our Chair that we might want to think about the studies that were mentioned or the need to study TEEOSA. Because of the way things have been stacking up in this legislative session, we have a very large tax study that's going to be done, we have a water study pending that we're looking at that is also extremely crucial to our state and to our futures. And I would suggest the state aid funding would be a trifecta of major funding studies that we would need to look at and put those all together at the same time to examine where we are on those issues and what we might walk forward with as far as answers or potential directions for solutions to what we're finding. Senator Carlson's comments on his ideas were, I think, right on target. And, Senator Harms, I think again you were right on, right on target and hit the bull's-eye on... [LB407]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB407]

SENATOR KOLOWSKI: ...on where we need to be and what we have to look at. And with that, I'll yield the remainder of my time to Senator Ken Haar, please. [LB407]

SENATOR COASH: Senator Ken Haar, 50 seconds. [LB407]

SENATOR HAAR: Thank you very much, Senator Kolowski. The next thing I would like to talk to when I have more time at the mike is a paper that was just presented at the Great Plains Symposium at UNK, and the paper is called "Economic Issues in School Consolidation in Nebraska." And I want to...here's an economic study of what the size of the school does to the cost of educating students. Thank you. [LB407]

SENATOR COASH: Thank you, Senator Ken Haar, Senator Kolowski. Mr. Clerk, you have some items? [LB407]

CLERK: I do, Mr. President. Thank you. New resolutions: Senator Krist offers LR154; that will be laid over at this time. I have a hearing notice from the Transportation and Telecommunications Committee signed by Senator Dubas, as committee Chair. Education Committee, chaired by Senator Sullivan, reports LB9, LB274, LB466, LB467, LB469, LB496, LB511, LB566 as indefinitely postponed. Amendments to be printed: Senator Lathrop to LB3; Senator Christensen to LB522. That's all that I had, Mr. President. Thank you. (Legislative Journal pages 1068-1076.) [LR154 LB9 LB274 LB466 LB467 LB469 LB496 LB511 LB566 LB3 LB522]

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SENATOR COASH: Thank you, Mr. Clerk. Returning to discussion, Senator Scheer, you're recognized. [LB407]

SENATOR SCHEER: Thank you, Mr. President. Wanted to talk just about a couple things. First, if we want to be historical, let's go back when LB1059 was passed. That's the original TEEOSA bill. It had three specific purposes: first one and primarily, reduce the dependence of property tax; second one, provide for a narrower range of local efforts; and third, to help fund basic needs to districts that not able to fund them from local resources. I don't know that what we have right now is accomplishing that anymore, because we've gone full circle. We're back now and 120 districts that will be funding all their educational needs by property tax. We have provided for a narrower range. Based on the information provided by Senator Sullivan, if you looked at it, those districts with 900 and above produce 76 percent of the levies of the districts, and they are all within 10 cents range. That's pretty narrow compared to where they started with. Are there some still way below that? There probably are, but they started way below that. But it has sort of accomplished what we wanted it to accomplish. We can't expect a bill to do something that it was never intended to do. It wasn't supposed to incentivize districts to do anything. It was supposed to provide for basic educational needs, and somewhere along the line we decided to change that. I'm glad to hear that at some point in time we will hear about the larger districts now offering to accept less dollars, because I have to tell you, Senators, I sat through more than one meeting, several meetings, and not once was the theory of less dollars going to large school districts ever floated; in fact, just the opposite. It was, we needed more money. So call me somewhat skeptical, but I will be very interested to see any proposal that the coalition of the 10 or 12 largest school districts in the state of Nebraska will submit to the floor that will show them accepting less dollars, because that's what we've been told recently, that somehow there is going to be this great acceptance of less dollars. We also have to realize that, yes, there is a dollar gap when we look at school districts. A school district that would be 100 students and spends \$2 million, that's \$20,000 per kid. If that next year that small school system loses ten students but their costs are going to remain the same, other than they'll go up because they have a negotiated agreement. They lost ten students, K-12. You can't reduce another teacher out of that. They're dispersed across. You can't get rid of a bus route. You still have the kids dispersed around the area. So what you end up having is 3.5 percent more dollars expended on ten less students, and in that case the cost of those students... [LB407]

SENATOR COASH: One minute. [LB407]

SENATOR SCHEER: Thank you, Mr. President,...goes up to \$23,000. They aren't spending more per kid. They're providing the exact same services; it just costs more. And that gap will never be able to be the same. We can't expect a district with 100 students to be able to educate their students at the same rate that a district of 4,000 or 40,000 can. It is not realistic, my fellow senators. So we have to have a realistic

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conversation. Those gaps are always going to exist. They existed 20 years ago and they'll probably exist in another 20 years. But let's be fair in our conversation. Small districts need help too. Small districts want to provide smaller classroom sizes. They want master level teachers. They want an extended time period and calendar. But they have a budget limitation as well, just like the larger school districts. So if it's good for Bellevue, it should be good for Burwell,... [LB407]

SENATOR COASH: Time, Senator. [LB407]

SENATOR SCHEER: ...it should be good for Bayard. Thank you, Mr. President. [LB407]

SENATOR COASH: Thank you, Senator Scheer. Senator Karpisek, you're recognized. [LB407]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I thought I would talk a little bit about the amendment that I have down the line a ways. We've had some talk about spending authority and AM1055 is increase spending authority. I'm just going to read you what I'm going to read when I open. This amendment will be offered by myself and it is an issue for mainly smaller rural districts who have access to plenty of local resources but cannot access it under current law because they have a budget lid, which, depending on the year, they could grow somewhere between .5 percent and 2.5 percent, as could all schools. This amendment would allow districts to spend an additional 2 percent if the school board votes by a supermajority to approve this additional spending. Want to make it very clear that this additional spending authority has nothing to do with additional levy authority. A quick example is that in a school district whose valuations go up 10 percent a year, the local school district currently would not be able to utilize much of that growth because of the spending lid placed on them. This change would allow them to utilize more of that growth. Or another example would be a land-rich district whose levy is 60 cents, they could raise it to 61 cents and have more resources for their students. An argument against this change is that it would grow TEEOSA quicker and the state couldn't afford it. But the last sentence in the amendment stops that argument by saying that if you choose to increase spending by this mechanism, it won't be counted in the GFOE and, therefore, won't cause an increase in TEEOSA. My whole reason for bringing this is that out of 14 school districts, I have 3 that get state aid. Some are down as low as close to that 60 cents, but they can't...so they could get all sorts of more money coming in, but they can't spend it. Now I don't want to just give them full rein on what they could spend and say, oh, go to the \$1.05 and you'll have that 60 cents to spend. I don't want to do that at all. But 2 percent more, so if they were at \$1.00, they could go to \$1.02 with a supermajority vote of their board, not affecting the TEEOSA formula, not affecting the state's budget. Going back to the original bill when this was...when TEEOSA was born, that is how they did it. And it changed because they did have trouble with people kind of maybe, I don't want to say gaming the system, but figuring out to go up that much more, and then it would grow the

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budget that much more and so then they could get that much more money. So I think that in my amendment we've solved that by not having that extra 2 percent affect the budget. That would help the small schools that get no state aid. It may even help some of the bigger schools if they are under their levy limit. It does not say that they would have to be nonequalized, but I think that most probably would be that would use this sort of formula. I know there's a lot of other working parts here and I know that the committee has looked at many of them. This always gets to be a very tough, tough situation. I have places like Crete in my district. [LB407]

SENATOR COASH: One minute. [LB407]

SENATOR KARPISEK: And I also have places like Davenport or, sorry, Deshler, who's very small. Crete does get quite a bit of state aid; of course, the smaller ones do not. It's a tough deal, but when that many of them don't get any state aid, it's hard for them to really get too concerned about all these other things when they can't spend the money, and they have deteriorating facilities and can't use the money. So this will be one way, coming up later, how we can look at that. Thank you, Mr. President. [LB407]

SENATOR COASH: Thank you, Senator Karpisek. Senator Cook, you're recognized. [LB407]

SENATOR COOK: Thank you, Mr. President. And good afternoon, colleagues. I wanted to rise to speak a little bit about the averaging adjustment, because while we have not gotten to Senator Sullivan's AM1047 or to Senator Gloor's AM1060, it is an important factor that we had mentioned many times. And when I say we, I mean the three of the eight members of the Education Committee that elected not to advance LB407 in its form that it was presented at the time of voting. So I wanted to address a couple of statements that were made that could cause members who are not on the Education Committee and who are brand new to talking about education financing, the issue is not with the amount or the percentage increase or decrease. The policy issue, and I mentioned this, this morning, is that gap in the amount that goes per student. And we've had many positions offered throughout the day about why that might be an important consideration for us as we go forward. But what I wanted to clarify is that from the moment I saw the forms on the 11 by 14 pieces of paper and did what many of you did, which is to flip over to...I happen to represent just one public school district, from that moment I was never complaining about that number. I also wanted to offer some clarification. Just as the Speaker suggested, I had taken some time over the last few weeks to engage with a superintendent's office about the numbers, about the policy. Once again, the importance of the averaging adjustment was emphasized and at that point, and even now, with the amendments and the proposal that we have now, there's no mechanism by which a district that is high-spending, at the top of their levy with land, indeed, Senator Seiler, that is TIFed out, can get beyond that. I would also like to point out something that I was reinforced on as a member of the committee. We are using the

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term "state aid." LB407 is on the TEEOSA formula. That is a form of state aid. It is not synonymous and inclusive of any and all state aid that goes to schools, whether that's a school that is 1 of any of the 249 school districts. That term "TEEOSA," and I can't remember the acronym right now, is not synonymous with the term "state aid." With that, I would yield any time I have left to Senator Ken Haar. [LB407]

SENATOR COASH: Senator Haar, 1 minute 45 seconds. [LB407]

SENATOR HAAR: Thank you very much, Senator Cook, members of the body. UNL has something called the UNL Center for Great Plains Study, and every year they provide a Great Plains symposium. Two weeks ago the symposium was held at UNK, April 5 to 6, and the topic for the symposium was "Gains and Losses from School Consolidation in the Great Plains." The paper I will refer to is called "Economic Issues in School Consolidation in Nebraska." It was coauthored by Dr. Eric Thompson, who is associate professor of economics in the Department of Economics at UNL... [LB407]

SENATOR COASH: One minute. [LB407]

SENATOR HAAR: ...and director of the Bureau of Business Research at UNL; and by Dr. Bree Dority, associate professor of economics in the Department of Economics at UNK. The paper has not been published but it was presented at the symposium, and I got Dr. Thompson's permission to use the paper today. Since I have less than a minute, I will tell you about this paper, the "Gains and Losses from School Consolidation in the Great Plains," and how it affects our conversation today. Thank you very much. [LB407]

SENATOR COASH: Thank you, Senator Haar. Senator Gloor, you're recognized. [LB407]

SENATOR GLOOR: Thank you, Mr. President. I've got a sheet here that talks about my district and other districts around the community of Grand Island and the Grand Island school district that points out some of the predicament that the Grand Island school district is dealing with when it comes to the issue of the importance of the averaging adjustment, high needs, high resources, the basis behind the formula. Right now, in terms of formula students, Grand Island Public Schools are at just over 8,600 students, for purposes of the formula--clearly one of the largest districts in the state of Nebraska. In fact, one of the numbers that always has struck me as maybe not mind-boggling but certainly mind-tingling is the fact that when senior high school meets and convenes with, I believe, just over 2,000 students. When you consider the mean community size in the state of Nebraska...that would be the mean size. In other words, if you took the smallest community and the largest community, counted backwards, the size community that would be right in the middle would be 220 people. I believe that's the right number. Senator Sullivan is the one who has that committed to memory, 220 people. Well, that means senior high school becomes one of the largest communities in

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the state of Nebraska when it convenes every day--mind-tingling to me. But those 8,600 students are educated on property values of \$2.6 billion, and were we to go to \$1.05 taxable value--and Grand Island I believe right now is at \$1.04 so there's not much more to go to--we'd be talking about trying to educate the students in Grand Island on \$3,100, \$3,107...\$3,170. Now Northwest Public Schools isn't within my district, but it is, those of you who know, on the peripheries of Grand Island. Part of it is within the city limits; has its own district. Northwest Public Schools is close to that with 1,400 students. They're at \$4.4, \$4,400 taxable value at \$1.05. If you take a look at the schools, the more rural school districts around, they are at \$10,000, \$12,000, \$13,000, \$15,000 taxable value per student at \$1.05, three to four times, in some cases five times higher level that they could generate funds to educate their students. And those numbers, when I look at them, drive home to me the challenges that we have in some of our more metropolitan areas with where we are, current level of taxation, where our needs are, where those basic resources are. Look, this is a complicated formula, but I believe the complicated formula is at the heart of assuring some degree of comfort with the integrity of how we decide where the money goes to educate our children. And I certainly understand, and Senator Davis would be pleased to know that I remember reading an article some 10 or 12 years ago in some stellar newspaper like USA Today, you know, who's beyond repute of any kind. But it pointed out that the largest percentage of millionaires on a county basis in the state of Nebraska... [LB407]

SENATOR COASH: One minute. [LB407]

SENATOR GLOOR: Thank you, Mr. President,...was in one of the counties in your district. And I laughed when I saw that. I believe I was in a meeting in a metropolitan area and I said, there may be one millionaire, but there's so few people in that particular county that that's clearly going to skew why it has the highest per capita percentage of millionaires in the United States. There is a problem those rural districts have, but I don't think we're solving their problem. And I certainly believe that if we're not careful we're going to be adding to the problems of our larger, more populous and challenged districts, like the one that I represent. I go back to my concerns for the amendments that are up there and my urging that, when we get to it, AM1060 is the way to go. Thank you, Mr. President. [LB407]

SENATOR COASH: Thank you, Senator Gloor. Senator Bolz, you're recognized. [LB407]

SENATOR BOLZ: Thank you, Mr. President. I've been listening and reading and reading and listening, and I wanted to share my perspective on what I think is most important in the conversation today. It won't be news to any of you, but I do think it's grounding. I keep coming back to a comment that an individual in the transcript from one of the fall hearings commented, and he says: You are not just distributing dollars to the schools; you are setting the vision for school districts as to what education should

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really look like in Nebraska. And the vision that I hear from my district is one where all kids succeed in the classroom, where all kids succeed in the classroom. And I've heard about those classrooms that have real needs, classrooms that are losing teachers and paraeducators because of tight budget times. And I hear about the needs that don't necessarily connect to economies of scale, like kids who need one-on-one reading instruction or kids who need social supports in high poverty areas. So I'm prepared to work to solve these problems in a complex way, if that's what we need, and I support some of the detailed approaches that are being put forth this afternoon. At the same time, I truly appreciate Senator Davis' comments regarding a concern related to disincentivizing schools who take a conservative approach, and I appreciate the perspective that ag valuation doesn't necessarily mean that we have increased resources in the hands of taxpayers. I can understand and appreciate those perspectives. But what I fundamentally fall back to is the vision that the constituents in my district have sent me into this body to promote, and that's a vision where the needs of the kids across the state are met. And I see significant needs in districts like mine and districts like Senator Kolowski's, districts like Senator Crawford's. And so that's the vision that I'll continue to focus on as I consider these amendments and these pieces of legislation, and that's the vision that I would share back out to the body that's most important to me and that I think is most important to all of us. With that, I'll yield the remainder of my time to Senator Ken Haar. [LB407]

SENATOR COASH: Senator Haar, 2 minutes 20 seconds. [LB407]

SENATOR HAAR: Thank you very much, Senator Bolz. I thank you for the time. I think I will just wait to talk about this paper on the next amendment, talking about the cost, how the cost per student varies with class size. I'll just say in committee we talked quite a bit about economy of scale and we know...we all know that to run a very small school takes more money per student, but this research shows what all economists know as the diseconomy of scale, and that's finally you reach a point of producing widgets, and that's what economy of scale is about, producing widgets, where when you produce more widgets the cost increases. It's called the U-shaped relationship, and I will share that during the next amendment. Thank you very much. [LB407]

SENATOR COASH: Thank you, Senator Ken Haar and Senator Bolz. Senator Davis, you're recognized. [LB407]

SENATOR DAVIS: Thank you, Mr. President. I just would like to follow up a little bit on some of the things that were said and I'm just going to ask a few questions. First of all, Senator Scheer, I think you've done some data and some research. Can you tell us a little bit about the amount of money that was new money that's going to the Lincoln Public Schools and how that related to their student numbers? Would you yield to a question on that? [LB407]

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SENATOR COASH: Senator Scheer, will you yield? [LB407]

SENATOR SCHEER: Yes, I'll yield. Thank you, Mr. President. Senator Davis, based on the numbers of students that has been noted in several comments by senators, I believe the number was about 2,700 extra students in the last several years. The state aid for Lincoln about five years ago was roughly \$46 million. It is projected to be \$89 million this coming year. That would be an additional \$43 million. If you divided that by 2,700, you come up with almost \$16,000 per additional student. [LB407]

SENATOR DAVIS: So the increased state aid already is paying for those students, plus some left over from... [LB407]

SENATOR SCHEER: That would be my assumption. [LB407]

SENATOR DAVIS: ...other things. And of course, I don't think that's probably what it costs. Just a few points, and I appreciate Senator Gloor pointing out, you know, his observation about probably Grant County, Nebraska, which at one time was the rumored millionaire capital. You know, let me remind you, it's only been about 10 or 12 years ago when Grant County, Nebraska, and several of the other counties in that Sandhills area were touted as the seven poorest counties in the United States based on per capita income. Let's not forget that we don't have...we do have some very wealthy people in rural Nebraska and we've got other people that have needs, just like the people that I'm hearing talked about here. So it isn't just an urban issue. The needs are out there in every one of these districts. Senator Bolz asked me a question earlier, and I think it's pertinent to the discussion here before the body, about property tax and why it's a problem for people in agriculture, and so the example I'm going to use is just a doctor who has an office building on the corner and that office building is worth...saying it's worth \$500,000, but he's able to generate \$3 million or \$4 million in revenue out of that building. Well, that same farmer with the \$500,000 property, that's probably less than 80 acres. So, you know, the income disparity there is huge in terms of the ability to pay. That's what we're dealing with. You look at the chart that's been handed out and circulated with the red line going up and the blue line going down, that's largely due to ag values going up in rural Nebraska. It's not an indication of a crisis in funding. It's an indication of a diversion in valuation of districts, and there's just nothing wrong with that. We are funding these districts in an appropriate manner. The formula works; it's a good formula. Just to finish up, I'd like to just read a little bit about a letter from a board member at Chadron High School. Chadron has 880 students, so it's, you know, close to that 900 level. But she says to me, she says: As you are aware, Chadron Public Schools' perspective on TEEOSA and state aid may differ from many of your other school districts. Our district has less valuation as a whole, due to the many tax-exempt entities, such as Forest Service, Chadron State Park, Chadron State College, and the hospital, to name a few. As a result, Chadron Public Schools is up against the levy lid of \$1.05 and the spending lid. Along with our aging buildings, coupled with the failed bond

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issue to address facilities, puts increased pressure on our budget. While not perfect, Chadron Public Schools in general supports LB407. We would like to see the local effort rate be set lower than in '12-13. This, too, would help smaller districts that are below the levy lid. Then they go on and talk about the elimination of instructional hours and teacher education, and they said this:... [LB407]

SENATOR COASH: One minute. [LB407]

SENATOR DAVIS: Thank you, Mr. President,...This past summer, superintendents and business managers representing both large and small districts met to discuss several TEEOSA proposals. Representatives from both small and large schools continued to meet this fall. From this group, the recommendation to the Education Committee was to eliminate these factors in the formula. We ask that you honor this collaborative work and support the elimination of both instructional hours and teacher education. These factors do not appear to be considerations that should be included in an equalized state aid formula. I'd sure be glad to take any questions from anybody if they want to know anything about rural education, but again I would urge you to advance the bill. Thank you. [LB407]

SENATOR COASH: Thank you, Senator Davis. Senator Crawford, you're recognized. [LB407]

SENATOR CRAWFORD: Thank you, Mr. President. I just wanted to clarify one point for the record and then yield some of my time. One of the issues that's come up, and I think I've heard it twice, is the point that now is the time to address...get rid of the averaging adjustment because schools were not benefiting from it. I believe that's what I've heard. And I think the implication is that we've sort of weaned schools off of this so it's time to act now if we were to make that change, and that currently schools are not making choices or operating with the average adjustment in place. So I wonder if Senator Avery would yield to a question. [LB407]

SENATOR COASH: Senator Avery, will you yield? [LB407]

SENATOR AVERY: Yes, I will. [LB407]

SENATOR CRAWFORD: Oh, okay. I don't know if you heard. What I was saying was I think what I heard from your comment was now is the time to address the averaging adjustment in the formula because the schools are not benefiting from it, is what you said. So you know, and I guess that left the impression that we've weaned schools off of it. And it's... [LB407]

SENATOR AVERY: Well,... [LB407]

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SENATOR CRAWFORD: ...and it's my understanding that actually currently schools are still using that now. It's just that as the formula or as those rules were written, it would be next year they really would not benefit from it. Is that correct? [LB407]

SENATOR AVERY: I can't say that's correct because it's my understanding that it's not at present benefiting any school under the current formula, and that would be a good time for us to eliminate it, since it's been on...a subject of discussion now for the last four years in the committee. [LB407]

SENATOR CRAWFORD: Okay. So it's your understanding that none are currently benefiting right now. [LB407]

SENATOR AVERY: That is my understanding. [LB407]

SENATOR CRAWFORD: I'm getting a signal. Senator Kolowski, would you yield to a question? [LB407]

SENATOR COASH: Senator Kolowski, will you yield? [LB407]

SENATOR KOLOWSKI: Yes, I would. Thank you. [LB407]

SENATOR CRAWFORD: What is your understanding of if any districts are currently benefiting now? [LB407]

SENATOR KOLOWSKI: My understanding is 25 school districts, I believe, are getting the averaging adjustment in this school year, none would for the next year. [LB407]

SENATOR CRAWFORD: All right. That was my understanding, just from talking to people in my school district, that there was some...that some districts were receiving it now. So I just wanted to clarify that for the record. And if other people have clarifications to add, I think that's an important thing for us to understand as we move forward, to make sure we're clear on that, that some schools are, as I understand it, some schools are currently operating with that now. And so it's not the case that we're in a situation where we've done without it so we're really talking about whether to bring it back. It's a question of it's currently what schools are...have been operating under. And with that, I'd yield the remainder of my time to Senator Haar, please. [LB407]

SENATOR COASH: Senator Haar, 2 minutes. [LB407]

SENATOR HAAR: Thank you, Senator Crawford, but I'll decline this time because I need a whole 5 minutes to do it. So thank you very much though. [LB407]

SENATOR COASH: Thank you, Senator Haar. Seeing no other members wishing to

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Speak, Senator Sullivan, you're recognized to close on AM1044. [LB407]

SENATOR SULLIVAN: Thank you, Mr. President. To recap what AM1044 tries to accomplish or wants to accomplish, it builds growth into budgets, all 249 budgets, and helps districts increase spending, and it achieves that by changing two components of the formula. If you recall in the original LB407, it increased the basic allowable growth rate to 1.5 percent. With this amendment, it is increased to 2 percent for 2013-14. It also changes the local effort rate from \$1.03, as proposed in the original LB407, to \$1.025 in the year 2014-15. I can't underscore enough that AM1044 builds growth into budgets and spending for all our 249 school districts. Voting this down eliminates that possibility. It is clear that one of the alternatives you're interested in looking at is averaging adjustment. The amendment that will follow this is one of mine that proposes to reinstate averaging adjustment but not until the 2015-16 school year. Senator Gloor, it appears, wants to reinstate it again but wants to implement it in the 2013-14 school year. I want to caution you one thing about that. The estimates done by my office, based on information from the Nebraska Department of Education, indicate that only seven districts that will benefit more from that approach than in AM1044. Those include Ralston, Scottsbluff, Elkhorn, Bellevue, Papillion-La Vista, Millard, and Lincoln Public Schools. But the following will not benefit: Gretna, North Platte, Kearney, and Omaha. I say this not to underscore that there are winners and losers but to just remind you what I am trying to accomplish in AM1044, which is to reach out to answer a need of all 249 school districts that say we need to grow our budgets and be able to increase our spending. And I think that's what's accomplished in AM1044. Thank you, Mr. President. I ask for a call of the house, a roll call vote in reverse order. [LB407]

SENATOR COASH: Thank you, Senator Sullivan. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB407]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB407]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Howard, Kintner, and Burke Harr, please return to the Chamber and record your presence. Senators Wightman, Pirsch, and Janssen, and Senator Krist, please return to the Chamber and record your presence. Senator Chambers, please return and record your presence. Senator Kintner, please return to the Chamber. Members, the question for the body is, shall AM1044 to AM1018 be adopted? There has been a request for a roll call vote in reverse order. Mr. Clerk, please read the roll. [LB407]

CLERK: (Roll call vote taken, Legislative Journal page 1077.) 23 ayes...Senator Avery.

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[LB407]

SENATOR COASH: Senator Avery. [LB407]

SENATOR AVERY: I want to move to reconsider, Mr. President. [LB407]

SENATOR COASH: Senator Avery, please approach the bench. [LB407]

CLERK: 23 ayes, 14 nays, Mr. President, on the adoption of the amendment. [LB407]

SENATOR COASH: AM1044 is not adopted. Raise the call. Mr. Clerk, you have a motion. [LB407]

CLERK: Mr. President, Senator Avery would move to reconsider the vote just taken with respect to AM1044. [LB407]

SENATOR COASH: Senator Avery, you're recognized to open on your motion to reconsider. [LB407]

SENATOR AVERY: Thank you, Mr. President. I filed this motion because I think that not that we need additional debate but I think that we need additional time to round up one more vote and we have not done as good enough job on that as we need to. And with that, I would yield...is it all right if I yield time? [LB407]

SENATOR COASH: Yes. [LB407]

SENATOR AVERY: It is permitted. I would yield some time then to Senator Sullivan. [LB407]

SENATOR COASH: Senator Sullivan, 9 minutes, 30 seconds. [LB407]

SENATOR SULLIVAN: Thank you, Mr. President. Well, yes, we will keep trying. And I know that there is a lot of discussion on the averaging adjustment. I go back to what my original premise is with AM1044, and that's we are trying to build growth to accommodate the needs of all 249 school districts. And if you recall how I ended my conversation in my closing, look carefully at how you think you will be impacted by this averaging adjustment because our early estimates are that it will only favorably impact only seven districts over and above what they would benefit with in AM1044. So I appreciate the concern about this averaging adjustment. And, yes, in answer to Senator Crawford's concern and Senator Kolowski there are some districts that take advantage of it now. Under LB407 and under the parameters of LB407, no district would qualify for it. So while they are under the current situation, they wouldn't be going forward in LB407. I think that it still boils down to an adjustment that benefits by and large a few

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large school districts. And in my own mind, in my own intentions as wanting to do what's best by the majority of the school districts in this state, then I can't in good faith support that sort of thing. Now that being said, if we want to look at averaging adjustment in 2015 because that's another thing that I heard from superintendents that I had talked to. You know, they said, we can live with LB407 right now. What we're concerned about is going forward. Well, that's why in this amendment that you will hear from me shortly I'm proposing that it takes effect in 2015-16 rather than right now. So, again, I ask you to look at how we can support all of our students in all of our school districts and ask that you reconsider your vote in favor of AM1044. Thank you. [LB407]

SENATOR COASH: Thank you, Senator Sullivan and Senator Avery. Members, you've heard the opening to the motion to reconsider. The floor is now open for debate. Senator Christensen, you're recognized. [LB407]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, it's important here we think about the process we want to go through. You know, we can sit here and we can...you know, this is the amendment that balances this out, that makes it balance out, and we're going to have to find a whole new approach here, folks. If you don't pass this one, regardless of what you do with the next amendment we've got more fiscal. I would assume if you adopt AM1044 and AM1018, you know what you got for money left over to work on priority bills. But if you don't adopt these, who knows what we're going to end up with. It's going to be a total new approach. We're going to disregard what the committee has accomplished, what they've spent all this time on starting from when session ended a year ago. I think it is critical that we sit down and remember what we're doing here. I hear so often whether it's on a pull motion or it's on something else how we respect the committee and want to go that way and I think it's important. And there's times we do change from where the committee is at, but we have the committee willing, we have them going along and that makes a big difference. I really think you need to think about if you're not voting or you voted against this, do you really have a solution you think you can get done because you're...it...you know, we can work on this for days. That's fine. This is something that's got to be done. But I just want you to think about the direction that we're going and what you'd like to get accomplished this session. Thank you, Mr. President. [LB407]

SENATOR COASH: Thank you, Senator Christensen. Senator Sullivan, you're recognized. [LB407]

SENATOR SULLIVAN: Excuse me. [LB407]

SENATOR COASH: Senator Sullivan, you're recognized. [LB407]

SENATOR SULLIVAN: Thank you. Did someone yield me time? Excuse me. [LB407]

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SENATOR COASH: You are next in the queue. [LB407]

SENATOR SULLIVAN: Oh! Thank you. I didn't realize I was. Well, again I can't emphasize enough. I go back to my original premise. AM1044 builds growth. I know that to a certain extent the averaging adjustment tries to in effect say we haven't done enough for some of these high-spending or high-levy, low-spending districts, that they need to be brought up. Well, I think that the needs calculation and what we have done with increasing the basic allowable growth rate does that. And I fail to see why there is not enough in that mechanism to compensate for what they think they have lost. So, again, I stand by AM1044. Thank you. [LB407]

SENATOR COASH: Thank you, Senator Sullivan. Senator Scheer, you're recognized. [LB407]

SENATOR SCHEER: Thank you, Mr. President. I rise to support the reconsideration. I want the rest of my colleagues to think about this portion of what we're doing today. It has an averaging adjustment in it. It may not be the one you want. But what it does have is a growth factor for all the districts. That helps every district--large, small, those that are locked from a standpoint of their mill levy or not. It doesn't make any difference. This part helps every single school district. We have a plethora of other amendments that we're going to be following on. None of them address that. So I'm asking you, I'm pleading with you to reconsider what you've just done because you may not like the entire bill but the growth portion of it is unique to any of the other amendments that I can tell. And we need to do something. Everyone talked about the last several years and how bad it's been. I will tell you, the growth factor from the state...from the TEEOSA formula was either zero or .5 percent. We are now moving that to 2 and 2.5 percent. That gives districts some breathing room. It gives them some growth. And I will tell you if you vote against this, then you're doing it to cut your nose off despite yourself. Districts need some growth. You may not like a part of the rest of it. That's okay. My assumption is you're planning on changing that later today or tomorrow anyhow. At least give some districts the growth. That's part of this, not part of anything else. So as we look forward and when you recast your vote on this, please consider that. This doesn't just help a small school district. This helps Bellevue just as much as my proverbial Burwell as much as Bayard. They all need the same help in their growth. So please reconsider your vote and vote a positive on the reconsideration. Thank you, Mr. President. [LB407]

SENATOR COASH: Thank you, Senator Scheer. Senator Krist, you're recognized. [LB407]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues and Nebraska. Those of you who know the formula well or a bit or kind of or sort of, I have an understanding that the difference between this amendment, as Senator Chambers

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says, read the stuff, okay, the difference between this amendment, AM1044, and AM1036 which is also in line that we will be discussing in reference to LB407 takes one tier and moves the money into another tier. Now that is my issue with AM1044. I'd like to...because Senator Haar and Senator Kolowski are the ones that came up with AM1036, I'd like to ask one of them a question. I think you're going to defer to Senator Haar. Would Senator Haar, Ken Haar, yield to a question? [LB407]

SENATOR COASH: Senator Ken Haar...Senator Haar. [LB407]

SENATOR HAAR: Yes. Yes, I will. [LB407]

SENATOR KRIST: Okay. Am I wrong or am I right on that regard? [LB407]

SENATOR HAAR: Okay. I'm sorry. I thought we were talking about the next amendment, which is AM1018. [LB407]

SENATOR KRIST: Okay. [LB407]

SENATOR HAAR: AM1018 has...and AM1036 both have to do...no, I'm sorry, okay, temporary aid... [LB407]

SENATOR KRIST: Okay. This is what I understand AM1036 does. The idea behind it is if teachers are better educated, then they will be better teachers. LB407 repeals this allowance, however, Senator Sullivan brings it...concept back with one of her amendments which is AM1044. This amendment attempts to address some of the concerns raised with respect to how do you treat teachers who are at different levels of education and attempts to limit the degree to which...to those in the core subject areas. Does that refresh your memory about AM1036? [LB407]

SENATOR HAAR: Okay. Thank you for the question. The teacher education allowance which my bill AM1036 addresses is part of AM1018. So it's not part of this one, Senator Krist. I'm sorry, I misunderstood your question when we talked on the side. [LB407]

SENATOR KRIST: So why would we vote against AM1044, Senator? [LB407]

SENATOR HAAR: Well, I will vote against AM1044 because I believe that the amendments that will be coming up address the issues that we're talking about with...I mean, this is just part of a larger issue. And I...so I see AM1044 as being premature frankly if you're going to vote for some of the others like the AM1018 and AM1036...I'm sorry, the AM1055 and the AM1036 and so on. [LB407]

SENATOR KRIST: Okay. So here's where I am, colleagues. I'm a bit confused because there's a division within the committee in terms of how these things should flow. And if

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you're looking for another vote to go to 25, I'm not there. I'll change my no vote to not voting because I don't see the differentiation between these two subject issues and I believe AM1036 may actually do more in terms of what I believe. So thank you, colleagues, for your attention. [LB407]

SENATOR COASH: Thank you, Senator Krist. Senator Conrad, you're recognized. [LB407]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I think that we've had a good debate so far and people have brought forward their very legitimate and well-thought-out perspectives. But I think as evidenced by the last vote, you can see that this is one of the most difficult issues that the body has dealt with thus far, and the division is illustrative of that fact. I think also for those watching at home and those in the body, when you look at that recent vote count you can see that there are some votes represented in terms of substantive support for the pending amendments and the underlying legislation. And there are some votes that may be more supportive of the procedural posture so that we are getting ever farther from the 25 needed to advance something. And I think additional deliberation, additional negotiation, and additional discussion which that vote will provoke is a good thing because the parties need to go back to the table and the negotiations need to continue in a productive and constructive way. And in relation to a dialogue that a few senators had recently, I just want to point out a simple fact because we struggle with this at the Appropriations Committee from time to time. And I think that senators in searching for clarity and an attempt to illustrate their points of view will start to make their own calculations when it comes to a budgetary figure. And that same situation and dynamic presented itself in terms of this debate where senators are making their own calculations based on dollars on the table and the amount of students. And to be clear, I appreciate that those are well-intentioned debate points as we move through this difficult issue, but they're really not accurate. We can't just take a calculator and punch in the number of students and punch in a dollar amount and come out with a calculation and say, well, that's fair or that isn't fair, because that's not really how the TEEOSA formula works. We all know it's not that simplistic and that there are consequences for each action and reaction dependent upon how you enter those numbers and the amounts that are afforded thereto. So I think that of course each senator has their right and ability to engage in the debate however they see fit. But to say as authoritative some of those rudimentary calculations indicate fairness or equity is really not the case, and I think that's something that we can all agree on. Thank you, Mr. President. [LB407]

SENATOR COASH: Thank you, Senator Conrad. Senator Lathrop, you're recognized. [LB407]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This is a motion to reconsider, and I'm looking at the gadget. We have a lot of amendments. We just spent

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four-and-a-half hours on this one. And there is nothing stopping us from coming back to this issue, but I think moving on probably is the better course at this point in time rather than going back and spending another four hours or three hours or whatever we might spend on this particular amendment, because if that becomes the standard, this is going to be a three-day deal. And I think maybe the better approach would be to march forward on some of these amendments to start to get a sense of the body, because in the end the Education Committee--and I commend them for all of their work, and I mean that, I've been on committees and watched things come to the floor and run into trouble--they put a lot of work into this and a lot of thought. The amendments represent a lot of different ideas and a lot of different approaches. And it might be worth our time to start through the amendments each in turn rather than going back to reconsider them because we'll get a sense of the body, where everybody is at, where the votes are, and then we can look at what is possible. I don't think there is a person in the room, by the way, who wants the bill to be filibustered for this to go back to no TEEOSA bill and then have an 11 percent increase and bust the budget. That's not the point in this exercise. What we are doing, we each are all state senators of course. That goes without saying. But we each have different interests. Those interests are reflected by the differences in the school districts that happen to be in our particular legislative district. And what we ought to hear is, let's work our way through the menu of amendments, each addressing a different issue and a different approach. Let's find out where we're at instead of getting stuck on the very first one. Let's find out where we're at on different ideas so that we can see in the end where the vote is going to be, what are the...what do most of us believe are the appropriate approach to each particular element of coming up with a state aid bill rather than going back, stepping back, and looking at this. And I assure you, I assure you that after we get down the road a ways and we have a sense of where the senators are and where the votes are, we can come back and put something like this in if that is the will. But we'll never get to a place where we can put something together that will get 25 votes or move to Select File if we're going back and reconsidering every amendment until it prevails. And so those are my thoughts. I would encourage you to oppose the motion to reconsider. Thank you. [LB407]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Scheer, you're recognized. [LB407]

SENATOR SCHEER: Thank you, Mr. President. I rise to talk about AM1044. And I go back to all of the discussion we've had and there's been several people that have talked about, well, we need to have our thoughts about the children and the funds need to follow the children and several things in regards to that. But I have yet to hear any senator that has rose to talk about the state funding that has shown that their districts were not able to do what they need to do under the current formulas. And that's not to say that they have been able to do everything they want to do, but they've been able to

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do what they've needed to do. I go back to the last time Senator Cook spoke. She made the point that she's never made a comment in regards to the funding for OPS that she didn't feel comfortable with. If we're comfortable with the funding, why are we arguing about it? Why are we trying to change it? It doesn't make sense to me. Everyone talks about, well, it's okay now but we've lost a lot in the past. We can't go back and undo the past. We can only do what we've got now and move forward. We can't change anything that's happened in the past. The formula may not be perfect. It probably is not. I don't think anyone here has thought that it was. But it's something we have to come up with. And this particular amendment does have a growth factor in it. We need to acknowledge that. All the discussion was about the averaging adjustment. There are several...there are competing interests in regards to the averaging adjustment. If one of those others prevail, so be it. But that's not necessarily a reason just to throw everything else out in this amendment. I urge you to reconsider your vote and to vote positive on this amendment because if nothing else it does one thing that's very important, and that does give every district some growth. We need to do that. We need to provide the growth to the local districts. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Scheer. Those still wishing to speak include: Harms and Avery. Senator Harms, you're recognized. [LB407]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of the reconsider. I do not agree with my friend Senator Lathrop on this particular issue. I will tell you that the longer we wait on this issue it just gives people back behind those glass doors more time to work our senators. And I think this is a time that you make your own mind up. This is a time that you make your mind up about what your schools need. In my office, we have spoken to every one of our schools. And as I told the lobby this morning, don't lobby me because I'm not going there unless my schools say they're not in favor of this. This is not my decision. It's the school's decisions about what they need and what helps them. And I'm afraid that if we don't move forward on this, the division that we're going to find here is going to become greater. The division between rural and urban is going to be more difficult. This vote is important and I think I would urge you to reconsider it and to vote positive for it because I think it's just the very beginning. And if we don't do that now, this is going to be a long time for us, colleagues. It's time for us to focus on what you think is the right thing, not what the lobby is telling you. Do what is right for your schools. So I would urge you to reconsider and vote positive. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Harms. Senator Avery, you're recognized. [LB407]

SENATOR AVERY: Thank you, Mr. President. Obviously I support the motion to reconsider since I filed it. But let me explain further why I did that. There are nine people that were present and not voting, and it suggested to me that they were unclear about

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what the amendment does and perhaps a little bit more debate might be useful. One important point, and there are probably two or three important points to make here, one important point to make about AM1044 is that it increases the base limitation rate in the original LB407 for 2013-14 by .05 percent. That is, it moves from 1.5 percent to 2 percent. What does that mean? It means that this rate change provides growth for both budget lids and formula need for all the school districts. That's important to keep in mind. It provides for growth for both budget lids and formula need. Second point is that this amendment reduces the local effort rate in the original LB407 for 2014 and '15 by .05 cents and that it then moves from 1.03 to 1.025. What this does is that it increases the...the state aid for equalized school districts then increases as the local effort rate is reduced. That will help a lot of school districts. It also clarifies that teacher education aid provided for in the committee amendment, I believe that is AM1018, would be paid from TEEOSA appropriations. That in some people's mind is not clear right yet and this will clarify that. It also affects net option funding. It holds net option funding at just over or just under \$59 million. And this...increasing the basic allowable growth which is involved in this increases the net option funding and reduces the rebate that is the allocated income tax rebate which negatively affects districts that only receive rebate funding and the retirement aid for 2013 and '14. We offered this amendment because it was what we thought was a genuine, good-faith effort to satisfy some of the objections that had been raised in committee, and we were...it was our hope that the effort that we were making would be sufficient to get the 25 votes we need to advance this. I am convinced that it is a good amendment and I hope that something I said here in the last three or four minutes might have helped convince you as well. With that, I urge you to vote for AM1044 after you have decided to reconsider. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Avery. Senator Schumacher, you're recognized. [LB407]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I thought I'd rise to share a few observations with regard to this. There are times when you almost have got to trust the people on a complicated matter who have worked with the numbers. This TEEOSA thing is virtually incomprehensible. It may have started out as something straightforward but as it evolved it is a history of compromises of various position by various leaders, and as we waded through it and waded through the amendments to it, the ability to wrap your head around the numbers and do a proper simulation becomes very, very limited. I do have some trust in what Senator Sullivan has tried to do. I understand there's been a raging controversy and that her recommendation is LB...or AM1044 to try to reach some level of compromise within it, but has re-faced a term-limited Legislature and the probability of anybody getting their head around this and understanding what they're voting on is just a real bad situation. I do want to share some observations though with regard to the money. It seems like we got the idea that we've got suddenly a pot full of money and everybody is fighting over their piece of the action, and that this is somehow at best I can tell tracing back to some

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proposition that we're going to have a 4.5 percent or so year-over-year revenue growth. And I spent some time this weekend trying to see whether or not that is even nearly in the realm of reality. Since 1997, our state GDP till now has gone up about 90 percent and our revenues have gone up best I can guesstimate somewhere between 70 percent to 80 percent. So our revenues have been lagging behind GDP. No one...and our GDP if we take into account the last few years where we've done little better than the national thing has generally fallen behind a little bit but on a par with national GDP. Nobody in the national field is talking a reasonable expectation over the next number of years of more than 3 percent GDP--they'd be very happy if we had it--and we're somehow planning on 4.5 percent increase in GDP. That's just not real. The numbers that we're talking are not real. We're encouraging people to make expenditures and lock themselves into contracts which are going to really ball us up as we look down the road. I did some numbers, assuming a seven years out, the difference between 2.75 growth in our GDP and taxes and 4.5 percent. In over the next six, seven years, that amounts to \$2 billion spread. We're really not approaching this very, very common sense. And the idea that somehow we've got a pot of money extra for TEEOSA and pots of money extra for this and that and we can turn down money from the federal government, we can send money to Iowa, I mean, this is not good financial management of the state enterprise. And I think we need to have some pause in what we're doing because we're putting the...this in effect kicks the can down the road again a little bit. But in the end the day of reckoning is here whether it's the trick we've been using for the last couple of years of, you know, postponing spending for two years and then all of a sudden it hits once somebody is gone or this kind of thing where we build in assumptions and spend on projections that have no reasonable expectation of becoming reality. We are getting ourselves in a... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR SCHUMACHER: ...tighter and tighter noose here. So fundamentally this thing is way...TEEOSA is way too complicated, and somewhere along the line we've got to clean it up. And, secondly, I think we're spending and planning on spending money we're not going to have. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Schumacher. There are no other senators wishing to speak, Senator Avery, you're recognized to close on your motion to reconsider. [LB407]

SENATOR AVERY: Thank you, Mr. President. I just want to remind my colleagues that there are elements to this amendment that are worth giving serious attention to, increasing the base limitation rate which will provide growth for both budget lids and formula needs for all the districts. Also reducing the local effort rate will cause state aid for equalized school districts to increase as the local effort rate is reduced. The net option funding provision also is of use to school districts that are seeking additional

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funding. And it clarifies that teacher education aid be provided through TEEOSA appropriation. This is an amendment that is worth reconsidering and I urge that you give us a yes vote on that so that we can capture that one additional vote from the nonvoting but present members. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Avery. Members, you've heard the closing to reconsider AM1044. The question is, shall there be reconsideration? All those in favor vote yea; all opposed vote nay. Senator Avery, for what purpose to do you rise? [LB407]

SENATOR AVERY: I'm going to have to request a call of the house and a roll call...not a roll call vote, a board vote. Thank you. [LB407]

SENATOR CARLSON: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB407]

CLERK: 30 ayes, 0 nays to place the house under call. [LB407]

SENATOR CARLSON: Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Nordquist, Seiler, Janssen, Kintner, Adams, Wallman, the house is under call. Senators Nordquist and Kintner, the house is under call. Please return to the Chamber. Senator Avery, how would you like to proceed? Do you want call-ins? [LB407]

SENATOR AVERY: I'm going to do a roll call in regular order, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Avery. Mr. Clerk, please proceed. [LB407]

CLERK: (Roll call vote taken, Legislative Journal pages 1077-1078.) 22 ayes, 13 nays, Mr. President, on the motion to reconsider. [LB407]

SENATOR CARLSON: The motion to reconsider does not pass. Mr. Clerk. Raise the call. [LB407]

CLERK: Mr. President, Senator Sullivan, I now have AM1047 as an amendment to the committee amendments. (Legislative Journal page 1011.) [LB407]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Sullivan, you're recognized to open on AM1047. [LB407]

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SENATOR SULLIVAN: Thank you, Mr. President. AM1047 represents yet another step in the compromise scenario I've gone through the past few weeks. It reinstates the averaging adjustment into the formula but in a modified version which begins in 2015-16 school year. It says a district must have had a levy of at least a dollar the previous year to qualify, and the threshold for qualification would be based on 50 percent of the difference between a district's basic funding per student and the basic funding for student of all districts over 900 students. Colleagues, it's clear this averaging adjustment appears to be pretty important to some districts. If you remember my comments on the introduction for LB407, averaging adjustment would be repealed in large part because under LB407 no district would currently qualify for it. What you have heard earlier in other amendments were proposals and rationale to retain it with a new definition. Again, I'd like to remind you that as I have mentioned several times, I've sought to listen to school officials about this and have tried to develop a compromise. What I thought I was hearing in those discussions was that, yes, districts needed opportunity and ability to grow. And some of the superintendents, I talked to were even saying, yes, we're okay with LB407 as is, but we're concerned about going forward. Hence I'm suggesting that we retain this adjustment in the formula but starting in the next biennium. Granted because this takes place in the next biennium, it is difficult if not impossible to give you a prediction on the price tag for this. I also need to let you know that pursuant to Rule 6, Section 3(h), this amendment as well as AM1034, AM1036, and AM1038 will all require a three-fifths majority of the elected members because they are substantially the same as bills that were indefinitely postponed by the Education Committee. I welcome the discussion on AM1047. [LB407]

SENATOR CARLSON: Thank you, Senator Sullivan. Senator Hadley, for what purpose do you rise? [LB407]

SENATOR HADLEY: Mr. President, I would ask the Chair for the ruling as to whether this takes the 25 votes or the 30 votes pursuant to Rule 6, Section 3(h). [LB407]

SENATOR CARLSON: Senator Sullivan and Speaker Adams, please come forward to the Speaker. Members, based on Rule 6, the Chair determines that this amendment takes 30 votes to move forward. Senator Lautenbaugh, why do you rise? [LB407]

SENATOR LAUTENBAUGH: I rise to challenge the ruling of the Chair on the fact that this takes 30 votes. [LB407]

SENATOR CARLSON: Senator Lautenbaugh, you're recognized to open on your motion to overrule the Chair. [LB407]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And this is I think a very important point not just for this bill but for others to come, and I don't believe that we've dealt with what is substantially similar and what is not substantially

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similar. I would argue that there is not anything close to a complete unity between this amendment and the bill that was previously killed. So I would argue that this is not substantially similar and that it should not be held to the 30-vote threshold nor should the proposed amendments to come. This is something that we have to decide as a body. And I don't bring a motion to overrule the Chair lightly, but at what point do we make this decision I guess. We've had this issue once this year earlier and I was on the losing side of that if memory serves. But I challenged it at that point as well because I do believe that we are providing a...or bringing to bear a very loose definition of substantially similar to consider this to be the same as the bill that has been killed and to require 30 votes. I think it's a dangerous road we go down and I would urge you to not support the ruling of the Chair. I guess I should word that properly, to support overruling the ruling of the Chair and not require 30 votes for this amendment or the ones to come when we get to them. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. You've heard the opening on the motion to overrule the Chair. The floor is now open for debate. Those wishing to speak include Senators Cook, Dubas, and Lautenbaugh. Senator Cook, you're recognized. [LB407]

SENATOR COOK: Thank you, Mr. President. That was quick. And speaking of quick, now I have a little bit more insight into why our Education Committee took the opportunity to exec to IPP those bill proposals for those of you who are new. Now we're getting a little bit more insight as to why for not the first time probably on that committee but a hurriedly arranged Education Executive Committee to make a motion to indefinitely postpone the bill proposals. I rise to support the motion to overrule the Chair. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Cook. Senator Dubas, you're recognized. [LB407]

SENATOR DUBAS: Thank you, Mr. President. I did have my light on to originally talk about the amendment before this came up. I think Senator Lautenbaugh has given us all food for thought, and quite honestly I don't know where I'm at on the overruling the Chair. You know, the rules that we have in place are pretty clear and I think this is one of the first times that I've seen this particular rule come into play and the overrule. So I certainly will listen to the arguments as they are laid out in regards to this. But as I said, I did have my light on to speak to the amendment, so I'll take my opportunity to speak to that amendment and recognize that Senator Sullivan and the Education Committee last year spent a great deal of time traveling the state and visiting with school districts and superintendents and business managers trying to determine what will be the best way to go. And LB407 was what came out of that...those travels and those meetings and I, too, have had conversations with my administrators and my school districts who are all in support of LB407. Was even told by some of my districts that one in particular said

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they would probably benefit more from the modeling done under one of the...Model B, but are respectful of the discussions and the debates...discussions that were taken place over the interim and wanted to stay with that agreement. They believe that Senator Sullivan and the committee have put in a great deal of time and effort to get to where they are on this. And so all are in support of LB407 and the amendments. I think this amendment is an indication of Senator Sullivan's willingness to listen to what the concerns were raised by some of our other school districts. I think there was a comment made earlier this morning that I completely agree with. I don't disagree that any of our school districts need additional resources. I don't remember who made that comment this morning, but that this debate is about making sure that all of our school districts from the largest to the smallest and everything in between have the resources that they need to take care of our children. It's the state's obligation to educate our children. Large school districts certainly have their challenges in meeting their children's educational needs, but so do the smaller school districts. Everyone is equipped in different manners in how they're able to meet those students needs. So it almost feels like this discussion and this debate is whose needs are more...who's more needy. Whose children need the resources more? Our children all need these resources. They all need to have access to a quality education and well-educated teachers who have that ability to meet the need of each and every one of those kids wherever they are at, however they come into the school system. We have had other bills introduced this session that deal with how do our teachers and school systems meet the needs of children who come to school who have very specific behavioral health issues. Our schools certainly aren't equipped to meet the needs of those children, so how do we make sure that our teachers are able to teach the majority of their students but also able to address and handle the needs of children who come to school with those types of special needs. So, you know, that's the big question here is how do we make sure that every school district gets those resources? How do we make sure that we are meeting our constitutional obligation to fund all of our school districts and all of our students all across the board in a fair and equitable manner? And I think some of the conversations that we're having today are reminding me of some of the conversations that I've had with my children in the past when they were growing up... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR DUBAS: Thank you, Mr. President...about, you know, it not being fair. And you gave...you know, you gave my brother or my sister more than you gave me. Well, we have to be able to try to...fair is in the eye of the beholder, so how do we move from fair to equitable. And I believe that what Senator Sullivan is trying to do is getting us the...moving us that direction. I do appreciate the discussion and the debate and will continue to listen on points made about overruling the Chair. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Dubas. Senator Hadley, you're recognized. [LB407]

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SENATOR HADLEY: Thank you, Mr. President, members of the body. I rise in support of Senator Lautenbaugh's motion to override the Chair. The averaging adjustment, again, we're talking about that, in order for it to take the 30 votes, it must be substantially similar. I would argue that this is not substantially similar, that it is different than LB640. LB640 actually had three or four parts to it, so I would argue that we should support the overruling of the Chair. I would ask if Senator Cook would yield. [LB407 LB640]

SENATOR COOK: Yes, I will. [LB407]

SENATOR HADLEY: Senator Cook, you mentioned that the committee met to basically IPP a number of bills. Is that correct? [LB407]

SENATOR COOK: Yes, Senator Hadley. On Thursday night at about 6:00 p.m. we each received an e-mail message saying that our committee would meet in Executive Session after a briefing from the Commission on Postsecondary Education. Then each person was handed a list of the bills that were...had a reference to LB407. And I left the room to come prepare for a consent calendar bill and the motion was made to IPP all of those bills, and I believe it included yours. Thank you. [LB407]

SENATOR HADLEY: Okay. Senator Cook, is this your first year on the committee? [LB407]

SENATOR COOK: It certainly is. [LB407]

SENATOR HADLEY: Okay. Would Senator Haar yield to a question? [LB407]

SENATOR CARLSON: Senator Haar, would you yield? [LB407]

SENATOR HAAR: Yes. Thank you [LB407]

SENATOR HADLEY: Is this your first year on the committee? [LB407]

SENATOR HAAR: No, it's not. [LB407]

SENATOR HADLEY: Is this common practice that you meet hurriedly at the end of the session to IPP bills? [LB407]

SENATOR HAAR: No. I think, you know, there have been some bills that have been IPPed, but mostly we just let bills go or we kill them. But again I would...well, I have my light on so I won't take up your time. [LB407]

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SENATOR HADLEY: Okay, okay. Thank you. I would just urge your green vote to overrule the Chair on this motion. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Hadley and Senator Cook and Senator Haar. Senator Haar, you are recognized. [LB407]

SENATOR HAAR: Mr. President, members of the body, I got fooled and I'll admit it. I'm not great on the rules and I'll admit that. But as Senator Cook said, we got an e-mail at 6:05 p.m. the night before a hearing at 8:00 in which we got a report from the Commission on Postsecondary Education. After that, it was like, oh, shortly before 9:00 we were given a list of all these bills and the motion was made to IPP them. And, of course, Senator Hadley's bill was in there and my bill was in there and so on. And I voted to IPP it because I thought, well, we're going to discuss these on the floor and potentially add them as amendments. So you fooled me. I feel really badly about that. And gloves off. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Haar. Those wishing to speak include: Adams, Avery, Kolowski, and Price. Senator Adams, you're recognized. [LB407]

SPEAKER ADAMS: Thank you, Mr. President. Members, I needed to make a ruling on this when these amendments were filed on Friday. I took them home and went through them. And in terms of what happened inside, outside the Education Committee when it happened, the point is there were bills that were IPPed, these motions are filed, and now they're in front of us, and I've made a ruling. It is certainly, certainly well within the rules for Senator Lautenbaugh, Senator Hadley to challenge my ruling. Now I'm going to tell you why I ruled the way I did and then you're going to have to decide. AM1047, in my opinion, is substantially the same as LB640 that was IPPed by the committee. This brings the averaging adjustment in. And as I reviewed it, it seemed to me that what Senator Sullivan was doing was virtually taking the averaging adjustment calculation that was in LB640 which was Senator Hadley's bill that he introduced and bringing it forward here. For instance, currently in the averaging adjustment we use all schools in the state to come up with the average. Senator Hadley's bill says, no, we use 900. Senator Sullivan's amendment says we use 900. There are other things that I could sit and isolate for you. There's where I found the similarity. There are other amendments pending if we get to them. Someone wants to question whether or not it's going to take 25 or 30 votes to move them, I've studied all of those, too, and I have an opinion for whatever it may be worth. I believe that this amendment is substantially the same as language that was IPPed by the committee, therefore, for Senator Sullivan to move her bill it will take 30 votes, not the normal 25. It raises the standard. Thank you, Mr. President. [LB407 LB640]

SENATOR CARLSON: Thank you, Senator Adams. Those still wishing to speak include Avery, Kolowski, Price, Lathrop, and Krist. Senator Avery, you're recognized. [LB407]

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SENATOR AVERY: Thank you, Mr. President. I just want to add some perspective to some comments that were just made about being tricked. This is a practice that the Education Committee has actually had in its rule books and its procedures since I've been on the committee, and that's seven years, where at the end of our period after we've gotten the main bills approved and reported out, particularly the TEEOSA bill, we meet in Executive Session and there is a motion to IPP all the bills that relate to the TEEOSA formula that were not approved by the committee. That's been standard practice for at least seven years. I don't know how it was before I came. But I do know that the reason for that is probably to avoid having every TEEOSA bill picked apart piece by piece by amendments coming from the floor, which is about what it looks like we're doing with LB407. That's not a good way to make policy. We do have, I think, some remaining respect for committees in this body. The Education Committee worked hard to reach compromise, we could not get it, and we voted, and the vote was five to three. It appears to me that there is a declining respect in this body for what I would call the sovereignty of committees. That doesn't mean you can't disagree with the committees, you can't offer amendments. But this idea that a majority of the committee that works hard to come up with a bill that they think is worthy of your consideration to act as if that work is not worthy and that you should take the approach of three members in a minority and say that's the side we will take, it seems to me that is an invitation to chaos because committees are important to orderly processing of bills on this floor. If you don't trust your committees, if you don't like the work your committees do, you don't respect the work that committees do, I think we're in a lot of trouble. I wanted you to have that perspective on what we did. It is not unusual. We've done it before and it seems to me that to cast it in some...any other light is not correct and I wanted you to know that. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Avery. Senator Kolowski, you're recognized. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. President. Fellow senators, I rise in support of Senator Lautenbaugh's motion to overrule the Chair. Under Senator Adams' ruling, Senator Sullivan's amendments would also need 30 votes. We can come together and find a common solution but not if one set of amendments are treated differently than the others. Also this ruling penalizes people for introducing bills in committee because from how this has played out, everyone should just make policy decisions through amendments on the floor. Thank you very much. [LB407]

SENATOR CARLSON: Thank you, Senator Kolowski. Senator Price, you're recognized. [LB407]

SENATOR PRICE: Thank you, Mr. President. In looking at what's transpiring here I was reminded of a little ditty. The wheels on the bus are not going round and round. And

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we've taken a turn towards the bizarre. And what a conundrum we've created for ourselves because I respect Senator Adams and his grasp and understanding of the work before us. So he's made a ruling, but I think he was forced into that ruling. Thankfully, we have within our rule book the ability to mitigate these situations that we work ourselves into. I'd rather think that there was no nefarious effort. There are no need for gloves to come off. I believe the people are trying to do the best they can. But we are in this conundrum now. I will support Senator Lautenbaugh's motion not because I want to overrule the Chair but because we have to do something. And when I looked at the vote that we saw before and how close the vote was, I don't think you'll find 30 votes other than to adjourn, and that's not an option. We were sent here for one purpose by the constitution. We'll get this done. But right now I stand reluctantly in support of this to help us get out of the sticky wicket we are in. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Price. Senator Lathrop, you're recognized. [LB407]

SENATOR LATHROP: Thank you, Mr. President and colleagues. We got to be really careful with this one. Voting on this one to get out of a sticky wicket--bad idea. I got about two or three things I want to say about this. First, a story, a little war story. This idea that people are critical because the committee went in and killed all the amendments--get over it. When we did the CIR, we put a bill together, an amendment together, that committee did, and then we went in there, the last thing we did before we put that bill out was kill everything that had CIR written on it. That's what you do. Your committee has done its work. You know what you want. You know the direction you're going in. Kill everything else because that's the prerogative of the chair and the committee. Nothing wrong with that. And I don't care if it was done five minutes before the bill came up. That's first. The second thing and more important is, this is not a place where you vote for this decision based upon whose side you're on in this thing. We can see there's two camps here, right? You got the big school and the little school camp and, you know, you kind of have an idea where you need to be on some of the votes. Not on this one. This is about the institution. And I will tell you that if this is the same thing as an amendment that was...or a bill that was IPPed, then the answer is, support the Chair. That's the...it's not about what you want to have happen and what you want LB407 to look like at the end of the day, because as soon as we do this and we establish a precedence, then we've set the standard for how we measure the next one. And it won't be on this bill. Well, maybe it will be. We'll do it on the rest of them. And I'm sure there's a lot of people out there that are going to be unhappy with me for saying this, but I can tell you that sometimes you have to stop, step back from where you're at on a bill and say, wait a minute. This is about a rule running the institution and the only question, the only question, the only question now is, is this the same thing as a bill that was killed in committee. And if it is, we vote red on this motion to overrule the Chair. If it's different, substantially different, then vote green. But don't do it because you want

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the outcome to be a 25-vote threshold or a 30-vote threshold because of which camp you're in on LB407. That's not a good thing. Sometimes you have to be true to the process even if it isn't helpful for your cause. And we don't really have the amendment in front of us or the bill that was killed. It sounds from the description like it was substantially similar and I think I will vote red on the motion to overrule the Chair. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Krist, you're recognized. [LB407]

SENATOR KRIST: Thank you, Mr. President, and good afternoon, colleagues and Nebraska again. And I have to agree 100 percent with Senator Lathrop--99.9. I never go 100 percent. Here's the deal. This is dangerous ground overruling the Chair. I think it really does say something about the institution and the process. I was wondering, just to finish my point, if Senator Adams would yield to a question. [LB407]

SENATOR CARLSON: Can't. Okay. Senator Adams, would you yield? [LB407]

SPEAKER ADAMS: Yes, I would. [LB407]

SENATOR KRIST: Senator, the ruling that you have made is consistent with the number of votes it takes to pull a bill from committee, that is 30, and that anything that is substantially significantly the same that has been IPPed by that committee would require the 30 votes. Did that enter into your decision process? [LB407]

SPEAKER ADAMS: It really didn't. I looked at the rule, looked at the bill, LB640, looked at the amendment, and walked through line by line and made the decision based on that. [LB407]

SENATOR KRIST: I'll ask you to comment in just a minute. My fear, colleagues, is that we've had some crazy subject matter that's been taken to different committees. And my fear would be that anyone could pull that subject matter out and amend after it had been IPPed in committee. Maybe I'm too much the purest but I think that's a concern regardless of where we are. I am...and I told you this from the very beginning, I am looking forward to the upcoming amendments because I'm not convinced that these two amendments are the way we needed to go. But, again, Senator Lathrop's step back, take a deep breath, I think we need to do that. And Senator Adams, you're yielded the rest of my time if you wish. [LB407]

SENATOR CARLSON: You can't. Can't yield time on the motion to overrule the Chair. [LB407]

SENATOR KRIST: Okay. And then I'd like to...okay, Mr. President, then I would like to

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ask Senator Adams a question. [LB407]

SENATOR CARLSON: Senator Adams, would you yield again? [LB407]

SPEAKER ADAMS: I would. [LB407]

SENATOR KRIST: And how much time do I have left? [LB407]

SENATOR CARLSON: 2:24. [LB407]

SENATOR KRIST: Thank you. Senator Adams, I would ask you then specifically, you heard my last comment about the consistency or the ruling. Carrying forward then, what this means is that any bill that would...particularly with LB407, would require 30 if the amendment is amended to the existing bill. [LB407]

SPEAKER ADAMS: Senator, if I understand your question I'll respond in this way. I took all the amendments that had been filed on Friday and compared them with bills if there were bills that were IPPed, and I can tell you that as I looked at that list, some of them like this one I believe were substantially similar and would require 30 votes but yet there are others on that list that are new material, not IPPed material, which would take 25. [LB407]

SENATOR KRIST: So the follow on question is, if we would take something that is substantially like something that's been IPPed and amend it to LB407, then does it follow that LB407 needs 30 votes to follow forward? [LB407]

SPEAKER ADAMS: I don't believe so. [LB407]

SENATOR KRIST: How would we take something that's been IPPed, put it on the bill and not have the bill have 30 votes? [LB407]

SENATOR CARLSON: One minute. [LB407]

SPEAKER ADAMS: Well... [LB407]

SENATOR KRIST: I'm not questioning your judgment. I'm asking you to defend it because we're setting precedent here as we go forward. So what we're saying is that the amendment requires 30 but it's not a conjecture or follow on that the bill then would require 30 to go forward. [LB407]

SPEAKER ADAMS: Not if the amendment is successful and attached to the bill. [LB407]

SENATOR KRIST: Thank you. [LB407]

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SENATOR CARLSON: Thank you, Senator Krist, Senator Adams. Senator Bloomfield, you're recognized. [LB407]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, we've had what to me is some serious accusations made toward one of our Chairs. I don't like to see that on the body that one of our Chairs intentionally tricked other members of the committee. That's ugly. It has no place here. If you lose in committee, you lost in committee. Bear up to it. You come out here and accuse the Chair and other members of the committee of doing nefarious things does not reflect well on anyone in this body. I will not be supporting the motion to override the Chair. I think we need to move forward here with the ruling that's put out by the Chair and let's get on and do the people's business. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Christensen, you're recognized. [LB407]

SENATOR CHRISTENSEN: Thank you, Mr. President. I support the rule of the Chair. If you think about it, you've got to follow the rules. If you don't like the rule, change the rule. That's why I've always talked about if you don't like being able to pull bills out of committee, change the rule. This is a rule that we all agreed to, to begin this session. Just because it doesn't play out like you want it doesn't mean that you can change it. There isn't a one of us here that shouldn't have known and there's no one in the lobby that didn't know it. And I think I stood up earlier and said if we don't support the Chair...I'm sorry, support the committee, you've got a lot longer road to go than you realize. I didn't stand up and say it was going to take 30. But you can look at the list. It was advertised what was IPPed. You know, we just got to follow the rules. It doesn't matter whether you like it or not. That's the rules we put ourselves under. We need to go forth, support the ruling, and go forth. Vote against the overrule. Thank you. [LB407]

SENATOR CARLSON: Thank you, Senator Christensen. Senator Conrad, you're recognized. [LB407]

SENATOR CONRAD: Thank you, Mr. President. Good evening, colleagues. I'm struggling with my decision in terms of how to vote on the motion to overrule the Chair and I'll tell you why. I think that this is definitely within the province of the rules that this body has adopted. And to be clear, the rule at hand is ultimately applied in a subjective manner. The rule itself, Senator Christensen, does not lay out parameters for how that decision should be made. I think that we can all agree with that. Say, for example, it doesn't say, well, the bill substantially similar if 51 percent is the same in the amendment as what was originally introduced or some other sort of objective criteria in how to make that determination by the Chair as to whether or not a pending amendment is substantially similar to the introduced bill that may have been IPPed by the

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committee. So it's ultimately a subjective consideration and the overrule of the Chair motion is definitely in line with our rules and fair to debate. But in terms of overall precedent, I'm struggling about what the right move is in that regard. And let me throw this out there and I think it's probably why other members are struggling as well, and I've heard some emotional testimony on the mike. I've heard some more emotional dialogue off the mike. And you know what I think that represents? I think it represents that there's actually a lot of common ground on these issues. I haven't heard people stand up today and say, you know, I'm against public education or I don't want to see the future of Nebraska be well supported. Absolutely not. To the contrary, education of our children, the focus on our future, these are not Republican issues; these are not Democratic issues; these are not urban issues; these are not rural issues. These are Nebraska values and there's a lot of shared value and common ground in this dialogue, and I think that's one of the reasons why we are struggling through this debate. And a little emotion is never a bad thing either, particularly when members do care deeply about the subject matter at hand. And I've heard members say that, you know, they want to see the Chair fail or the Chair succeed, and I just don't see it that way. I see Senator Sullivan as a very competent chair and as my friend. I want to see Nebraska succeed and I want to see the Nebraska Legislature succeed in tackling this difficult topic. And one strategy to assist in that effort that I think should be noted for the record is, this TEEOSA debate is a little bit different than some other areas because of the complexity of the formula and the unintended consequences once you get in and start tinkering. Some of the pending amendments to LB407 by opponents and proponents, particularly those by opponents, have not been modeled. So we have an unclear impact in terms of state aid and overall budget which is something I think that we need to be thoughtful and concerned about. And I think that there could be a danger in pushing forward with votes that box in members without knowing what some of those fiscal impacts may or may not be through official channels. And this isn't one of those topics where we can just get out our motion pad and start scribbling in our pencils and pens to try and work through the sometimes messy parts of legislating. But this is really one of those topics that I think requires that we take a step back, that we hit the pause button, that we let members get around a table, that we let divergent interests get around a table, and we start to run formal models on some of these alternatives to ensure that we're... [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR CONRAD: Thank you, Mr. President...all talking about the same fiscal impacts and that we can continue to find a way for us all to succeed. And through the...that process comes through compromise and consensus which, again, I think the parties aren't really that far apart on. But indeed more negotiation needs to happen and it's the particular type of negotiation that doesn't lend itself well to, again, scribbling on a motion pad or just throwing up motions. We need to know formally what the fiscal impacts are and we need to have all of the people around the table to carry on that

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important conversation. So I hope that maybe we consider through agenda scheduling or otherwise an ability to maybe push the pause button here and allow Nebraska to succeed and Nebraska values to prevail. Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Conrad. There are no other senators wishing to speak, Senator Lautenbaugh, you're recognized to close on your motion to overrule the Chair. [LB407]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And I would request a call of the house. [LB407]

SENATOR CARLSON: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB407]

CLERK: 30 ayes, 0 nays, Mr. President, to place the house under call. [LB407]

SENATOR CARLSON: Thank you, Mr. Clerk. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Lautenbaugh, would you begin your close? [LB407]

SENATOR LAUTENBAUGH: Yes, I will, Mr. President, and thank you. I don't bring a motion like this lightly. I think I did once this year earlier. And understand I'll not be voting for the amendment in question. It needs to get to 30 and that suits my purposes because I don't want this amendment to pass. But there is a principle here and some of you did touch on it. Some of you said, well, I support this motion because I want this to...I don't want these to have to get 25 votes in the future or something like that based upon the position you have on the amendment at hand, but that's not really the test here, folks. And we are told quite a bit that we need to consider what we're doing and the effect on our traditions and the effect on the body and etcetera, etcetera, and that's all proper. But understand we also need to consider what happens if we will not ever entertain a motion seriously to overrule the Chair. This is in the eye of the beholder. Each of you is just as qualified to make this decision as the Chair. Is this amendment substantially like a bill that's been IPPed? I would argue "substantially" is a hurdle that this amendment does not make. And you've been told, well, gee, we can't go down this road and we...then the next thing you know we'll be disrespecting the committee process. Folks, understand if you vote for my...this motion that I've made to overrule the Chair, the Chair is not going to cry himself to sleep tonight and he's not going to not speak to the rest of you again. If you don't vote for this motion...well, I might, but you shouldn't worry about me, but if you don't vote for this motion, to be serious about it, I won't either. But this is an important policy decision for all of you to make. Do you believe that this amendment is actually substantially, not kind of like, not in the same

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part of statute, but substantially like the amendment or the bill that was killed such that it should require 30 votes. And there is no...nothing in the rules that says you count the words and weigh them and see if the words are the same or if it happens to contain numbers, if the numbers are the same. You have to make this call. And, again, I don't support the amendment. I want it to have to get 30 votes because I don't think it can. It won't get mine even at 25. But there is a principle at work here as to whether...what substantially similar means and whether or not this is it. And I would submit to you that it is not. I don't wear this...you know, trot this out very often. I talk more about being a former election commissioner than current Rules chair, but I am the chair of the Rules Committee. And so I don't bring this lightly and I do, on this one, know of what I speak when I say this is subjective and largely in the eye of the beholder. But I don't think it meets the substantial test--being substantially alike enough to require the 30-vote threshold. And, again, you aren't doing damage to the body by overruling the Chair. You aren't doing damage to the Chair. You aren't doing damage to our history or our future with such a vote. What you're saying is, no, I don't think the standard should be this high for that amendment. I don't think this amendment is just like the bill that was killed, because I mean the test, you know, you can argue at what substantially means obviously and there is no clear-cut test in the rule as I indicated. So it's your call. But none of you signed on to cede all of your authority to the Chair, and none of you signed on to cede all of your authority to the Speaker, and, sadly, none of you signed on to cede all of your authority to me. So you're going to have to make this call on your own and it won't be the last time you do it. [LB407]

SENATOR CARLSON: One minute. [LB407]

SENATOR LAUTENBAUGH: I promise you that. Senator Chambers is indicating he did sign on to cede all of his authority to me apparently. At least that's how I took the gesture, so. (Laughter) Oh, okay. Perhaps I misunderstood but we can talk about that off the mike, Senator. But this is an important point and I would urge you to not vote based upon how you want this particular amendment to come out, not even vote based upon how you want this bill to come out. But understand this is one of those things that's in the rules and it doesn't say, oh, my gosh, you should never overrule the Chair, or you should only contemplate it twice a session, or you should only do it once a week. No. It says you can do this if you disagree. That's part of your prerogative as a senator. So please I would urge you to weigh this in against that backdrop especially, not specific to the amendment but just whether or not you believe this is substantially similar enough that this higher threshold could apply. [LB407]

SENATOR CARLSON: Time. [LB407]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB407]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Members, you've heard the

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closing on the motion to overrule the Chair. According to Rule 1, Section 12, the question of shall the Chair be overruled, a majority of those present shall be required to overrule. There are 44 members present. It will take 23 votes to overrule the Chair. The question is, shall the Chair be overruled? Those in favor vote yea; those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB407]

CLERK: 11 ayes, 24 nays, Mr. President, to overrule the Chair. [LB407]

SENATOR CARLSON: The motion to overrule is not adopted. Mr. Clerk. Raise the call. [LB407]

CLERK: Mr. President, if I may read a couple of items. I have a new resolution: Senator Chambers, LR155. And I have an amendment to be printed to LB613 by Senator Chambers. (Legislative Journal pages 1079-1084.) [LR155 LB613]

Mr. President, therefore, given the past action, Senator Sullivan's AM1047 is currently pending. [LB407]

SENATOR CARLSON: Okay. The floor is open for debate on AM1047. Senators wishing to speak include: Lautenbaugh, Ken Haar, Hadley. Senator Lautenbaugh, you're recognized. [LB407]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and I'll be brief and this will be a slight digression, but this bears pointing out since we just had that exercise. Did you notice how many people it would take to overrule the Chair? A majority of those present. Folks, that is the lowest standard we have for taking an action. That almost never applies. So the next time you're being told this is something that shouldn't be done or something that should only be rarely done or something that should be hard to do, the will of the body as expressed in the rules does not suggest it should be very hard at all. A majority of those in the room, for crying out loud. That's the lowest standard we have. That said, thank goodness you didn't support my motion because I really don't support this amendment and I would yield the rest of my time to Senator Kolowski. [LB407]

SENATOR COASH PRESIDING

SENATOR COASH: Senator Kolowski, four minutes. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. Chair. With the division of work that we've been working on, I would yield that time, my time on this to Senator Haar, please. [LB407]

SENATOR COASH: Cannot yield twice, Senator. [LB407]

SENATOR KOLOWSKI: Can't yield? [LB407]

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SENATOR COASH: Senator, Ken Haar is next in the queue. [LB407]

SENATOR KOLOWSKI: Thank you. I'm done. [LB407]

SENATOR COASH: Senator Ken Haar, you are recognized. [LB407]

SENATOR HAAR: Mr. President and members of the body. It certainly confuses things with two Haars-Harrs in here, I know that. Well, I've talked about this so I'd like to take my five minutes to go over this paper. Again, this was a paper presented at the 2013 Great Plains Symposium at UNK on April 5-6, just a couple of weeks ago, an event sponsored by the UNL Center for Great Plains studies and the topic for this symposium was gains and losses from school consolidation in the Great Plains. And this paper was coauthored by Dr. Eric Thompson who is associate professor of economics in the Department of Economics at UNL and also the director of the Bureau of Business Research at UNL, and also coauthored by Dr. Bree Dority, associate professor of economics in the Department of Economics at UNK. And it sort of serendipitous that I got my hands on this because I'd ask somebody else in the Economics Department if they knew of anybody and yesterday he called me and he said, a guy down the hall did this paper. Okay, I want to read a little bit from the abstract and then from the document itself. This paper has been presented. It's not been published although they intend to publish it and with a few minor changes he said, and I got permission from Dr. Thompson to use it today. This is from the abstract. This study examines how the monetary cost of public, primary, and secondary education in Nebraska varies by school district size and whether these costs are expected to rise or fall after districts consolidate. We find a U-shaped relationship between the average monetary cost per student and the number of students per school district in Nebraska. Now, it came up in the committee a number of times to just look at all the school districts and say, there's economy of scale. The larger the district the cheaper it should be to educate one student. But anytime when economists talk about the economy of scale, they also talk about the diseconomy of scale. And that means when something gets to a certain point, producing more can cost more. So they call it a U-shaped relationship. That means that, yeah, the small schools in this case cost more than the large schools, but there becomes a point where because of the size of the school, it costs more to educate the kids. And I had talked about this in committee but didn't have anything in particular to say, well, this is the size of school. So these two folks have presented this paper and here's what they say. With these caveats, analysis based on Nebraska school districts found a U-shaped relationship between the average monetary cost per enrolled student and the number of students per school district. In our fully specified model, average cost for enrolled student reach a minimum in districts with 8,050 enrolled students. And after that, the cost begin to rise. So if you look back at the number of formula students, you will see that there's a point when school districts get large enough to the point of about 8,000 where the reverse starts to happen. You don't save cost per student, but the cost

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increases. And so this, I think, validates what my thoughts were that the fact that some of the lowest cost per student, the basic funding was for the large schools was not right. That some of the largest schools get to the other shape of the U where their costs are starting to increase. So I just wanted to share that. If anybody would like a copy of this I think it would be okay for me to give this and you might be interested in seeing what the rest of the study says about consolidation. Thank you very much. [LB407]

SENATOR COASH: Thank you, Senator Haar. Senator Hadley, you're recognized. [LB407]

SENATOR HADLEY: Mr. President and members of the body. Sometimes you feel like you're swimming uphill. Since we brought up LB640, let me give you a little information about LB640. I asked the chair of the Revenue Committee...or I'm sorry, the Revenue. I get chewed up enough on that. I mean, the Education Committee, if she would write a letter to the Nebraska Department of Education asking if they would run LB640 and get us a printout of what the impact of LB640 was. I want to read you their response: To Senator Sullivan and Senator Hadley. The Department of Education's understanding that you have requested information regarding the time and resources necessary to prepare a model of what TEEOSA aid would be under LB640. The following information details the process as well as the time frame needed to complete the project. Preparing a model of LB640 requires reprogramming of the calculations for the following components: Adjusted General Fund operating expenditures; basic funding; formula need; need stabilization; allocated income tax; net option funding. No place does it say anything about averaging adjustment. That's just one point. The changes to these components will impact several other components which will have to be recalculated and verified. Due to the complexity of these changes, additional time will be necessary to verify the information to ensure that the model we are making public is accurate. It is our estimate for preparing a model for LB640 would take us approximately seven to ten working days, or approximately 200 hours of staff time to complete the model. Due to the time constraints, it has been our policy during the legislative session that model requests come from only the chair of the Education Committee. I'm sorry, that basically says if you're not the chair of the Education Committee, don't bother bringing something and ask it to be modeled. Well, how do you tell how something is going to impact TEEOSA if you can't model it? How do you do that? Two hundred hours? And I made some notes from Senator Sullivan talking and it sounded like she was almost able to get daily turnaround on her models because she made a comment that Senator Gloor's amendment that was put in, she has the number of schools that are impacted. Okay, that's fine. If that's the way it is, I certainly understand it. But I don't know, I guess we have to deal basically in concepts and the Education Committee gets to give us printouts of how this is going to impact us. Thank you, Mr. President. [LB407]

SENATOR COASH: Thank you, Senator Hadley. Senator Gloor, you're recognized. [LB407]

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SENATOR GLOOR: Thank you, Mr. President. I have the amendment, AM1060 that you should support. I will not be supporting AM1047 and urge you not to support AM1047. Again, my amendment is AM1060 and it's down the list a little bit and we'll get a ruling on it and I'll probably appeal or ask to overrule the Chair if it's determined it requires 30 votes. We could do this for quite a while today and tomorrow, I suppose. I'm kind of weighing my words here because...well, first of all, AM1060 takes out the two-year wait, the biennium wait for the averaging and keeps in the stairstepping that's currently in place. So I go back to, this is equalization. This is the reason that we establish a formula in the first place, averaging. It is important and my AM1060 is the right way to get there, not AM1047. When Senator Sullivan talked about my amendment, she mentioned estimates indicate that seven districts will benefit from my amendment. And so we very quickly went from a discussion about education and education of children to a big districts, little districts discussion in this case. And I've got to tell you, that finally got me off of my comfort level with this discussion and back to the point of saying, now wait a minute. The big districts are big districts because they have a lot of kids. And this funding discussion is about funding education for children. Seventy-two percent of the students in this state are in districts that are \$1.04, \$1.04. Seventy-two percent, three quarters of the kids we're talking about here. And guess the size of those districts? They are big districts. That's where the kids are. And there have been inferences...and I think Senator Scheer said it very nicely and he was careful in how he parsed his words, has anybody talked about what these districts needed to do that they couldn't do? He didn't say...he said clearly, wanted. Isn't the word here, needed, and he's right. And so I sat down and I've been picking through some of the numbers in the Grand Island district to look at that very issue. And so this current fiscal year end, what are some of the things that they've done. Well, among other things, they've scrapped a lot of maintenance on facilities because they just don't have the money to do that. Pay me now or pay me later. And in this case, if you don't have the money to do the maintenance now, you just don't do the maintenance now. And that was close to a half a million dollars. They also shifted about a million dollars out of their building fund into General Funds to spend it for education. That's eating your seed corn. That's what they've had to do to keep their heads above water. And we've had a lot of discussion this year on the importance of early learning. And part of what they've had to do because we fund K-12, is get rid of a lot of the preschool programs they had, everything from transportation to actual teachers for their preschool programs. Other components that relate to direct teaching in a preschool basis, gone. Not all of it, but a good chunk of it. Can't afford to do it. [LB407]

SENATOR COASH: One minute. [LB407]

SENATOR GLOOR: Thank you, Mr. President. So there's some cutting of meat here and there's some...making some short-term decisions because that's all we've got funds for. Those are things that need to be funded at some point in time, should be taken care

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of at sometimes. They're not once. They are needs and they're already affecting my district. And what we're talking about in AM1047 will make for even harsher cuts getting rid of things that are real needs in the future, if we're not careful. Please vote against AM1047 and keep your eyesight on AM1060. Thank you, Mr. President. [LB407]

SENATOR COASH: Thank you, Senator Gloor. Senator Kolowski, you're recognized. [LB407]

SENATOR KOLOWSKI: Thank you, Mr. Chairman, fellow Senators. I have a question for Senator Gloor if he'd yield, please. [LB407]

SENATOR COASH: Senator Gloor, will you yield? [LB407]

SENATOR GLOOR: Certainly. [LB407]

SENATOR KOLOWSKI: Senator Gloor, would you go into a little more detail as to why not waiting until 2015, 2016, of a two-year wait that's proposed under AM1047, please. [LB407]

SENATOR GLOOR: Well, we go back to our charts, Senator, that shows that the trend line has been broadening between those districts with high needs, limited resources, and other schools overall. And waiting two years just means that gap between those is going to get wider and wider. And it's a gap, Senator, that when you look at funding and you look at the formula, I don't know how we ever make that up. So we are basically resigning those districts to taking less in the next two years and never being able to recapture those dollars under our funding mechanisms. [LB407]

SENATOR KOLOWSKI: Thank you, Senator Gloor. Would you also explain in a little more detail about your stairstepping and how important that is? [LB407]

SENATOR GLOOR: Well, I would say that the easiest way to explain it is, as you get closer and closer to reaching your levy, you have no place else to go to raise funds. And stairstepping it up and providing for a larger percentage to go back into the formula takes state dollars that we all pay in with an expectation they'll go for funding for education, and allows us to use a larger portion of those funds to plug in where we don't have the money locally to be able to pay for the education of those kids. That's my...when I lay awake at night the last two nights thinking about this, that's at least how I look at it. [LB407]

SENATOR KOLOWSKI: Thank you, Senator Gloor. I concur in...for that reason, I also stand against the AM1047 to AM1018. I'd like to yield the rest of my time to Senator Ken Haar, if he's here. [LB407]

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SENATOR COASH: Senator Ken Haar, 2 minutes 30 seconds, and you are next in the queue. [LB407]

SENATOR HAAR: Oh, thank you very much. Thank you, Senator Kolowski and yes, I'm here. I handed out two graphs and you're probably getting tired of paper but this is what has caught my attention. It's a graph similar to the one that Senator Kolowski passed out. His was in color, mine is in black and white, but what I've done is I've added...his stopped at 2012-13, mine goes to 2013-14. And it shows a number of things and I want to go over this with you. For each year it shows the ten districts with the highest enrollment and I just picked ten because somebody came to committee hearing with these graphs and I asked for permission and went off of ten. So you can see that the ten highest...the ten districts with highest enrollment. And way at the right is the percent of the state formula students. And you can see that from 2008-09 to 2013-14, there was a...it went from fifty one and a half to fifty four point one. We all know this. The students in Nebraska are moving towards the big cities. The other one I want you to look at is called the gap between the lines. And if you look at that gap it has grown from...in 2008-09 from ten and a half percent to...and here's where the two models are different. Model B, which is the yellow sheets you got passed out to you, the gap continues to grow. And even with this amendment, the averaging adjustment would not kick in until a year from now. So this gap continues to grow, and the gap would be even greater if it weren't for averaging adjustment. Now, if you look at the second one I handed out called the coalition model, and the word coalition is misspelled, I did that. Several important things you'll notice at the very top. The coalition model, the one that, the group I've been working with is \$906 million. Model B is \$915. [LB407]

SENATOR COASH: You are now on your own time, Senator. [LB407]

SENATOR HAAR: Thank you. And here's where I talked earlier saying the large schools were willing to accept less money. If you look at the ten districts with the highest enrollment, their basic funding for formula student on the coalition model is 7,529. On the model B it's 7,582. So the coalition schools that I'm working with, the larger schools are actually willing to accept a smaller basic funding for formula student in exchange for the averaging adjustment. The coalition model includes the averaging adjustment. And if you notice, for the first time on the coalition model, the gap between those two lines starts to get smaller. It starts to get smaller for 2013-14. Again, I think we all realize that these two lines between the top...the ten schools with the highest enrollment and the other 239 districts is never going to come together, but they should start to become parallel because as I've just shown you, actually...that actually as districts get large, it starts costing more money. So, the fact that the ten districts have been at the bottom and if you look at every segment, every segment of this graph, the line has been downward...the slope has been less. It's been on the top ten schools. That's true of 2008, 2009 through '10, '10 to '11, '11 to '12, '12 to '13 and even '13 to '14, but in the coalition model that gap starts to narrow. It will never come together, but hopefully it's

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going to reflect the fact that we now realize that large schools follow the U relationship. That when you get to a certain size, it costs more for formula student just as it does for the very small schools across the state. So I'd suggest that here's my evidence that the large...that the coalition schools are willing to accept less money in the 2013-14 model in exchange for seeing that gap to start decreasing, the gap between the two lines. And certainly putting off for one year as AM1047 does, is going to make the gap grow only wider. These numbers all come from NDE documents and I would be more than happy to discuss them with anybody if anyone has a question. Thank you very much. [LB407]

SENATOR COASH: Thank you, Senator Haar. Speaker Adams, for an announcement. [LB407]

SPEAKER ADAMS: Thank you, Mr. President. Members, I believe that we are at a junction on LB407 where we need to, for right now, obviously, we will be coming back to LB407, it's too important to the budget. I'm going to make the decision that we're going to move on to other General File bills right now. Remember, this is one of those 7:30-8:00 nights, and there will be several of us meeting to see where we might be able to resolve some differences on LB407. So with that, Mr. President, we will move on to the next bill on the agenda. [LB407]

SENATOR COASH: Thank you, Speaker Adams. As the Speaker has stated, we will now move on to General File, 2013 Speaker priority bills, Price division. Mr. Clerk.

CLERK: Mr. President, if I may, one item before...Senator Gloor has an amendment to LB407 to be printed. (Legislative Journal pages 1085-1086.) [LB407]

Mr. President, on LB483, it was a bill originally introduced by Senator Bolz. (Read title.) The bill was introduced on January 22, referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments pending, Mr. President. (AM940, Legislative Journal page 978.) [LB483]

SENATOR COASH: Thank you, Mr. Clerk. Senator Bolz, you're recognized to open on LB483. [LB483]

SENATOR BOLZ: Good evening, colleagues. Thank you, Mr. President. I think this is the time of the day where we could all use a little bit of positivity. And I bring to you a bill that's good for parents, it's good for kids, and it's a positive innovation in our corrections system. Entering this legislative session, I had no intention of introducing a bill related to corrections. However, a few days into the session I was approached by Gregg Nicklas with an organization called Christian Heritage, who wanted to discuss an initiative in the corrections system focused on parents, called Destination Dad. The logic behind fostering this innovation in our corrections system is clear and compelling. We have discussed significant issues this year relating to how important we all believe it is for

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families to succeed, and we've talked about the real consequences to our kids and our communities when they don't. This initiative has some very important components that relate to fostering parental responsibly, addressing prison overcrowding, and finding solutions to intergenerational poverty. LB483 is one smart, targeted piece of the puzzle in addressing these challenging social problems. The bill creates a pilot project that is intended to change, in a targeted way, how corrections functions in reintegrating parents back into communities and back into their families. Research reveals that children who have parents involved in their lives perform better academically and socially in school, experience fewer mental health and substance abuse issues, and are less likely to commit serious crimes. Children with incarcerated parents are among the most in need of investments for positive development. Family reentry programs and parent engagement promotes family success. Elements of LB483 are evidence-based parent and relationship education; peer mentoring; and reentry planning, including plans related to employment, housing, and family systems. Christian Heritage and the Destination Dads program have used grant fundings in the past to provide these services in partnership with the Department of Correctional Services. These funds are no longer available. However, this initiative has proven to be very successful, and I believe a pilot project is an appropriate strategy to transition the program and make it a new part of the way that the Department of Correctional Services does business. I want to be clear: This is not an initiative for Christian Heritage. This is an initiative to build on proven success. The bill states that the Department of Corrections can implement the effort themselves or develop a competitive RFP for implementation. Through Destination Dads, 407 participants who completed the program have been released since May 2009. Only 7 percent of participants have reoffended. The Department of Correctional Services estimates that the typical recidivism rate for such a group would be over 25 percent. The funding is needed to continue to provide for professional staff trained in working with families with intense needs, curriculum purchases, and caseworkers to help with reentry services. Testimony from participants at the committee hearing included Richard Reineke, a dad with a now-teenaged daughter who has an ongoing positive relationship with her and now owns a small business; and another testifier, Les Wagner, who brought his family with him to the hearing, and proudly reported that he has recently graduated from college and is no longer receiving public assistance. I would also point out that there is a stack of letters from current participants on my desk and an example letter being passed out to you should you like to see them. Other testifiers at the hearing included representatives from the Nebraska Bar Association and the Supreme Court. Both had concerns regarding the original funding approach which related to court fees. The amendment changes the funding stream. Under the amendment, LB483 is cash-funded, expending no General Fund dollars. The funding comes from the Correctional Industries Revolving Fund, which also provides skills and job training for reentry success, among other initiatives. The cash fund purchases supplies for Correctional Industries, such as state license plates. The fund now holds over \$12 million, and at no time has it fell below \$4 million since 2004. The cash fund can absorb a one-time transfer--I guess a two-year transfer--and the statute

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does allow transfers from the fund at the direction of the Legislature. The program is designed as a pilot to prove success and a model that works for Nebraska. LB483 includes language regarding the use of evidence-based programming and outcome data collection. LB483 addresses intergenerational poverty, fosters parental responsibility, and decreases recidivism. And I urge your support. Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Bolz. As the Clerk has stated, there is an amendment from the Judiciary Committee. Senator Lathrop, as Vice Chair of the committee, you're recognized to open on AM940. [LB483]

SENATOR LATHROP: Good evening, Mr. President and colleagues. AM940, attached, advanced from Judiciary Committee on a 7-0 vote with one member absent. The committee was in firm support of providing evidence-based reentry programming to all incarcerated individuals, and especially those individuals who are parents to young children, as a way to help these folks reconnect with their families, learn skills that will make them better parents, and aid in their efforts to break the cycle of violence they are in. In breaking this cycle of violence, the benefits to the person receiving this programming include: a reduction in recidivism, a return to being productive members of society, as well as the satisfaction that comes with showing one's children the proper example of how to participate in society, which benefits us all. I can't think of another program that holds as much promise as this one. Committee amendment AM940 to LB483 makes the following changes. First, it would transfer \$250,000 for fiscal year '13-14 and '14-15 from the Cornhusker Industries cash fund to carry out the purposes of this act. Second, it gives the Department of Corrections discretion as to whether or not to have a contract for the services required under this bill or to provide these evidence-based programs utilizing department personnel. And third, it clarifies that this program shall be a two-year pilot project so that we can gauge the results of this program before we seek a more permanent installation of these programs. I will say, just as a personal aside, sitting on the Judiciary Committee we see a lot of things that we try to do, programmingwise and policywise, to improve the recidivism rates in this state. This is one of those programs. It is a phenomenal success. Folks that participate in this, these are inmates who have their children brought in. They develop the relationships. It gives them (a) motivation; it gives them (b) family connections when they get outside; and it allows these folks to father the children...be fathers to their children in a more meaningful way. I would encourage your support of this program. And we see a lot of opportunities for these kind of programs, but this is one that we've selected for special treatment. We think it warrants your support, and I would encourage your support of AM940 and LB483. Thank you. [LB483]

SENATOR COASH: Thank you, Senator Lathrop. Members, you've heard the opening to LB483 and the committee amendment. The floor is now open for debate. Senator Campbell, you're recognized. [LB483]

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SENATOR CAMPBELL: Thank you, Mr. President, and good evening, colleagues. I stand in support of AM940 and the underlying bill. And I'd like to just talk a little bit about Christian Heritage who brought this idea forward. Christian Heritage has been in the Lincoln and Lancaster community for a great number of years, and is an integral part to the foster care system. They have had a strong emphasis in not only providing out-of-home placement but also providing placement and help for young people all across the foster care system. It is a private agency, one of our private providers that has come forward, and they are extremely well-thought-of in this community. This is a very unique program idea that they brought forward. I would certainly encourage your look at it. I agree with Senator Lathrop, this is a special opportunity for us to provide a program for children and youth who want to stay connected and build relationships with their parents who are incarcerated, and those parents are reaching out to their children and youth and they also want the connection in order to build a relationship. It's so important to young people that if that parent does want to be a part of their life and to build a solid relationship, this program affords that opportunity. And I really do commend Christian Heritage for bringing it forward and also the Department of Corrections. All too often we do not see the small, good programs inside many of our large institutions, and this is one of those that we should pay attention to, we should foster, and we should support. And I very much appreciate Senator Bolz bringing it forward and would urge your support of the amendment and the underlying bill. Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Campbell. Senator Chambers, you're recognized. [LB483]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I haven't said anything today. And when I come here I see that the Chamber is not empty, maybe not even virtually empty, but I'm hoping that my presence is not what caused all of the senators to leave. As I came toward the Chamber, I smelled the aromas, mixed aromas of food, and I know that the aromas from the cafeteria don't come up through the floor to this spot. I know there's not a kitchen or a commissary on the second floor. And I looked into the Senators' Lounge. And what to my wondering eyes should appear, but senators there and senators here. And it made a little rhyme come to my mind: When toward the trough the senators are lunging, are they mooching or are they sponging? It's one or the other. And now I will be serious. The program may be ever so beneficial. I'd like to ask Senator Bolz a question or two. [LB483]

SENATOR COASH: Senator Bolz, will you yield? [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR CHAMBERS: Senator Bolz, how will the persons be selected who will

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participate in this program? The inmates, that is. [LB483]

SENATOR BOLZ: That's a very good question. The staff of the project has a system in place already that looks at good behavior, looks at folks who are on their way to reentry and would most benefit from the program. However, the language of the bill itself establishes broad services that the Department of Corrections would provide and articulates that the only clear priority in the way that folks will be chosen is that those with young children will be given priority. [LB483]

SENATOR CHAMBERS: And thank you, Senator Bolz. That's all I would have. Members of the Legislature, if this bill were to be funded with General Fund money, how many would support it? There are good programs. Are you willing to take money from other programs and give it to this one? I am in favor of programming in all of the institutions for the males, for the females, for the old, for the young; but to carve out one program that existed because it had grant money and when the grant money ran out, then their interest ran out in trying to raise money. So they came to the Legislature. I have made it clear that there is no way I would support a court fee as the basis for funding this temporary program. After it runs two years, it's not going to have money again. So what pot will be dipped into? I'm not trying to be sarcastic but there was a guy, he was told to go up on a mountain and sacrifice but he wasn't told what would be sacrificed. And he took his son with him and they prepared the altar. They put the wood on the altar, and the naive son said, Father, the altar I see; but where's the sacrifice? And supposedly the response was, Jehovah-jireh, the Lord will provide. He didn't have it in his heart to tell his son: You are to be the sacrifice. [LB483]

SENATOR COASH: One minute. [LB483]

SENATOR CHAMBERS: Without going through the rest of the story, if the Lord will provide, why will not the Lord provide the wherewithal for this program? Well, where the rubber meets the road we know the Lord is not going to do anything, and the Lord is not going to cause the Lord's people to do anything. If the people who call themselves Christians were truly concerned about prisoners as Jesus said they should be, they could easily raise more than the amount being asked for here. There is no faith that the Legislature will set aside money from the General Fund to pay for this program. I can't say all during the time that I have left, so I will put my light on again. Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Chambers. Senator Carlson, you're recognized. [LB483]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The...it's not a story. The actual account of what happened Senator Chambers referred to, took a lot of faith. And what he didn't tell you is that before Abraham left the people

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that came with him to a certain point, and then took his son off to a further distance, he said, we will be back; we will return. And he had faith that that would happen, and, of course, it did. I have a question for Senator Bolz if she would yield. [LB483]

SENATOR COASH: Senator Bolz, will you yield? [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR CARLSON: From what I've seen, I certainly like the idea of this bill. I'm kind of agreeing with Senator Chambers that I'm a little bit...I'd almost like to see this come out of General Funds to see where our faith is, in that this plan is going to work. But I noticed that in the hearing the state bar was against it, and I can understand the Supreme Court being in a neutral position. Why would the Nebraska State Bar be against something that looks like it's a way to help people get out, make a positive step in their lives, and not be a hindrance to our system? [LB483]

SENATOR BOLZ: That's a fair question. Let me elaborate on what I mentioned in my introduction. The State Bar Association and the Supreme Court both had concerns about the original funding stream proposed, which was through what is already in existence, called the Reentry Cash Fund, paid for by court fees. That funding stream was...people expressed concern about that funding stream and we have now switched gears and used the Cornhusker State Industries' funding stream as initial pilot program funding. It is one-time funding to move this initiative from the purview of Christian Heritage into the way the Department of Corrections does business. And you know, I think that there might be some question or concern about how that works, and I do think that it makes good strategic sense to build on the success of nonprofit organizations and to allow nonprofit organizations to create innovations and partnership with administrating agencies, and I think this approach to keep things going makes good sense. [LB483]

SENATOR CARLSON: Thank you, Senator Bolz. I do have another question. How much time do I have, Mr. President? [LB483]

SENATOR COASH: 2:20. [LB483]

SENATOR CARLSON: Okay. The Cornhusker State Industries' fund, how does money get into that fund? [LB483]

SENATOR BOLZ: That fund is a revolving fund. We purchase supplies for things such as our state license plates; and the industries within our corrections system create those license plates, soap, other products such as that, and sell those, and the money continues to revolve. Since 2004, the fund has not dipped below \$4 million, and it currently has \$12 million. [LB483]

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SENATOR CARLSON: Now I understand that the prisoners that are involved in working that allows these things to be made and then sold, they do receive some earnings from that, don't they? [LB483]

SENATOR BOLZ: That's my understanding, yes. [LB483]

SENATOR CARLSON: But do they get earnings before money goes into this fund or are their earnings taken out of this fund? [LB483]

SENATOR BOLZ: That's...it's a good question and I'll get you the answer. I'm not sure about the cash flow of the money. [LB483]

SENATOR CARLSON: Because if their earnings are taken out of that fund, I'd have a little more serious reservation that that, in fact, should be where the money comes from. I like the idea and hopefully this bill can carry on. Thank you, Senator Bolz. [LB483]

SENATOR BOLZ: Thank you. [LB483]

SENATOR COASH: Thank you, Senators. Senator Bloomfield, you're recognized. [LB483]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Bolz a question if I could. [LB483]

SENATOR COASH: Senator Bolz, will you yield? [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR BLOOMFIELD: Thank you, Senator Bolz. That \$1 fee that we're creating for the courts, how much does that amount to in a year's time? [LB483]

SENATOR BOLZ: Senator Bloomfield, I just want to provide some clarity that we are no longer using the court fee strategy. We're now pulling from a cash fund from the Cornhusker State Industries cash fund. Other folks also expressed some concern about a court... [LB483]

SENATOR BLOOMFIELD: So the court fee has gone totally away? [LB483]

SENATOR BOLZ: That's right. [LB483]

SENATOR BLOOMFIELD: Okay. I was across the hall either begging or mooching, I'm not sure which it was,... [LB483]

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SENATOR BOLZ: (Laugh) [LB483]

SENATOR BLOOMFIELD: ...but I was doing one of those and I got a sandwich from that. So thank you. [LB483]

SENATOR BOLZ: Very good. [LB483]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Mello, you're recognized. [LB483]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM940, the Judiciary Committee amendment, changes the underlying bill LB483 by utilizing, instead of a court fee, a one-time transfer from the Correctional Industries Revolving Fund, essentially known as Cornhusker Industries, the entity that provides on-the-job training to inmates in the Department of Corrections, whether it's making license plates, whether it's making a variety of different office materials, woodworking, benches, furniture. Senator Bolz did I think a very good job of kind of generally explaining the gist of that, as well as the general status of that cash fund, which never has, I believe, gone below \$4 million; and the Fiscal Office researched this in regards to the cash flow purposes. In discussing with Senator Bolz and ultimately Senator Ashford, who is not here, understood this before, is that the adoption of AM940 moves the funding source to a cash fund. Senator Bolz, in discussing with myself, understanding that that may not be the final funding source if this bill moves along further, that she has had conversations with the Department of Corrections regarding this. While they've not been able to flesh out any further dialogue in regards to what may be the appropriate funding source, whether it's cash funds from the CSI fund or General Funds, those are conversations that she understands that will need to continue as this bill moves along. Now I would argue, to some extent, as a member of the Appropriations Committee for four years prior to becoming the Chair this year, a variety of senators have brought pieces of legislation that has utilized cash funds for one purpose or another in an effort ultimately to try to reduce the reliance on General Funds being the primary reason. Understanding, this is a pilot project and it's a one-time use of \$250,000 in cash funds from the Department of Corrections, I think Senator Bolz has an awful good policy discussion and it merits a good discussion from the body in regards to why those funds should be able to be used for this. If you look at the state cash funds book that the Legislative Fiscal Office does produce, it gives a fairly good overview. I think Senator Carlson was asking a little bit of background on that. It gives an overview in regards to what it can be used for internally. And something that's also there is that it does state that statute allows these funds to be transferred to the General Fund upon action by the Legislature. That's essentially what Senator Bolz...or I should say what the Judiciary Committee amendment does: that it transfers that cash fund to the General Fund to utilize for this purpose. Obviously there's always going to be, I think, a little reticence on

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this floor when we discuss pilot projects and pilot programs and we utilize cash funds that are...and one-time funding sources that aren't General Funds. Senator Bolz understands that. I understand that. I think a lot of senators who have brought bills before that tried to do that same kind of, I would say policy, understand that sometimes that works, sometimes it doesn't work. I know the Judiciary Committee, over the last four years, has brought a number of bills to the Legislature, to the floor, that we've ultimately passed, that utilizes cash funds for a variety of purposes instead of using General Funds. To some extent though, those cash funds can only go so far. A good example is, this year, in the Governor's budget proposal and ultimately right now in the Appropriations Committee preliminary proposal, the General Fund starts to pick up costs associated with the Office of Violence Prevention, a program started in 2009 based on utilizing one-time cash funds over that biennium; and further extended the last biennium utilizing cash funds to focus on creating a grant program for a variety of communities and nonprofit agencies to focus on reducing high...or reducing essentially violence... [LB483]

SENATOR COASH: One minute. [LB483]

SENATOR MELLO: ...gang violence in regards to various aspects of both the community, whether it's with local law enforcement, the municipality, or nonprofit agencies. Ultimately, the Governor and the Appropriations Committee, at this moment in time, have shifted that one-time funding source to General Funds, in part because we saw it as a worthwhile investment in a pilot project over the last four years that have yielded some success in regards to local programming to help reduce street and gang violence. I think you have an opportunity as a Legislature to make that same determination on AM940 and LB483. Senator Bolz has made the commitment to me that she'll continue dialogue with the Department of Corrections to make that determination of whether or not this bill should be a General-funded bill or it should be funded through the Cornhusker State Industries' cash fund. At this moment in time, I think it's worthwhile to continue that dialogue from General to Select File and allow Senator Bolz to continue that dialogue with the administration. Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Mello. Senator Larson, you are recognized. [LB483]

SENATOR LARSON: Thank you, Mr. President. I'll be brief. And Senator Mello talked a lot about in terms of being careful using cash funds and whatnot; and I know Senator Carlson and Senator Chambers have talked about General Funds and things of that nature. I just wanted to stand up and say I think Senator Bolz has a good bill and really trying to effect change. And I do feel more comfortable that it is coming from a cash fund rather than General Funds during its pilot project years. And then in two years the Legislature can come back and assess that pilot project; and if it has succeeded, then

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we can talk about the use of General Fund dollars moving forward. But I will support AM940 and obviously Senator Bolz has committed to possibly find other funding methods, but as is right now, Cornhusker State Industries, coming out of that cash fund; that it does seem to have sufficient cash funds available instead of the General Fund, I think, personally, makes it more palatable to me and I think hopefully it will make it more palatable to the other members of the body that are looking to make sure that we reduce our exposure to General Fund dollars at this point and make sure that this is a worthwhile project. So I appreciate Senator Bolz's LB483 and I will be supporting it on General File. Thank you. [LB483]

SENATOR COASH: Thank you, Senator Larson. Senator Pirsch, you're recognized. [LB483]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I wonder if Senator Bolz would yield to a question or two? [LB483]

SENATOR COASH: Senator Bolz, will you yield? [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR PIRSCH: Thanks. Could you...and this is kind of just background to give me an overall understanding of the...there's a couple of funds, one that was originally encompassed, I think, or...well, I guess, at least three different possibilities in terms of funding this program. But with respect to the Reentry Cash Fund, could you kind of...was there intent language that was included in the creation of that fund? What's the purpose of the existence of the Reentry Cash Fund? [LB483]

SENATOR BOLZ: Sure. The Reentry Cash Fund is actually targeted at the job skills training that occurs through the McCook work camp, and a portion of court fees does fund that initiative. Conceptually, the Reentry Cash Fund seemed like a natural fit for this initiative upon initial introduction. But concern over the court fees led us to look instead at the Cornhusker State Industries or Correctional Industries cash fund. [LB483]

SENATOR PIRSCH: Thank you. So the creation of the Reentry Cash Fund was very specific and tied to the McCook work camp, then you're saying? [LB483]

SENATOR BOLZ: That's my understanding, yes. [LB483]

SENATOR PIRSCH: Okay. And then with respect to the fund that you have chosen to utilize as the funding source, the Cornhusker Industries Revolving Fund, was there intent language that was...were they created simultaneously? Was...probably not, right? Was there intent language with respect to how it was envisioned that fund would be used or the purpose? [LB483]

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SENATOR BOLZ: Sure. As I understand it, Cornhusker State...the Correctional Industries cash fund is intended to support those industries that I described earlier--soap making, license plates--that not only create some efficiencies and some cost savings in the production and purchase of those commodities that our state uses, but also to provide skills training and educational opportunities for the folks involved in corrections who engage in that industry. And as such, I do think there is a fit here, because both initiatives are, in part, targeted towards assuring that folks who are currently in corrections do have skills that are applicable upon reentry into society. [LB483]

SENATOR PIRSCH: Okay. So it sounds like vocational job skills. I did receive the handout that you had provided from an individual who did utilize at the state penitentiary something that they called Destination Dad. Could you describe...how are...I mean, so obviously there is...is this a similar program to that which you envision? Is it the same program you envision? [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR PIRSCH: Can you connect the dots? [LB483]

SENATOR BOLZ: Certainly. The bill contemplates evidence-based family support programming for parents reentering their families and their communities. And because we didn't want to target this to any specific organization, we didn't use any specific name or title of any curriculum or program. However, the legislation requires that the initiative be evidence-based and have a couple of different components, including peer support, including evidence-based curricula that help families succeed, and including reentry programming that addresses multiple aspects of a family's life, including family employment and housing. [LB483]

SENATOR PIRSCH: And Destination Dad, just for instance, would encompass those points you've just talked about, is that right? Who...who...? [LB483]

SENATOR BOLZ: Certainly. If the Department of Correctional Services chose to either implement that themselves or to contract with an agency that used that curriculum,... [LB483]

SENATOR PIRSCH: Do you know... [LB483]

SENATOR BOLZ: ...that would certainly be appropriate. [LB483]

SENATOR PIRSCH: And thank you. Sorry to interrupt there. Do you know if Destination Dad, is that associated with a particular nonprofit entity that's...is that...that's not

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Christian Heritage, is it? [LB483]

SENATOR BOLZ: I do know it is trademarked and I do know that it is currently utilized by Christian Heritage. [LB483]

SENATOR COASH: One minute. [LB483]

SENATOR PIRSCH: Okay, okay. Wonderful. And thanks for filling me in on the background there, and I would yield the balance of my time to Senator Bolz should she desire to use it. [LB483]

SENATOR COASH: Senator Chambers, you are recognized. [LB483]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'd like to ask Senator Bolz some more questions. [LB483]

SENATOR COASH: Senator Bolz, will you yield? [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR CHAMBERS: Senator Bolz, how long had this program that you're trying to extend been in operation? [LB483]

SENATOR BOLZ: Since May 2009. [LB483]

SENATOR CHAMBERS: Don't they have documentation of what they have done? [LB483]

SENATOR BOLZ: They certainly do. [LB483]

SENATOR CHAMBERS: And do you think it's persuasive? [LB483]

SENATOR BOLZ: Absolutely. [LB483]

SENATOR CHAMBERS: Do you think it would persuade the senators that it's a good program? [LB483]

SENATOR BOLZ: I think that the folks who care about this initiative have already done a lot of good persuading. I think the most persuasive statistic is that they've had a recidivism rate of only 7 percent. [LB483]

SENATOR CHAMBERS: Now, this pilot program is just going to continue what has been done, isn't that correct? [LB483]

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SENATOR BOLZ: It continues the initiative, certainly; but it also provides an opportunity for the Department of Corrections to decide which direction they want to take this reentry service programming in the future. [LB483]

SENATOR CHAMBERS: Thank you, Senator Bolz. And because my time is limited, although if necessary I can offer an amendment or so to continue the discussion, members of the Legislature, a pilot program is designed like an experiment. You don't know what the outcome is going to be so you put it into operation on a limited basis. You've had the pilot program. You've had it, and it was funded by grants. Nobody thought enough of it to say we as nonprofit entities will fund this program. No philanthropists have come forth, not even "Rumplesuitskin." That's what I call Warren Buffett. It's perfectly all right. He said his suits look cheap but they're not. And Warren Buffett spins straw into gold. That's what Rumpelstiltskin said. So what better marriage than "Rumplesuitskin"? And when you hear me say that, you know who I'm talking about. Members of the Legislature, the only thing that you could learn from a pilot program will be found in what this organization has done already. I'd like to ask Senator Mello a question. [LB483]

SENATOR COASH: Senator Mello, will you yield? [LB483]

SENATOR MELLO: Yes. [LB483]

SENATOR CHAMBERS: Senator Mello, it seems that a figure of \$16 million is kind of floating around in terms of the money that might be available to fund other programs. Is that figure somewhere within the ballpark? [LB483]

SENATOR MELLO: Senator Chambers, I think that number...as we start to finalize the budget, I think that number is going to grow from that \$16 million to a \$18 million number. [LB483]

SENATOR CHAMBERS: Okay. Two hundred thousand dollars is not even a drop in that bucket, is it? [LB483]

SENATOR MELLO: One may see that as a drop in the bucket. One may see that as a considerable amount of money. [LB483]

SENATOR CHAMBERS: How do you see it? [LB483]

SENATOR MELLO: I consider a \$200,000 or \$250,000 investment in a program, you know, a sizeable amount for a pilot project. But I think depending upon the outcomes of that project, it may be well worth the investment. [LB483]

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SENATOR CHAMBERS: But it wouldn't be noticeable against \$18 million, would it? [LB483]

SENATOR MELLO: I think it's significantly small compared to a lot of the other large fiscal notes that we have on other senators' bills, Senator. [LB483]

SENATOR CHAMBERS: Two hundred thousand or \$250,000 would be a small, much smaller percentage of \$18 million than it would of \$4 million, wouldn't it? [LB483]

SENATOR MELLO: It would be. Yes. [LB483]

SENATOR CHAMBERS: And that \$4 million is designed to purchase equipment, raw materials, for what we might call a miniature manufacturing operation. [LB483]

SENATOR MELLO: Correct. [LB483]

SENATOR CHAMBERS: Thank you. That's all I will ask you. Members of the Legislature, if you all believe in this program, pay for it. I'm not going to let you, anymore this session, get away with saying there's a pot of free money over here. The senators are not going to have to make any moral judgments. They're not going to have to make any hard decisions. They're not going to have to say to fund this on the left hand we have to take something from this on the right hand. I'm not talking about robbing Peter to pay Paul. [LB483]

SENATOR COASH: One minute. [LB483]

SENATOR CHAMBERS: I'm talking about getting something from both of them. But in this case the General Fund is where this money ought to come from. I would venture to say that the people who are supporting this bill have not looked into the correctional system to determine what programs ought to be there but which ones are lacking--some that had been there but are there no longer. This might be to assuage a sense of guilt for having ignored the people. I'd like to ask Senator Bolz a question in the few seconds I may have left. [LB483]

SENATOR COASH: Senator Bolz. [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR CHAMBERS: Senator Bolz, did that program that this Christian operation had going include the women's prison or just the male prison? [LB483]

SENATOR BOLZ: They are working to expand to the women's prison. [LB483]

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SENATOR CHAMBERS: No, I'm talking about past tense. [LB483]

SENATOR BOLZ: No. [LB483]

SENATOR CHAMBERS: It just dealt with the men, right? [LB483]

SENATOR BOLZ: So far. [LB483]

SENATOR CHAMBERS: Thank you. Women are always either--that's all I have, thank you--an afterthought or no thought. And now if the presence of women will sweeten the pot, because I've been talking about it, then... [LB483]

SENATOR COASH: Time, Senator. [LB483]

SENATOR CHAMBERS: Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Chambers. Senator Nelson, you are recognized. [LB483]

SENATOR NELSON: Thank you, Mr. President and members of the body. I have a question or two for Senator Bolz if she will yield. [LB483]

SENATOR COASH: Senator Bolz. [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR NELSON: Thank you, Senator Bolz. Do you...all I have in my file is a fiscal note; it was a revision: 00. Is that it so far? Do you have any other fiscal notes? [LB483]

SENATOR BOLZ: The amendment will have a fiscal note... [LB483]

SENATOR NELSON: Right. [LB483]

SENATOR BOLZ: ...assuming passage to Select File that will look substantially different. [LB483]

SENATOR NELSON: Right. So, okay, you originally started out with \$50,000 here, and that was what you thought would be derived from court fees, a \$1 court fee. Is that correct? [LB483]

SENATOR BOLZ: The bill, as originally drafted, contemplated an additional fee in the court fees. I misjudged that upon initial introduction what the funding stream would be, and so \$250,000 per year has always been the cost of the program. It was my

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misjudgment in calculating the court fees upon introduction. [LB483]

SENATOR NELSON: All right. So did that 200, and once it was a decision then--I don't see anyone from the Judiciary Committee here--decision not to go with the court fees, why then, who came up with the figure of \$250,000? Was that your proposition or the committee? [LB483]

SENATOR BOLZ: The cost of the program has always been \$250,000 per year. I will admit, Senator Nelson, that my newness to the body led me to craft the bill upon introduction in a way that didn't sufficiently fund the needs of the program. The original bill said we would take a \$1 additional court fee. That was an initial draft that I didn't quite get right. [LB483]

SENATOR NELSON: All right. Thank you for that admission, but that happens when we're all starting, you know, is not correctly estimating what the cost would be. I take it from what you're saying, that this program has been in existence for a while then, if it's been costing \$250,000 a year. And is that by a nonprofit organization? [LB483]

SENATOR BOLZ: Christian Heritage did receive grant funding, which is now expired, and the choice before the body is whether we believe that this innovative project deserves an opportunity to become integrated into the way the Department of Corrections does business. [LB483]

SENATOR NELSON: So this is called a pilot program just before...because it's being moved to the Department of Corrections. Is that correct? [LB483]

SENATOR BOLZ: That's right. [LB483]

SENATOR NELSON: And just for the record, you've been talking about the Reentry Cash Fund. Well, that went away with the committee amendment, so it's coming out now of the Correctional Industries Revolving Fund, right? [LB483]

SENATOR BOLZ: That's right. [LB483]

SENATOR NELSON: Okay. Thank you very much. Well, that clears up some of the questions I have. Thank you, Senator Bolz. Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Nelson. Senator Harms, you're recognized. [LB483]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Bolz, would you yield, please? [LB483]

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SENATOR COASH: Senator Bolz. [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR HARMS: This is a...now this program has been in existence for how long? [LB483]

SENATOR BOLZ: Since May of 2009. [LB483]

SENATOR HARMS: What are the...what kind of data do we have that shows whether or not they've been successful? You may have brought this up and I may have just missed that. [LB483]

SENATOR BOLZ: That's okay. They've graduated over 400 individuals from the program with a recidivism rate of only 7 percent. They've had several success stories that we can walk through, including families who now have graduated from college, families who have been able to reconnect, dads who are reintegrated in the children's lives. You know, one of the things that I think is most compelling is that the recidivism rate is significantly less than the recidivism rate of the general body, which saves a significant amount of dollars for folks who would otherwise be in the correctional system. [LB483]

SENATOR HARMS: So they've been basically pretty successful. [LB483]

SENATOR BOLZ: That's fair, yes. [LB483]

SENATOR HARMS: Thank you. In your AM940, line 22, do you have that handy? [LB483]

SENATOR BOLZ: I'll probably be able to follow you. [LB483]

SENATOR HARMS: Okay. Let me...it talks about...one of the things Senator Chambers has taught me is that I look at words a lot differently than I used to. And it talks about the department may award a contract. Now "may" doesn't mean that they're going to. Are they thinking about keeping that themselves or is the Correctional Department going to do that? Are they going to go out for public bid? You know, this fits beautifully for a community college, because they do all these things and they're fit and designed to do this. And I'm just curious about the word "may" rather than "shall." [LB483]

SENATOR BOLZ: That's a fair question, Senator Harms. My intention and, as I understand it, the intention of the Judiciary Committee, was to give the Department of Corrections maximum flexibility in the way that they administer this program. What's most important to me, Senator Harms, is that these successful initiatives, including peer

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support and parent instruction and reentry programming, move forward in the way that the department can do so successfully. [LB483]

SENATOR HARMS: And has the Corrections Department done anything similar to this that we can look at that shows that they've been successful in accomplishing something similar? [LB483]

SENATOR BOLZ: Certainly, the Reentry Cash Fund and the McCook work plant is a successful example, and I would argue that the Cornhusker State Industries program itself is a successful example of folks who have been able to engage in work skills and job training and contribute to society and their own employability in the future. [LB483]

SENATOR HARMS: So when they put this up for public bid, can the Correctional Department or the correctional portion of this be a part of that, or do they bid against that or bid against themselves? I mean, how does that actually work? [LB483]

SENATOR BOLZ: My intention and, as I understand it, the Judiciary Committee's intention, would be that either the Department of Correctional Services implements this programming along the criteria in the amendment itself, or implements an RFP, whichever one is most successful and most fiscally responsible. [LB483]

SENATOR HARMS: Could they then, in fact, do it themselves and then subcontract out and get past the bidding process? [LB483]

SENATOR BOLZ: I see no reason why that wouldn't be an option. [LB483]

SENATOR HARMS: Okay, thank you very much. [LB483]

SENATOR MCGILL PRESIDING

SENATOR MCGILL: Thank you, Senator Harms. Senator Pirsch, you are recognized. [LB483]

SENATOR PIRSCH: Thank you, Madam President and members of the body. I wonder if Senator Bolz would yield to questions? [LB483]

SENATOR MCGILL: Senator Bolz, would you yield? [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR PIRSCH: Thanks. And just for a background, you had mentioned a...I'm trying to get a sense of the existing program that had been in effect, I guess since 2009, was that correct, for...? [LB483]

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SENATOR BOLZ: That's right. [LB483]

SENATOR PIRSCH: Okay. And it was approximately \$250,000 per year in grants that had existed for the last three years, right, or...? [LB483]

SENATOR BOLZ: That's right. [LB483]

SENATOR PIRSCH: Okay. And you had mentioned a recidivism rate of 7 percent. Could you tell me about the parameters of the program? Who's eligible? Obviously, Senator Chambers asked you a question: women. It didn't affect women incarcerated--women. But who were the target population? Was it a large sample...I mean, a large number and certain types of crimes, if you can kind of give us a flavor for that? And for what period of time have the same incarcerated individuals over the course of the three years tracked, or was that you caught them at the tail end just prior to their release and so it's always about a six-month history or..., for example? Or can you kind of speak to those type of questions? [LB483]

SENATOR BOLZ: Certainly. Let me describe their program a bit and you're welcome to ask me follow-up questions. The individuals participating must have some basic standards. They must be on good behavior. They must, of course, be parents. The family members in which they would like to reengage must also be cooperative. And they must be on a track to reentry into the community. So there's... [LB483]

SENATOR PIRSCH: Within what period of time? Is there a time that's set up? [LB483]

SENATOR BOLZ: It varies based on the individual. The Christian Heritage folks choose the folks to participate based on who they think will be most successful. There is currently a waiting list at every corrections facility in which they administer the program. [LB483]

SENATOR PIRSCH: And how many individuals per year incarcerated then were able to be included in this program? [LB483]

SENATOR BOLZ: Since 2009, when the program began, 816 dads who have 1,881 children, have participated. [LB483]

SENATOR PIRSCH: Okay. Was it pretty much the same amount then over...was it a three-year or a four-year record? So we've had...it was the entirety of 2009 or was it part? [LB483]

SENATOR BOLZ: So May of 2009 to today, so '09-10, '10-11, '11-12, '12-13. Four years. [LB483]

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SENATOR PIRSCH: Okay. Four years. So 816. So about...was it equally distributed such as about 200...a little over 200, per year? Is that your understanding? [LB483]

SENATOR BOLZ: My understanding is that they had to roll out the program and they've been able to add more parents over time. [LB483]

SENATOR PIRSCH: So maybe it started a little below 200 and has crept up above. And with those 200 from the original in 2009, do you know, you know, within ballpark, how long before their release, whether on I guess parole or if they were jamming their time, when they were...I assume they're on parole or possibly jamming their time. What would...how long did they spend in the program, on average, prior to release...or...yeah, prior to release? [LB483]

SENATOR BOLZ: The amount of time the individuals spend in the program varies based on their needs, based on the intensity of their family challenges, those kinds of things. Half of those individuals have graduated from the program. So over the course of four years, 407 out of 816 have graduated and moved back into the community. [LB483]

SENATOR PIRSCH: Uh...okay...and I guess I'm a little bit...so the 816 do not reflect the number of inmates who have graduated, right? Those are people who have participated... [LB483]

SENATOR MCGILL: One minute. [LB483]

SENATOR PIRSCH: ...in the program? [LB483]

SENATOR BOLZ: The remaining 400 continue to participate. [LB483]

SENATOR PIRSCH: Oh, the remaining...okay, so half are in it of the 800 and the other half have graduated. And ostensibly, you graduate just before you're reintegrated into the community and gain parole, or...? I mean, is that one of the kind of points that you're considered if your eligibility is how close you are to release, or not really? [LB483]

SENATOR BOLZ: Certainly you must be on track for release, but that's not always something that the staff of Christian Heritage can predict, whether or not a parole will be approved. [LB483]

SENATOR PIRSCH: Are there any disqualifications in terms of types of crimes, or that doesn't really...not a factor? [LB483]

SENATOR BOLZ: Not to my knowledge. And one thing that I would share with you,

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Senator Pirsch, is that the Department of Corrections, under this bill, is not required to reimplement Destination Dads. It's instructed to use these successful initiatives, these family programming and parental support and peer support... [LB483]

SENATOR MCGILL: Time. [LB483]

SENATOR BOLZ: ...initiatives positively. [LB483]

SENATOR PIRSCH: Thank you. [LB483]

SENATOR MCGILL: Thank you, Senator Pirsch. Senator Lautenbaugh, you are recognized. [LB483]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. I do support this bill. I understand the concerns raised but I do want it to go forward as is for the noble purpose that it serves, even with the funding mechanism as it is. That said, so he does not have to introduce amendments to get more time at the mike, I will give the rest of my time to Senator Chambers if he should so desire it. [LB483]

SENATOR MCGILL: Senator Chambers, four and a half minutes. [LB483]

SENATOR CHAMBERS: Thank you, Senator Lautenbaugh. Thank you, Madam President. The word "believe" has been used: If you believe in this program. I'll tell you what. If the Legislature does not make it a General Fund appropriation, then I'm going to do what I can to stop it. It's as simple as that. I'm not going to let people get away with posturing and talking about the nobility of this program and who all is going to be helped and how all they will be helped. First of all, the thing that bothers me is that the women's prison was not considered in all that time. And I don't even know anything about this Christian Heritage, but whenever I see the term "Christian," I'm aware that there is a tendency to put women in the background. Women walk behind. They have to obey. Love, honor, and obey. Tell the man: You love, you honor, you obey. But men wrote the wedding ceremony. So when I perform weddings, that never is stated; and I've performed them. I'm an ordained minister. I got it by way of an operation in Illinois which will ordain anybody, and there are people who wanted me to perform their weddings, so I was willing to oblige. But I would always emphasize that women are not going to take second place, and I'm not going to support anything which during its entire existence considered women as nonexistent. I'll tell you how this can work and how it should work: Determine what the need is and appropriate enough money to meet that need. Don't come up with some arbitrary and small amount so that when you come to the selection process it can be elitism, teacher's pet, favoring this one, disfavoring that one. And why should somebody who is about to get out of prison given the greater opportunity to have that support which might come from being able to talk to your children if they're willing to talk to you. It seems to me that some things ought to be made available to the worst of

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the worst, as we call them. The one you all worship died for the worst of the worst. A criminal who had committed crimes that carried the death penalty was in the process of suffering that method of execution, and the one you all worship stopped dying long enough to tell this criminal who had the sentence of death imposed by the state: This day shall you be with me in paradise. Not Pilate the governor. Not the disciples who ran. Not the disciple who betrayed him. Not the one who denied him. Not all those people who had been healed and their children had been healed, who had nothing to say in his defense when he needed somebody. Those were not the ones he took time to say, you'll be with me. It was the one what was scorned and rejected and hung up on a cross first in the way that the worst... [LB483]

SENATOR MCGILL: One minute. [LB483]

SENATOR CHAMBERS: ...and lowest common criminal was executed. Now we come to a program here that's being sponsored by a group named after that man, and they didn't see the need to include women. There is nothing in this bill that specifies women. Since they were specifically rejected and excluded for the entire life of this program, there should be an affirmative action approach that includes them based on their gender; and that's not here. And I'm skeptical about an organization which comes to get this money after they ran out of grant money. Thank you, Madam President. [LB483]

SENATOR MCGILL: Thank you, Senator Chambers. Mr. Clerk, there is now an amendment to the committee amendment. [LB483]

CLERK: Mr. President, Senator...excuse me. Madam President, Senator Bolz would move to amend the committee amendments with FA61. (Legislative Journal page 1087.) [LB483]

SENATOR MCGILL: Thank you, Mr. Clerk. Senator Bolz, you are recognized to open on your amendment to the committee amendments. [LB483]

SENATOR BOLZ: Thank you, Madam President. I've heard the will of the body and I understand that there is an interest in moving this as General Funds rather than from cash funds, and so that's what this amendment does. I would also use this time for a point of clarification. I was mistaken. I understand that the Destination Dads program is currently at the women's correctional facility in York every Friday, teaching relationship skills. But I would also just point out that initiative, LB483, does not say that Destination Dads or Christian Heritage will move forward. It again says that the Department of Correctional Services shall use these proven initiatives, such as peer support, family and parenting skills training, and reentry services in order to support the kids and the parents who most need it in our communities. So with that, I'll wrap up my amendment on LB483. [LB483]

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SENATOR MCGILL: Thank you, Senator Bolz. You're next in the queue. Would you like that time? [LB483]

SENATOR BOLZ: The only thing that I will add is that I was touched and compelled and bothered by our conversation related to juvenile justice in the past few weeks, and we wonder and we worry about why those kids and their lives ended up on the path that they ended up on. And I see this as a positive solution to some of those wrenching problems that we discussed on the floor just a few weeks ago. So with that, I'll wrap up. [LB483]

SENATOR MCGILL: Thank you, Senator Bolz. Senator Chambers, you are recognized. [LB483]

SENATOR CHAMBERS: Thank you, Madam President. Members of the Legislature, this is a step in the right direction. Now we'll see if our colleagues will support the General Fund money. I will support it. I don't think \$250,000 is enough when you look at the catalogue or enumeration of things that are to be attempted. However, if it's going to be \$250,000, you cannot spread it too thin or you will get nothing done; you will have nothing to show for it. Since General Fund money may be appropriated, the responsibility should be placed on the Department of Corrections; and we can put requirements into the bill so that they cannot escape and deliberately cause the program to fail. And I'll tell you why I will say that. This could be a step toward more substantive programming that is needed in every institution operated, managed, or overseen by the Department of Correctional Services. This by itself is nothing. It's worse than nothing, because it tantalizes those who need so much and then it will be pulled away. And Tantalus...well, he was a guy who was a bad actor, I suppose. So they put him in water up to his neck and they put fruit just out of his reach, and they had him positioned in such a way that he could not reach the water and he could not reach the fruit. So in the presence of food and water he languished and perished. Tantalus--that's where tantalizing came from. You make something apparently available but it's not. You tease somebody. Then when they go for the bait, you pull it away. I don't want that done. I don't want any organization to do it, and the people in prison are being punished for what they did by being deprived of their liberty and their freedom. The punishment does not include cruel treatment or mistreatment while you're in one of these facilities which the state said you must live in under certain circumstances to pay what they call your debt to society. So I'm going to support Senator Bolz's amendment, and with that amendment I will support moving the bill, because we're not going to get that much done on the floor and because of the substantive issues that I want to address, I'm not going to try to hastily draft amendments that touch on the idea but do not have any realistic provisions in the amendment as to how they should be executed. And I especially want to thank Senator Lautenbaugh for giving me the opportunity to speak without having to draft amendments. They would have been the kind that would have been frivolous, meaning that they have no real chance of being adopted. I would have

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no intent that they be adopted but they would be offered only so that I'd have the opportunity to speak. He spared you, the body, from that process, and he spared me, the would-be perpetrator, from having to carry it out. I think the program needs some discussion. And now that the main hang-up that I had is out of the way,... [LB483]

SENATOR MCGILL: One minute. [LB483]

SENATOR CHAMBERS: ...any other time I speak it will go to what I think the society owes to those people whose freedom has been taken. We are so willing to punish others. If it was our child, we would hire the best lawyer not just to see that, if punishment is imposed, it's fair; but to try to beat the rap. That's why rich people, that's why people with political pull will hire lawyers. They don't want that person who violated the law to suffer the penalty imposed by the law. So since these important people can't serve time, we give humongous minimum sentences to the poor, to the dispossessed, to those who are mentally ill, and say you will be the scapegoat for society. And I'm going to say something about scapegoats, which "Parson" Carlson may know more about than I do,... [LB483]

SENATOR MCGILL: Time. [LB483]

SENATOR CHAMBERS: ...not that he believes in scapegoating. Thank you, Madam President. [LB483]

SENATOR MCGILL: Thank you, Senator Chambers. Senator Price, you are recognized. [LB483]

SENATOR PRICE: Thank you, Madam President, members of the body. I rise in support of what we're doing here and the mechanism by which we're going. And as debate goes, we will see how far we can take this, because I think it is a good idea, because in the penal system there's not just punishment but there's rehabilitation. At least, I'd like to know that that's what we do also. But with that, I would like to know...if Senator Bolz would yield to some questions. [LB483]

SENATOR MCGILL: Senator Bolz, would you yield? [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR PRICE: Thank you very much, Senator Bolz. And the questions that I have deal with the numbers and dollars and just so I can understand it. We're talking about approximately 400 graduates, correct? [LB483]

SENATOR BOLZ: That's right. [LB483]

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SENATOR PRICE: Eight hundred sixteen participants? [LB483]

SENATOR BOLZ: That's right. [LB483]

SENATOR PRICE: And roughly \$250,000 a year. So a million dollars has been spent in four? [LB483]

SENATOR BOLZ: That's right. [LB483]

SENATOR PRICE: Okay. When I run the numbers on that, it looks like we're spending \$2,500 per participant...I mean, per graduate, and \$1,250 per participant. So the question is, how many hours of instruction were paid for by an actual individual from this foundation versus self-study, guided study? [LB483]

SENATOR BOLZ: That's an excellent question and I don't believe that Christian Heritage tracks that type of data. I can ask for you but I think it would be awfully hard to try to track down how many hours of study were spent with an individual working through a workbook or watching an instructional DVD or any of the other curriculum materials that they use to implement the program. [LB483]

SENATOR PRICE: Thank you very much, Senator Bolz. That would be the questions I have for now. Ladies and gentlemen, colleagues, the reason I ask those questions is when we had the delivery of services, I'm of the opinion that I would build a cost structure based on a work breakdown schedule which would delineate the number of hours of contact I have and the materials cost and the total cost of a program. And if we don't look down into the weeds of the cost of a program, we end up having a challenge when we hand that off to another entity to perform them. I would submit that there probably are numbers and that perhaps between General and Select we can get together to get a better determination on that, because if we're spending \$2,500 or \$1,250, whichever way you want to look at it, per individual participant and we don't know how many hours, I don't know if we're spending \$250 an hour or \$25 an hour or \$12 an hour. I would submit by the magnitude of the effort that must be undertaken, that is towards the lower number. But when we talk about a recidivism rate of 7-8 percent, obviously, that's a good number; but we also notice that we had 400 graduates out of 800. That's a 50 percent graduation rate. We don't know right now why that number is at that. We don't know that...you know, statistics, it's just like that. They can tell a story that you want. And we need to get more of an understanding on how those numbers were generated. However, all that being said, it is worthwhile and it is in the interest of our citizens and of our culture to undertake a program like this, because the last thing that we want to do is spend more money keeping people in prison. We want them to have successful lives, and that involves having successful families and that is the, I believe, the underpinning and the core principle that we are investigating here. So again, with that, I will support the amendments and the bill moving forward. Thank you, Mr.

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President. [LB483]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Price. Senator Lautenbaugh, you're recognized. Senator Kintner, you're recognized. [LB483]

SENATOR KINTNER: Mr. President, thank you very much. I have a few questions of Senator Bolz. Could you yield? [LB483]

SENATOR COASH: Senator Bolz. [LB483]

SENATOR BOLZ: Certainly. [LB483]

SENATOR KINTNER: I do not rise in opposition. I just have a few questions. Tell me about the Christian nature of Christian Heritage. [LB483]

SENATOR BOLZ: My understanding is that they're a faith-based organization, but again, for the sake of the body if I may, the bill does not contemplate any particular organization implementing these services. Rather, it says that these services shall be provided. [LB483]

SENATOR KINTNER: Then what role does Christian Heritage play in this whole thing? [LB483]

SENATOR BOLZ: Christian Heritage simply shows us a good model that these services can have positive outcomes for the population that we're serving. [LB483]

SENATOR KINTNER: So Christian Heritage hasn't requested any money or anything. You're just using them as a model. Is that what it is? [LB483]

SENATOR BOLZ: Christian Heritage has been working with me in order to promote the ongoing provision of these services through the Nebraska Department of Corrections. But they understand fully that the way that the bill is crafted allows for either the Department of Corrections to provide these services or for an RFP to be offered out and for them to participate in a competitive bid should they choose to do that. [LB483]

SENATOR KINTNER: Okay. I was going to say I don't know many Christian organizations asking for government money so I...okay. You made me feel better. Thank you very much. I appreciate that. So as I understand, this is the model for what we want to do, which Christian Heritage is already doing. I now understand it much better. Thank you, Mr. President. [LB483]

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SENATOR COASH: Thank you, Senator Kintner. Senator Karpisek, you're recognized. [LB483]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I support--I need new glasses--the bill that's up. I just thought Senator Kintner said he didn't know of any Christian organizations that don't ask for government money. Just popped in my head tax breaks and exemptions for a lot of churches and those sort of things popped into my head very quickly, and I think those add up to a lot of money a year. But that's not why I stood. I just think that this goes to show how important it is that children get to be around their parents, both of their parents, even if the parents are in jail, that it's very important that they get to spend time with them. If we as a body think it's better to go through a general appropriation, it probably is. That way we can make sure that it stays funded. I think it sounds to be a very noble cause and a very smart one to make sure that these people still learn how to be parents and the kids learn how to be kids with those parents. So, Senator Bolz, thank you. I appreciate it. I'll vote for the bill and the amendments. Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Karpisek. Seeing no others wishing to speak, Senator Bolz...excuse me, Senator Chambers, you're recognized. [LB483]

SENATOR CHAMBERS: Thank you, Mr. President. I thought my light was on. I want to emphasize again that I'm supporting the amendment and I'm going to support the bill. And I need a clarification from Senator Bolz because I raised the issue. Senator Bolz, I thought that there had not been any involvement in that existing program with York, the women's prison. Did you say that York inmates were a part of this program? [LB483]

SENATOR BOLZ: It's my understanding that the current initiative allows for services at the women's correctional facility in York every Friday teaching relationship skills. Forgive me, that may have been a glitch on my part. I think the initial services rolled out to each correctional facility over time and that the York services might be a little bit newer. [LB483]

SENATOR CHAMBERS: So have the services to the women been available from the outset of this program as they were to the men? [LB483]

SENATOR BOLZ: I don't know the answer to that question, Senator. Forgive me. [LB483]

SENATOR CHAMBERS: That's all right. [LB483]

SENATOR BOLZ: But my understanding from the services provided now is that they are at the correctional facility in York. And again, the bill would simply provide for these services in the Department of Corrections, and it would be my intent that they are

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provided at every correctional service facility. [LB483]

SENATOR CHAMBERS: All right. Now the only reason I'm going to put my light on again on this amendment is so that I can finish the tale I'm about to tell. Senator, otherwise known as "Parson" Carlson is not here, but he's within the sound of my voice. I said I was going to touch on scapegoating. That's where people commit every manner of wickedness, then they take a poor, innocent animal and bring it and cast all of the wrongdoing that these people have done, which that animal would not engage in and then they kill it. And that's supposed to spare the people from the anger of some supernatural ghost, goblin, or long-legged beastie or other thing that goes bump in the night. Now some civilizations and societies did try to manifest a bit of civility because they would have the ceremony, they would put all of the sins of the villagers on that animal, then they'd drive it into the wilderness. And as Brer Rabbit said, born and bred in the brier patch, when they drove that animal into the wilderness, they were really sending the animal back home. So the animal did not suffer; the people, in their superstitious ignorance, did not suffer; and it was a win-win situation for everybody. But scapegoating usually carries the notion of putting the blame of one person on another. So back to what I was saying previously, poor people are scapegoated. If you look at the inmate populations, they are the people who are mentally ill, the ones who are lacking an education, the ones who had no opportunities to succeed, the ones who are not allowed to make it, so they said, I'll take it. Just as the Wall Street bankers took it, but they were able to make it in a different way. But the laws are shaped so when those people steal it's called wise investing. You cannot have sports betting in Illinois. You can't have it in New York. However, you have the bulls in the stock market and you have...what is the other animal they use? The bulls and the bears, thank you. Now you can bet on the bulls or the bears in the stock market, but you cannot bet on the Chicago Bulls basketball team or the Chicago Bears football team. So if the right people are doing the same identical act, when it's done by the cream of society, it's given a name that makes it respectable. You tell me anything that is more in the nature of gambling than playing the stock market. And it's only not gambling when you are involved in insider trading. And the only ones who don't gamble at the casinos are the house. The only ones who don't gamble at the racetrack are the house. But the ordinary people catch it coming and going. Now for a story on why I'm so concerned about women. I was reared in a religious straitjacket as a child. I went to a church called The Church of God in Christ. It was so fundamentalist that the fundamentalists by traditional standards would be considered wild-eyed radicals. So I used to listen to all these stories that people told me in this church. And to be frank, I didn't believe them so I began to read. And I read a story that really troubled me. There was this person, Jesus was always made to be a straight shooter, a fair guy. He would go where nobody else wanted to go. He associated with people nobody else wanted to associate with. He would have even associated with somebody like me. He was preaching or whatever they called it in those days. And a group of religious people, something like those who pray in the Legislature here every morning, brought a woman to him. And they were always trying to catch him

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in his words in the quaint language of the "Bible." So they said, Master, Rabbi, whatever you want to be called, you said you came not to destroy the law but to fulfill the law. The law said when a person commits adultery that person should die and that person should die by stoning, and this woman was caught in the very act. Now what do you say? Well, there was another verse that said Jesus had no need that anybody speak to him of man for he knew what was in man. That's why I wish I could believe that he really existed. I wish that all these yarns and tales that people tell were true. But if it's like you say it is and I say I believe it and I don't, then I'm a liar and I go to hell. If I'm honest and say I don't believe it, then I go to hell for disbelief. Can you imagine what that does to a child? So anyway, Jesus didn't say anything right away. The only indication that he ever wrote anything was that he stooped down and wrote in the dirt. And people trying to be dramatic said he wrote the sins of all those people who brought the woman. I don't believe that. I don't know what he wrote. He might have wrote, son, will you play me a memory. I'm not really sure how it goes. (Singing) But it's sad and it's sweet and I knew it complete, when I wore a younger man's clothes. But at any rate, all these people, one by one, began to leave. And maybe what Jesus wrote was that adultery is like a handclap. You can't have a handclap without two hands. You cannot have adultery without the two parties. You brought the woman; where is the man? If she was caught in the act, that meant you had two actors. You brought the actress, where's the actor? But some reason they all evaporated. Now Jesus didn't say that what these people said about the law was untrue. He didn't say that the law says. He didn't say the law does not say that a person caught in adultery should be stoned. He didn't deny what the law said. But he asked her, where are your accusers? She looked around and she said, well, I don't see any of them. [LB483]

SENATOR COASH: One minute. [LB483]

SENATOR CHAMBERS: He said, then I don't condemn you either. Go and sin no more, which indicated, yeah, you probably did it; but pull your shades down next time, woman, so these nosy, religious hypocrites who keep their ears to people's keyholes and peek in their windows under the shades can't see you and what you're doing because what you do is your business. Keep it that way. So maybe when they talked to Jesus about it later, and this wasn't in the "Bible" because they don't tell the whole story, why did you not let them stone her? He said, the law did say what they said. She should have been stoned. But I'm going to amend the law because he said, he that is without sin among you let him cast the first stone. Well, they had sense enough to know that too many people around there knew what they were doing. So he said, the amendment I make is that the only one without sin can cast the stone. They say, well, Lord, you're sinless. He said, uh-huh, and that's amendment number two: The one without sin is not going to cast the stone. [LB483]

SENATOR COASH: Time, Senator. [LB483]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Chambers. Senator Carlson, you're recognized. [LB483]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And thank you, Senator Chambers. I was going to call you to the microphone and ask you what the woman caught in adultery...what Jesus said to her, but you told what he said to her and you were correct. And I've read in the Old Testament and kind of cringe at the animal sacrifices and the things that people were commanded to do at that time. But there are none of those in the New Testament. And animal sacrifices were no longer necessary because the perfect sacrifice gave his life, conquered death, rose again, and provided that by faith we don't have to do that kind of stuff. We don't have to make those kind of sacrifices if we simply have our faith in the right place. And so I appreciate your accuracy in talking about the Good Book tonight. I am a little bit struggling on this bill. And I don't want to ruin the bill. And I got some figures. Christian Heritage has really done some good work over the past four years. And through their work and meeting with the men here in the penitentiary as well as the women in York every Friday, there have been 407 people released as a result of their work. Thirty-one have found their way back into prison, 31 out of 407. That's 7-and-some percent recidivism. The regular population the recidivism rate I think is 25.6. That's a huge difference, and obviously something good happens as a result of these classes and this training. But the thing up to this point that I really like about it is that it is a Christian group that has operated through donations given by other people that think it's a good cause. And through the years, it's too easy for us to in a sense take over that responsibility and not allow people to give or perhaps encourage them to give as they've done in the past and we let the government do it. This is obviously a wonderful, I'm going to call it a ministry because it helps people. And I like those kind of ministries that go on because people give to it. Now we've got a decision here and the results have been good and we make a decision: Do we say, no, we're not going to do this? You continue to get your money through donations and the good hearts of people that believe what you're doing. Or do we turn this over to government funds? And I'm a little bit struggling in what to do with that. Oh, I think it's a good thing. I'm glad Senator Bolz brought the bill. I'd be interested in what anyone else may think along these lines. Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Carlson. Senator Wallman, you're recognized. [LB483]

SENATOR WALLMAN: Thank you, Mr. President; and thank you, Senator Bolz. Having dealt with Christian Heritage in the school systems with children, they're a good organization. And hopefully they could partner with the state and maybe help more people. And they'll know we are Christians by our love. It is tough to love people in prison, and I know people who are incarcerated. So they are people just like you and

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me. And even Jesus' disciples went to jail. So thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Wallman. Seeing no other lights, Senator Bolz, you're recognized to close on your floor amendment. [LB483]

SENATOR BOLZ: Thank you, Mr. President. In closing, I want to share a statistic with you that I think is very, very important. The Nebraska Corrections facilities are at 148 percent of capacity; 148 percent of capacity. We need to change the way that we do business. We need to change our services so that we can move people back into the community and make sure that they don't come back to prison. This is an initiative. It's a strategy that has been proven successful in doing that. And I encourage you to support this initiative so that we can continue a program that works to keep people back in their communities and back with their families. I want to read just a small bit of one of the many, many letters we've received on this program. This is from an individual named Corey Dugger. Corey says: My reasons for enrolling in the program was to learn how I could parent my now 2.5-year-old son while serving a very challenging sentence. I also realized that I needed to develop some additional tools so that I could become a positive role model and become more effective with my parenting. What I've learned in this program in the last ten months or so is that parenting is not easy. I've also learned that men play a larger role in a child's life than most believe. I've learned a lot about myself, and as a direct result of that I've not only become a better father to my son, I'm becoming a better man. I urge the Legislature to pass LB483. Anything less would depreciate the quality of the rehabilitative process through the Nebraska Department of Correctional Services. If we believe that we are in part...that it's a good thing to provide rehabilitation through our Department of Corrections, we need to make that real in implementing services that work. And I encourage your support both on the amendment and the underlying bill. [LB483]

SENATOR COASH: Thank you, Senator Bolz. Members, you've heard the closing to FA61 to AM940. The question before the body is, shall FA61 be adopted? All those in favor vote aye; all those opposed vote nay. [LB483]

SENATOR BOLZ: (Microphone malfunction)...call of the house. [LB483]

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB483]

ASSISTANT CLERK: 26 ayes, 0 nays to go under call, Mr. President. [LB483]

SENATOR COASH: The house is under call. Senators, please return to the Chamber and record your presence. All unexcused personnel please leave the Chamber. The house is under call. Senator Conrad, please check in. Senator Nordquist, please return

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to the Chamber and record your presence. Senator Lathrop, please check in. Senator Bolz, all members are present or otherwise accounted for. How would you like to proceed? Senator Bolz, how would you like to proceed? [LB483]

SENATOR BOLZ: Regular vote, machine vote. [LB483]

SENATOR COASH: Call-ins? [LB483]

SENATOR BOLZ: Sure. [LB483]

SENATOR COASH: Okay. Senator Bolz is accepting call-ins. [LB483]

ASSISTANT CLERK: Senator Hadley voting yes. Senator Adams voting yes. Senator Nordquist voting yes. Senator Sullivan voting yes. Senator Kolowski voting yes. Senator Bolz voting yes. [LB483]

SENATOR COASH: Record, Mr. Clerk. [LB483]

ASSISTANT CLERK: 25 ayes, 1 nay on the adoption of the amendment to the amendment, Mr. President. [LB483]

SENATOR COASH: FA61 is adopted. Return to discussion on LB483 and the committee amendment. Raise the call. Senator Chambers, you're recognized. [LB483]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. Just so that those who came in will know where we are, the amendment will say that this amount of money will come from the General Fund rather than from the cash fund at the pen. I have indicated that in my view it's good to use General Fund money because it's something that is a societal good. And I won't go into all of the things that I said before. However, I think since General Fund money is being expended the Department of Corrections should be given the responsibility. General Fund money should be spent by a state agency. And we can build criteria into this bill to make sure that the department would not deliberately torpedo, sabotage, or undercut the program. And I'll be frank about what my ultimate goal would be. Call this a pilot program; I would call it in the parlance of the lawyers getting the nose of the camel into the tent. Get the department involved in programs that are designed to help rehabilitate those people who are locked up and are going to come back out here at some point. There should be additional programming far more than can be provided with \$250,000, and we have a multitude, in a manner of speaking, of institutions managed and overseen by the Department of Correctional Services. There are programs and services available in prisons in other states. There is a lot of literature. There are essays on penology, the purpose of and goals of penology, which we can refer to, to try to put in place in this state the type of programming in these institutions that get beyond the notion of punishing. As I state, the

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punishment occurs by being deprived of your liberty. That is going to be there as long as a person is locked up. But we should be trying to correct, to the extent that we can, those attitudes, those practices that led people to do whatever it was they did. We don't have to be judgmental. The judgment was formed by virtue of the charges brought. The person was tried and convicted. So even there are some innocent people who are locked up in substantial numbers, we still can put programming in place and let these other issues be taken care of on their own merits. I do want to see this program. But I do not want to see it under theegis of a private organization. Organizations when they're called nonprofit mean simply that they're not going to draw in more money than the amount they put out in the work that they're doing. That doesn't mean the people involved don't want a salary and are not interested in profiting number one. By making the state responsible, we will be on the right track toward doing what I think a correctional department ought to be. That's why the term correctional was applied--the Department of Correctional Services, not the Department of Punishment, not the Department of Vengeance, not the Department of Retribution, but Correction. And that is only going to occur when we make programming available and enough money to staff those programs so that they can carry out their intent. With all of those provisos, I definitely intend to vote to move this bill on; and I've said all that I intend to say on it at this stage. Thank you, Mr. President. [LB483]

SENATOR COASH: Thank you, Senator Chambers. Senator Krist, you're recognized. [LB483]

SENATOR KRIST: Good evening, Mr. President, colleagues, and Nebraska. I was absent, involved in a discussion outside the Chamber during most of your debate, and I apologize for doing that. But I do...I am glad for the opportunity to add some legislative intent. I was involved in a meeting with the folks who have been running this program, and I'm sure the names have been mentioned and it's not really important. But in going to this meeting, I was struck at the numbers that I saw, the reduction in recidivism, the results in this program as it was run by this not-for-profit. And I was also struck--and in this particular instance Senator Chambers couldn't be more right--I was also struck by the fact that Corrections, even though they saw those results, were not willing to invest state dollars in doing what needed to be done for the prisoners that were participating in this program. I was struck that there was pushback for something that had been documented as being such a success. I sat there in the room that day and I made a couple of phone calls to other people I knew in the Omaha area. Omaha is a very benevolent city and there are some deep pockets and there are some people that like to help in the right way. And as I was on the phone, I thought, why aren't we trying to push this legislatively to push the funding so that these kinds of programs that are genuinely documented as positive with lower recidivism rates, why aren't we trying to do this within the process? I had a long conversation with Gregg on both sides of it, and I suggested at the time that this might be something that he would bring to somebody, some young, talented, interested freshman senator. And I'm very happy that Senator Bolz picked up

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the gauntlet because this is a good program. I'm also very happy that we have seen it fit to fund general dollars in the quarter of a million dollar a year level, and I hope that this program will grow because it is the kind of a program that we need to spend state dollars to perpetuate and to grow as a program. Thank you, Senator Bolz, for bringing it forward. Thank you for the funding that's been worked out from the Appropriations Committee. And I urge your support for LB483. [LB483]

SENATOR COASH: Thank you, Senator Krist. Seeing no other lights on, Senator Lathrop, you are recognized to close on the committee amendment. [LB483]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Great discussion on this bill. I think it's good policy. The amendment is an improvement on good policy, and I would encourage your support of AM940. Thank you. [LB483]

SENATOR COASH: Thank you, Senator Lathrop. Members, you've heard the closing to the committee amendment to LB483. The question before the body is, shall AM940 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB483]

ASSISTANT CLERK: 35 ayes, 1 nay on the adoption of committee amendments, Mr. President. [LB483]

SENATOR COASH: The committee amendment is adopted. Returning to discussion on LB483. Seeing no members wishing to speak, Senator Bolz, you're recognized to close on LB483. [LB483]

SENATOR BOLZ: Thank you, Mr. President. And thank you to the members who've expressed their support for this piece of legislation. It's a smart targeted strategy that affects some of the most vulnerable children in our society. And I will leave you in urging your support for LB483 with one very important statistic: The folks at Christian Heritage estimate the savings to the state of Nebraska through their reduced recidivism rates at nearly a million dollars, nearly a million dollars in savings. So for not only the positive impact that we've had on children and families, but also for the potential savings in our correctional system, I urge your support for LB483. Thank you. [LB483]

SENATOR COASH: Thank you, Senator Bolz. Members, you've heard the closing to LB483. The question before the body is, shall LB483 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB483]

ASSISTANT CLERK: 38 ayes, 1 nay on the motion to advance the bill, Mr. President. [LB483]

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SENATOR COASH: LB483 does advance. Next item, Mr. Clerk. [LB483]

ASSISTANT CLERK: Mr. President, LB545 was introduced by Senator Dubas. (Read title.) The bill was read for the first time on January 23, referred to the Transportation and Telecommunications Committee. That committee placed the bill on General File with committee amendments. (AM422, Legislative Journal page 614.) [LB545]

SENATOR COASH: Thank you, Mr. Clerk. Senator Dubas, you're recognized to open on LB545. [LB545]

SENATOR DUBAS: Thank you, Mr. President. Good evening, colleagues. LB545 was brought to me by the Public Service Commission and it deals with their appeals procedures. This bill has been discussed and introduced and worked on, basically, for the last three years and this LB545 is the culmination of those long and lengthy discussions and is a compromise. LB545 changes the process for appeals to the final orders of the PSC. Under the bill, appeals will now be filed in the Court of Appeals instead of the district court as currently required under the Administrative Procedures Act. In practice, filing in the district court has proved to be very time consuming and costly for both the commission and the participants in the proceedings. This adds greatly to the rates that consumers pay because of these costly appeals. The Court of Appeals is better suited to the types of cases generally dealt with in the public service appeals because of their ability to thoroughly review highly technical subject matter. Other changes to the law in LB545 include a new provision to automatically stay natural gas rate orders during appeals, to extend the time for natural gas rate orders before the appeals runs, and clarification that interim rates continue during the appeal process. And that's basically what the amendment takes into...that I'll introduce in just a moment, takes this into consideration the issues that the natural gas industry raised during the negotiations, corrects dates and titles from the previous drafts. So again, this is something that has been...it's been in the works for a considerable amount of time; stakeholders have been at the table, this is the end product of those conversations and the compromise that was reached to deal with the appeals process. [LB545]

SENATOR COASH: Thank you, Senator Dubas. Members, you've heard the opening to LB545. As the Clerk has stated, there is an amendment from the Transportation Committee. Senator Dubas, you're recognized to open on AM422. [LB545]

SENATOR DUBAS: Basically, the amendment is just what I talked about. It changes the appeals now to the Court of Appeals instead of the district court. I referenced earlier the cost and these cases are very involved, very technical, very lengthy. It was decided to go to this current change because it's an inefficient use of time and money for the Public Service Commission and the regulated entities. The district court is not a common place where these appeals go to in other states. And although our Public Service Commission is different, is unique compared to what others states have. So it might not be exactly an

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apples-to-apples comparison, but still these entities are used to using the appeals court process. They're willing to accept these new standards because this is the process that they are familiar with in other states. And also again recognizing the amount of time that is being spent on these cases is really adding to the costs, and ultimately who is paying for those costs are the ratepayers. So I would appreciate your support for the amendment and the bill. Thank you. [LB545]

SENATOR COASH: Thank you, Senator Dubas. Senator Burke Harr, you are recognized. [LB545]

SENATOR HARR: Thank you, Mr. President. Would Senator Dubas yield to some questions? [LB545]

SENATOR COASH: Senator Dubas, will you yield? [LB545]

SENATOR DUBAS: Yes, I will. [LB545]

SENATOR HARR: Thank you. I'm not quite sure that the case has been made for me to change the APA. Why is the Public Service Commission different than any other administrative body? [LB545]

SENATOR DUBAS: I'm not exactly quite sure how to answer that question, Senator. I certainly could get more details for you. We also have the director of the Public Service Commission who is out in the lobby, so I could get some more details. But again, this was a procedure that, I think it was changed about ten years ago to this going through the...through the district court, and it's been found to be very cumbersome, very lengthy, adding a great deal of cost and so wanting to come back to this kind of procedure. [LB545]

SENATOR HARR: Are you aware of any other regulatory body that appeals directly to the Court of Appeals? [LB545]

SENATOR DUBAS: Not...not to my knowledge. [LB545]

SENATOR HARR: Okay. [LB545]

SENATOR DUBAS: This is an area, I'm going to admit, this is dealing with a lot of legals and so I'm not real familiar. Unfortunately, my legal counsel had to go home so I will do my best to get the answers to your questions as soon as possible so we can take action on this. [LB545]

SENATOR HARR: Okay. And do you know how long it generally takes a case once it's appealed to the district court to be heard? [LB545]

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SENATOR DUBAS: Oh, let's see, I did have that. It was...I know it was...okay, I know it was over a year. I'm not finding that information right here real quickly, but it was quite lengthy. And if we had had the way this process is in place, the way this bill is presenting the process to unfold, I'm told it would have been handled probably in about seven months. [LB545]

SENATOR HARR: Okay. And this year process in district court, is that for...from the time of appeal from the appellate...or from the...from the Public Service Commission to the time it's heard, or is that just an average case? [LB545]

SENATOR DUBAS: Could you repeat that question, I didn't catch the first part. [LB545]

SENATOR HARR: My question is, the year average that you're talking about for district court, is that Public Service Commission cases that take a year from the time they're appealed to the time they're heard in district court on appeal or is it all cases in district court, if you know? [LB545]

SENATOR DUBAS: It was my understanding that it was with all the cases of the district court, but I will get clarification for that. [LB545]

SENATOR HARR: Okay. [LB545]

SENATOR DUBAS: Again, I apologize for not being more able to answer your questions. [LB545]

SENATOR HARR: And who wanted to go from this going from district court to Court of Appeals? [LB545]

SENATOR DUBAS: This was brought to me by the Public Service Commission. But again, from the experiences that they were having in dealing with these cases, so they were working with the telecom people, with the natural gas people, bringing all of those entities together, this is the culmination of those discussions. [LB545]

SENATOR HARR: Okay. So it is an agreement between those who regulate and those who are regulated? [LB545]

SENATOR DUBAS: That would be my understanding, yes. [LB545]

SENATOR HARR: Okay. And what expertise does the Court of Appeals have that a district court does not? [LB545]

SENATOR DUBAS: They...it's my understanding, again, that they have the ability to,

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again, these are very complex and detailed types of cases and those are the kinds of cases that they traditionally handle, so they have that ability to kind of start from the beginning and work through the entire process. [LB545]

SENATOR HARR: I guess I have a little problem with that. I think district court judges are just as wise, and maybe in some cases wiser than Court of Appeals judges, not always, but sometimes. And I'm not sure what extra specialty, having worked with the Court of Appeals, the Court of Appeals has a district court judge... [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR HARR: ...does not, I mean, specifics. Do you know what specific knowledge they have? [LB545]

SENATOR DUBAS: No, I don't; I'm sorry. [LB545]

SENATOR HARR: Okay, thank you. I guess I'm questioning why we're doing this. No other regulated body, and there are plenty of specific jurisdiction; we have the Department of Insurance that gets very complicated, Public Service Commission very complicated, Department of Revenue very complicated. There are many, many of our regulatory appeals that come under the APA that are specialized by the very definition they are. And I'm not sure what the case is. Maybe I need to look at the transcript from the hearing, hopefully it's up, to see why we're changing the APA. But at this time I would have a problem with changing until a case or an argument is made for me to do otherwise. Thank you. [LB545]

SENATOR COASH: Thank you, Senator Harr. Senator Schumacher, you are recognized. [LB545]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I, too, share Senator Harr's concern with regard to this. We are breaking an entire regulatory scheme over one agency saying that they have a technical situation that somehow they want to settle in-house. The DEQ does it; dozens and dozens of regulatory agencies, and we have a procedure. The procedure is when a regulatory agency's ruling is contested, it goes to the judicial system of government; out of the executive branch to the judicial system where the district court tries it over, the district judge rides herd on the regulators. And what I find disturbing is in the summary of the proposed changes, it says that the...to save time and money, always good language, the Court of Appeals will review the commission's decision for arbitrariness and capriciousness, whereas the district court conducted a de novo review, which was just costly and time consuming on the highly technical subject matter. So what appears that what the Public Service Commission would like to do in this particular case is have its decisions subject to a very limited scope of review if the committee's statement is accurate and that is whether

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it was arbitrary and capricious. We give no other regulatory agency such a limited scope of review. And so far, we've heard nothing here that indicates why the Public Service Commission, why the regulations of the gas industry and whatever other industry it's talking about here, why they should be treated any differently than the regulation of a rancher and his feedyard. Is the next thing we're going to see the DEQ come in here and say, you know, this is really complicated stuff that we have to deal with and, you know, the only way a rancher should rise up and have rights to challenge us is if we are being arbitrary and capricious or a farmer or a business or any other regulated agency? The APA, which is in force in almost, I think, all the other states, puts a burden on the regulator if appealed to come in and try the case before a district judge who is in a position to try the case de novo. In other words, right from the beginning. Do we want to start a precedent here of whittling away at the rights of our regulated businesses and our farmers and our ranchers and anybody else subject to regulation that it should just be whether or not the regulator was arbitrary and capricious? And that means almost unreasonable, but as long as you can kind of show some color for your ruling, you're going to be okay. This is a trend, a significant inroad on the rights of the regulated parties. Now I don't care that in this particular case, maybe somebody in the back rooms sat down and said, folks, we'll agree to this; we'll agree to give the public service regulator this authority over us. What were they supposed to say? Are they supposed to fight the regulator and then maybe take consequences down the road? It is our job to create a level playing field between the regulator and the regulated party. And this... [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR SCHUMACHER: ...we put that rules into position with the Administrative Procedure Act, and with the Administrative Procedure Act there are certain rights that suddenly here we're just saying, oh well, you know, it's...law is an expensive thing and it's just too cumbersome and we're going to start creating a precedent to give the regulator the upper hand in things. I think it's...we certainly deserve to have more rationale for why this particular case is different than the rancher and his feedlot which is what we're probably going to hear about next. So I think at this particular point, without further explanation, I'd have to oppose this one. Thank you, Mr. President. [LB545]

SENATOR COASH: Thank you, Senator Schumacher. Senator Johnson, you are recognized. [LB545]

SENATOR JOHNSON: Thank you, Mr. President and body. Not a lawyer, so I don't know about the process, but I probably tend to agree with the two previous speakers. But I would have one question for Senator Dubas if she would yield. [LB545]

SENATOR COASH: Senator Dubas, will you yield? [LB545]

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SENATOR DUBAS: Yes, I will. [LB545]

SENATOR JOHNSON: We're talking about the cost of district court and the time lag and it takes a long time. Do we have any idea of where the Court of Appeals is as far as their time, or are we just shifting a load over there and pretty soon we're going to be bogged down in that system? [LB545]

SENATOR DUBAS: No, that's not...that's not my understanding at all, that this wouldn't be a problem. And these are the types of cases that that court tends to handle anyway, so they have a familiarity with those types of cases. [LB545]

SENATOR JOHNSON: So is this eliminating that district court process then? [LB545]

SENATOR DUBAS: Right, and going to the appeals court again. [LB545]

SENATOR JOHNSON: And go direct there. [LB545]

SENATOR DUBAS: Yes. [LB545]

SENATOR JOHNSON: Okay, thank you. [LB545]

SENATOR COASH: Thank you, Senator Johnson. Senator Lautenbaugh, you are recognized. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This was a fortuitous time to be at the mike because I think I can address some of what Senator Johnson was concerned about. A case working its way through the district court, believe me, I know, can take a year, two years, three years. The Court of Appeals, I would say, does move much more swiftly to a hearing. So I think you would see a lot quicker resolution. As I understand a lot of what's transpired here, and I think a lot of the regulated entities are in support of this, the district court level may not have been much of a vigorous review in any event. The real decision making and the rubber meeting the road as far as the review seems to have been coming at the Court of Appeals level anyway. And so as we do with some other kinds of specialized things, we are bypassing the district court step and treating the Public Service Commission like...almost like a court at the first level such as we would the Workers' Compensation Court or something like that. It's a bad analogy, but it's the best I can come up with. I do understand the reason for this and I think it makes good sense. It will, I think, expedite determinations with some sort of finality at the Court of Appeals level. Hopefully, it could...presumably go on to the Supreme Court like anything else. But I think you are getting to a definitive answer much more quickly in this way and with a lot more review, perhaps, brought to bear at the appellate court level. So, I think this makes sense. And I

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would urge you to support Senator Dubas' bill. Thank you. [LB545]

SENATOR COASH: Thank you, Senator Lautenbaugh. Seeing no other lights on, Senator Dubas, you're recognized to close on the committee amendment. [LB545]

SENATOR DUBAS: Thank you very much, colleagues. And I appreciate your questions and I've been trying to get as many answers as possible. We're dealing with the Public Service Commission. They deal with rates; they deal with these types of issues all the time. They're a constitutional agency. They are fact finders. What I understood in questions that I've asked, the courts have almost always upheld the Public Service Commission's decisions. And as I stated in my opening, the district courts just don't tend to have the knowledge to deal with these types of cases versus the PSC. So in essence, maybe these cases weren't getting the kind of thorough vetting that they deserved. As I said, all the stakeholders came to the table on this, you know, natural gas, they certainly had their questions and concerns, but, you know, it comes down to how do we give...make good quality decisions, make this be an efficient process, reduce costs, because again, ultimately at the end of the day it's the ratepayers who are paying those costs. And so it's...this was a process that was put in place about ten years ago. And over the course of these ten years plus, it's been found not to be an effective and an efficient way of dealing with these cases and that's why they've come back and asking to go back to this procedure. So I would appreciate your support on the amendment and the underlying bill. Thank you. [LB545]

SENATOR COASH: Thank you, Senator Dubas. Members, you've heard the closing to the committee amendment. The question for the body is shall AM422 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Dubas. [LB545]

SENATOR DUBAS: Mr. President, I would ask for a call of the house. [LB545]

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye, all those opposed vote nay. Record, Mr. Clerk. [LB545]

CLERK: 27 ayes, 0 nays to place the house under call. [LB545]

SENATOR COASH: The house is under call. Senators, please return to the Chamber and record your presence. Unexcused senators outside the Chamber please return and record your presence. All unauthorized personnel please leave the floor, the house is under call. Senator Dubas, how would you like to proceed? [LB545]

SENATOR DUBAS: I would accept call-ins. [LB545]

CLERK: Senator Adams voting yes. [LB545]

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SENATOR COASH: Record, Mr. Clerk. [LB545]

CLERK: 25 ayes, 1 nay, Mr. President, on adoption of committee amendments. [LB545]

SENATOR COASH: Committee amendment is adopted. I raise the call. We return to discussion on LB545. Senator Burke Harr, you are recognized. [LB545]

SENATOR HARR: Thank you, Mr. President. Senator Lautenbaugh, would you yield to some questions? [LB545]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB545]

SENATOR LAUTENBAUGH: Yes, I will. [LB545]

SENATOR HARR: Thank you. As I stated earlier I have some problems with this bill, I'm a little worried about it. Change in the APA for, in this situation, for the Public Service Commission. Let me ask you, you're a lawyer. [LB545]

SENATOR LAUTENBAUGH: Yes. [LB545]

SENATOR HARR: All right. And the standard review when you appeal to the district court is, if you know, on a Public Service Commission? [LB545]

SENATOR LAUTENBAUGH: On the Public Service Commission, I honestly don't know the answer to that. I would guess it might be de novo on the record, but I don't know. [LB545]

SENATOR HARR: Okay. And do you know what it is for a Court of Appeals? [LB545]

SENATOR LAUTENBAUGH: In this particular circumstance, I still don't know,... [LB545]

SENATOR HARR: Okay. [LB545]

SENATOR LAUTENBAUGH: ...because it varies depending on the matter. [LB545]

SENATOR HARR: And I sure think there's a different standard of review when you go...appeal from district court to Court of Appeals. And while the outcomes may be the same, and they may be upheld in both times, I have a real problem with...I still...it just doesn't feel right. I don't know why we're creating a separate procedure. Do you know...was it...Senator Lautenbaugh, was it ever considered to appeal directly to the Supreme Court? That would quicken and hasten, wouldn't it? [LB545]

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SENATOR LAUTENBAUGH: Well, I mean there's quickening and then there's short-circuiting. And I think we wanted to hasten but not short-circuit. And I do know that if the standard of review is the problem, or the standard of review is whatever we ultimately say it is, we could say that it's reviewed this way by the Court of Appeals or reviewed with this standard by the Court of Appeals if that would address the concern. I'm sure that's....I'm not a sponsor of this bill or an introducer and I'm not on the committee and I probably hadn't heard of it until about 10 or 15 minutes ago, to be honest. So, I'm an unusual spokesman for it. But I'm saying that... [LB545]

SENATOR HARR: You're on Transportation...you're not on Transportation? [LB545]

SENATOR LAUTENBAUGH: I'm not on Transportation anymore, no. I used to be. [LB545]

SENATOR HARR: I apologize, I forgot. Okay. Thank you, thank you for your time. [LB545]

SENATOR LAUTENBAUGH: Um-hum. [LB545]

SENATOR HARR: Ladies and gentlemen, I have not heard one argument as to what expertise a Court of Appeals brings that a district court does not have. There's been not one piece of testimony, statements. It is true that the Public Service Commission is created by the constitution. So it does differentiate between a lot of the other agencies out there, but a lot of these are specialized fields. And I understand the idea of quickness and certainty, but I think if we do it for Public Service Commission, who's to stop the next commission from saying, well, we don't want to go to district court; we're sophisticated. And there are a lot of sophisticated bodies out there. And there are a lot of...I mean, the APA, you are a neutral body; you are neutral, you hear that testimony. That's a neutral fact finder. And, again, I understand we want certainty, we want quickness, but we can't just willy-nilly change the laws. We have...there is a beauty to our legal system. There's an underlying logic and reasoning for everything we do. And it's been developed over thousands of years going back to common law in England and there's a natural progression. And the APA, which has only been around since the '30s, but it's been around for, you know, close to 80 years now, has an internal logic and a reasoning to it. And we seem to be short-circuiting in that. And maybe there's a good reason to, but I haven't heard a reason to short-circuit the system or why they're special and they deserve something different and all the other agencies that...I'll use the....Administrative Procedure Act don't. So I didn't vote for... [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR HARR: Thank you. I didn't vote for the underlying amendment and I'm going to have a tough time voting for this bill. I understand there's a lot of work that went into

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this and all I'm asking for is for someone to explain to me what is this work that went into this; what is this compromise? Why are we doing this? I know the hour is late; I know we all want to get home. We want to see our kids and our family, but that doesn't mean we don't have a job and that doesn't mean we don't do our job properly. That doesn't mean we don't create a record. So, if someone can explain that to me in a clear, rational manner, perhaps I'll change my vote. But as of right now it seems like we are short-circuiting the system. Thank you. [LB545]

SENATOR COASH: Thank you, Senator Harr. Senator Nelson, you are recognized. [LB545]

SENATOR NELSON: Thank you, Mr. President, members of the body. I, too, have some reservations about the bill and would like more answers. And I realize Senator Dubas is at a bit of a disadvantage tonight without legal counsel. But could I ask one question of Senator Dubas? [LB545]

SENATOR COASH: Senator Dubas. [LB545]

SENATOR DUBAS: Yes. [LB545]

SENATOR NELSON: Thank you, Senator Dubas. I had to scan the bill quickly, but is the Court of Appeals, is that the last resort here or can their review or decision be taken on up to the Supreme Court, if you know? [LB545]

SENATOR DUBAS: I couldn't give you a definitive answer on that, but I can get one very quickly for you. [LB545]

SENATOR NELSON: All right, well, they...fine. Thank you very much, Senator Dubas. I'll wait for that answer. Senator Harr, may I ask you some questions, Burke Harr? [LB545]

SENATOR COASH: Senator Harr. [LB545]

SENATOR HARR: Yes. [LB545]

SENATOR NELSON: We're both lawyers; thank you, Senator Harr; we're both lawyers. I don't happen to be a trial lawyer or take things up on appeal, but apparently you have gone to the Court of Appeals, is that correct? [LB545]

SENATOR HARR: Yes. [LB545]

SENATOR NELSON: All right, could you explain what we mean by the standard of review for district court or for Court of Appeals? [LB545]

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SENATOR HARR: Well, and I'm not as familiar with the APA as I'd like to be, but I believe there are separate standards of review for the district court and that's what I was getting at with Senator Lautenbaugh for when you go appeal from the Administrative Procedure Act, so if whatever is the original court...or, excuse me, body hearing the testimony and they judge...they judge the voracity of the witness and the truthfulness of the witness. And then you appeal to district court. And there is a different level, and I'm not as familiar with it as I should be, as opposed to when you appeal to the district...or for the Court of Appeals, excuse me. One is de novo on the record, and I can't remember what the other is. [LB545]

SENATOR NELSON: Sure. [LB545]

SENATOR HARR: But de novo on the record is Court of Appeals. Unfortunately, the legal counsel for Transportation is not here tonight. I would almost argue since this is getting into legal technicalities that if we could move this, you know, work on this maybe tomorrow when we have some more information would be my answer, I guess. [LB545]

SENATOR NELSON: Thank you, Senator Harr. Another question, there's a difference in the review by the district court, I assume, and the arbitrary capricious discernment by the appeals court. I mean, is that more of a limited...they don't go...appeals court would not go into a lot of the basic facts of the case. Is that correct? [LB545]

SENATOR HARR: I would agree with that, yes. [LB545]

SENATOR NELSON: All right, thank you, Senator Harr. [LB545]

SENATOR HARR: Thank you. [LB545]

SENATOR NELSON: I will give the remainder of my time to Senator Lautenbaugh, Mr. President, if he cares to take it. [LB545]

SENATOR COASH: Senator Lautenbaugh, 2 minutes. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President; and thank you, Senator Nelson. I did learn some additional detail on this. I do know that the standard at trial, or at the district court, excuse me, would be de novo on the record. And then it would be a much higher standard at the appellate court level, not de novo review. But in looking through this, there is all sorts of standards that could apply: clearly erroneous, substantial evidence, or abuse of discretion, those are in increasing order of deference to the determination below. Apparently back in the day, determinations of the Public Service Commission did originally go directly to the Supreme Court. They were taken back down to the district court level; there was no appellate court level when we did this. And

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the district court review, despite supposedly reviewing it on the record, may be very deferential at this point as well. And it seems like the experience has been the district court has been kind of a formality you go through to get to a real review which has been at the appellate court level even with the more deferential standard. So again, I do believe that... [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President...Senator Dubas is on the right track here with this. I think we are removing a step that no one seems to want in the process anymore, but still providing with two additional levels of review. If there is an additional discussion that has to be had regarding the standard of review at the appellate level, at one of the appellate levels, maybe that can be had between General and Select, but, certainly, I think this merits going forward with and does address a serious problem. Thank you, Mr. President. [LB545]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Chambers, you're recognized. [LB545]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, we have heard lawyers discuss the issue and when they are unsure of what we're dealing with, and I respect the legal acumen of all of the lawyers who have spoken, I don't think this is the time for us to move this bill. I wish it had not even come up. I had gotten involved in another bill earlier in which I had far more interest. But I haven't had a chance, being quite frank, to even read this. I thought when I came down here today, after having had my muffler fixed and that's why I was late, that we were going to be on that school bill the whole day. I wasn't even ready for Senator Bolz's bill in the way that I wanted to be. And I certainly am not prepared on this bill. So if it's necessary to hold it by way of debate and amendments, oh, and I see the Speaker is here, I'm going to do everything I can to prevent a vote on this bill. I'm not comfortable voting on it. I'm not comfortable allowing a vote when those who are knowledgeable are not sure what we're doing or exactly why. When I look at the committee statement, the mere fact that some of the entities that are regulated are agreeing with the regulator is in and of itself not encouraging to me. There should not be an absence of tension between the regulator and the regulatee. So, if it's necessary to carry this bill this evening by way of amendments and motions, that's what I intend to do. I don't know that anybody on this floor knows enough about what is in this bill to say that an intelligent vote is being cast. We are not here to do a favor to the Public Service Commission, nor to the regulated industries. We are the policymakers; we're being asked to make a significant change in policy. And I don't think it ought to be made this time of evening after the kind of day that we had. Now you all were laboring this morning, but no one of you had to speak too long because a lot of people were talking on the school bill. Usually when I'm on a bill, one way or the other, I have to do it all alone. So you all should be well rested. I know

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you're well fed because you were either...as I said, you were either sponging or mooching and some who are multitaskers were both sponging and mooching and they did it very capably from what I've been able to gather. And what I'm going to tell the lobbyists to do in addition to filling the trough is to provide those bibs that you can put on, then you can just go right at it and you don't have to stand on any ceremony and worry about getting anything on the front of your garments. But if you are an eager eater, then eat with your coat open and your necktie behind your back, then when you get stuff on your shirt you can...if you can't cover it all with your necktie, then button your coat all the way up and it accomplishes the same purpose. Now, this is the kind of discussion and debate, if you want to call it that, I can engage in for the rest of the night. I am well rested. I don't think this bill is frivolous. I don't think what is being done by this bill should be done and then we say everything in the way of a problem will be worked out between now and Select File. That can be done with... [LB545]

SENATOR COASH: One minute. [LB545]

SENATOR CHAMBERS: ...reference to certain matters. But as has been pointed out by Senator Harr, Senator Burke Harr, this is a departure from what is done with reference to regulatory activity around the country. I would like to know, which I cannot say from the record I know right now, why the Court of Appeals is considered more capable of doing what needs to be done in these situations than the district court. I want to discuss what happens when an appellate court reviews the action of a lower court. I know what they look at. But in this case where you're appealing from a decision by regulatory agency, the regulatory agency is not a court. I don't know what they do in terms of the evidence they accept. I don't know if there is a hearsay rule that is enforced. I don't know any of that. And I think before we as a Legislature are asked to make such a substantive change, we should be...let me speak for myself, I need to be better equipped knowledge-wise than I am now. [LB545]

SENATOR COASH: Time, Senator. [LB545]

SENATOR CHAMBERS: Thank you, Mr. President. [LB545]

SENATOR COASH: Mr. Clerk. [LB545]

CLERK: Mr. President, I have a priority motion. Senator Harms would move to adjourn the body until Tuesday, April 23, at 9:00 a.m. [LB545]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. [LB545]