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Floor Debate
February 12, 2014

[LB14 LB191 LB438 LB660 LB725 LB748 LB752 LB799 LB810 LB816 LB838 LB872A
LB974 LB983 LB1103 LB1104]

PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-fifth day of the One Hundred Third Legislature, Second Session. Our chaplain today is Senator Scheer. Please rise.

SENATOR SCHEER: (Prayer offered.)

PRESIDENT HEIDEMANN: Thank you, Senator Scheer. I call to order the twenty-fifth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

PRESIDENT HEIDEMANN: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Banking, Commerce and Insurance reports LB799 and LB810 to General File with committee amendments attached. And the Appropriations Committee has selected LB974 as one of its priority bills for this session. That's all that I have, Mr. President. (Legislative Journal pages 523-525.) [LB799 LB810 LB974]

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

CLERK: LB838 is a bill introduced by Senator Sullivan. (Read title.) Introduced on January 13 of this year, referred to the Education Committee, advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB838]

PRESIDENT HEIDEMANN: Senator Sullivan, you are set to open on LB838. [LB838]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. LB838 is a bill that changes the deadline for certifying state aid under TEEOSA from March 1 to April 10, but it does so only for 2014. I'd like to, first of all, thank the Speaker for special

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ordering this bill. It's necessary to do this, even though I had hoped that we wouldn't have to go this route. If you remember, LB725 was advanced from General File last week and is set to change the total amount of TEEOSA for the 2014-15 school year. I had hoped to successfully pass that legislation prior to the March 1 certification date which is currently in statute. However, in consultation with the Appropriations Committee, they express concerns that LB725, with its accompanying fiscal note, not precede the passage of their budget. So, if we leave the March 1 certification date in place, the Nebraska Department of Education is required to certify aid by that date. But when LB725 is passed, it would then require the department to recertify aid, a time-consuming and extra expense process, I might add. So I want to avoid this with the passage of LB838. This changes the deadline for certifying aid to our school districts to April 10, which, yes, it's later than March 1, obviously, but it's still ahead of an April 15 deadline school districts have for giving notice to teachers if there is to be a reduction in force. Also, it's important to note that the department will certify aid to districts just as soon as they have a signed bill to act on. So again, LB838 changes the certification date for state aid to schools from March 1 to April 10. I ask for your support for this legislation. Thank you. [LB838 LB725]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. Senator Lathrop, you're up and recognized. Senator Lautenbaugh, you are recognized. [LB838]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I really have absolutely nothing to say about this bill. Careful observers of the Legislature will say, well, why are you talking then? I'm talking to sort of provide a road map for the morning, hopefully. The next bill, we'll be back on Senator Adams' bill. I believe that to be the case. And as I told Senator Adams yesterday, I do not intend and I will not engage in a filibuster of that bill, that's not what we're about. But I hope while you're all here and while it's the first thing in the morning and while there's a chance you all are still paying attention, I hope you will tune in on the discussion of the next bill because we spent an unconscionable amount of time this year on amber lights and a goodly amount of time on helmets and quite a bit of time on other things, but we're about to talk about a very significant education bill. This isn't it. This is a bill that serves a purpose. I'm not denigrating this bill. I'm just saying that the next bill is actually worthy of your attention, worthy of your discussion, worthy of your consideration. We are getting to something very meaty. If I could put amber lights on a bill, I would put amber lights on the next bill. And I will appreciate your attention as we go forward, not your contention, your attention. And we will probably have a lengthy discussion, I hope. I'll do my part. But it's not meant to delay. It's meant to illuminate what we're actually doing and what we can do and what we should do. And there's nothing more important that we're going to discuss this year. I'm not trying to overstate things; there's nothing more important that we're going to discuss this year than the very next bill, because we're going to get into topics that affect how we educate children and what our responsibility is. And whenever it's time to write a bigger check, someone pops up and says, well, we have a

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constitutional duty. Well, we do, but it's not an unlimited constitutional duty. It's not a blank check. We've discussed that at length previously. But it's important how we do what we do. I'm of the position that we probably provide adequate funding, but it's more important how we fund and what we fund than how much we fund at this point. And there's a point at which we have to step in and take the ball away and say, you're not doing your job, someone else needs to do it. And that is the very next bill. So I'm imploring you, please bring your attention to bear as we move forward because we are going to be dealing with something very weighty and we're not going to deal with something more weighty this session I don't believe. Regardless of what you hear, regardless of what we do, a very important thing is upon us right now. Thank you, Mr. President. [LB838]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh. (Doctor of the day and visitors introduced.) Senator Mello, you're next in the queue and recognized. [LB838]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. First off, as members should have seen on their desks here this morning, there is a green copy of the Appropriations Committee preliminary budget report. This is an initial outlook of our preliminary budget recommendations prior to the start of public hearings which started last week. We are currently going through agency hearings, as well as bill introductions to the Appropriations Committee that will last through next Wednesday, the 19th. Upon the completion of our public hearings with state agencies and individual senator's pieces of legislation in front of the committee, we will then begin our deliberative process of Executive Sessions of going through additional and/or previous requests made by state agencies, as well as the legislation that's been introduced to our committee, with the intention, as by our legislative rules, to deliver a budget proposal to the entire Legislature by the fortieth day of this Legislature. Just so everyone knows, this report, this green copy report, is posted on-line on the Legislature's Web site and on the Uninet. There are additional paper copies available for members and their offices in the Legislative Fiscal Office, but there are a limited quantity that have been printed. So we encourage everyone to, instead, look on-line and try to download and/or print off your individual copy if need be. With that, I rise in support of LB838. As Senator Sullivan mentioned, we have traditionally followed a budget process that involves the TEEOSA formula. When the changes need to be made to the formula, whether to add additional funds due to a lack of property valuation increase or, in this case, keep additional funds in the TEEOSA formula to help, I would say, mitigate those increasing property taxes at the local level, there's a bill that is traditionally brought in the short session to deal with that specific issue, which Senator Sullivan and the Education Committee brought in LB725. In consultation with the entire Appropriations Committee, it's not that the committee doesn't support LB725 but, more importantly, just felt that it was necessary for us to continue the process which we traditionally have followed over in recent times which would have that education bill follow after the state budget. As I mentioned to Senator Sullivan, I'm a strong proponent and supporter of LB725, but this, more than

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anything else, is a process question, and I appreciate Senator Sullivan's willingness and leadership to bring LB838 with a change in the certification dates separately from LB725 that would help mitigate any concerns or challenges that may come in front of this Legislature as we move the state budget forward and as we move LB725 forward to Final Reading and to the Governor's desk. So, with that, I want to thank Senator Sullivan for her willingness to work on this issue, both with the Appropriations Committee as well as with the Speaker, and I urge the body to adopt LB838. Thank you, Mr. President. [LB838 LB725]

PRESIDENT HEIDEMANN: Thank you, Senator Mello. Senator Wallman, you are next and recognized. [LB838]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I appreciate this, changing the date, going through this work. And, Senator Sullivan, you won't believe this. Thank you. (Laughter) [LB838]

PRESIDENT HEIDEMANN: Thank you, Senator Wallman. Is anyone else wishing to speak on LB838? Senator Kolowski. [LB838]

SENATOR KOLOWSKI: Thank you, Mr. President. I also stand in support of this, of LB838, and thank Senator Sullivan for her leadership in the committee to bring this forward. It is extremely important, as you've heard from many sources this morning. Also would like to say, this is the birthday of Abraham Lincoln. We are in Lincoln, Nebraska. Having been born and raised in the Land of Lincoln in the state of Illinois, I think it is appropriate that we also remember that on this day. Thank you very much. [LB838]

PRESIDENT HEIDEMANN: Thank you. Seeing no one else in the queue, Senator Sullivan, you're recognized to close on the advancement of LB838. [LB838]

SENATOR SULLIVAN: Thank you, Mr. President. LB838 simply moves the certification date for TEEOSA from March 1 to April 10. I encourage support for LB838. Thank you. [LB838]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. The question is the advancement of LB838 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all you voted who wish to vote? Record, Mr. Clerk. [LB838]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB838. [LB838]

PRESIDENT HEIDEMANN: LB838 does advance. Mr. Clerk. [LB838]

CLERK: Mr. President, LB438, a bill introduced by Senator Adams. (Read title.) The bill

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was discussed yesterday, Mr. President. Senator Sullivan, as Chair of the Education Committee, presented the committee amendments. She also offered, as an amendment to the committee amendments, AM1580. That amendment is currently pending. (Legislative Journal page 113.) [LB438]

PRESIDENT HEIDEMANN: Would Senator Adams like to refresh us on LB438? [LB438]

SPEAKER ADAMS: Thank you, Mr. President. I've slid over here in anticipation of a lot of questions today and some dialogue. Members, what LB438 does is give authority to the State Board of Education to create a Nebraska accountability system. We have an assessment system where we collect data. What we really don't have is an accountability system. And currently we have nothing in statute that gives to the State Board authority to intervene and to make correction. So the essence of this bill is, it creates an accountability system; it gives flexibility to the State Board to determine the indicators; and then it gives them the statutory authority to intervene. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Adams. Would Senator Sullivan like to refresh us on the committee amendment, AM1240, and her amendment, AM1580, to the committee amendment. [LB438]

SENATOR SULLIVAN: Thank you, Mr. President. AM1580 simply changes the operative dates of this legislation because we heard it last session and so in so doing put the dates for this year, whereas it changes to the '15-16 school year instead. And then in AM1240, we are changing the number of priority schools from five to three, and then removing the reference to operating councils. Those are the two substantive changes of that amendment. Thank you. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. We now open it up for discussion on LB438 and the amendments thereto. Senator Chambers, you are recognized. [LB438]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the first thing I want to say is with reference to the amendment that we're considering now. I'm opposed to reducing that number of schools from five to three. I don't want the bill to become a total charade, a sham, a smokescreen. And maybe it won't be that. But because there are two amendments up there, I'll have enough time to engage the Speaker in some back-and-forth questions and answerings about the bill, what it's intended to do, what I think ought to be done. I won't have to fashion any amendments. Then there will be an opportunity to discuss the bill itself. Senator Lautenbaugh is not wrong all of the time. Nobody is wrong all of the time. In fact, he reminds me of Ivory soap; 99 and 99/100 percent wrong. But when he is right, he is really right. And on this

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bill, talking about the importance of it, he could not be righter. And I know there are others who see the significance of this bill and the subject that it touches. I have been very concerned, even before I got in the Legislature, even before I got married and had children of my own, with how poor the performance of the Omaha Public Schools was. I worked at a barbershop about two blocks from Lothrop School, a half mile from a couple of other black schools, and maybe three-quarters of a mile from a third one. And children used to run to the barbershop for my help when they had been physically assaulted by teachers. And I would go up to the schools, and because they knew I would be there, they had what they called truant officers at that time, they would get that teacher out of the building and that teacher would never come back because they knew that my standard response was...there is less physical disparity between you and me, speaking of the teacher, and you and that child. I want you to do to me what you did to that child. And it never happened because they spirited them away. When it came to trying to get a decent education, there were in the junior high schools, some of the high schools, inadequate textbooks. Teachers were known to tell the children's parents when they came to ask, why are there not textbooks; why are not my children bringing homework home? And I'm saying this for those white people who write letters in the Pulse talking about the black parents don't do their job. And you know what the parents were told? Well, we can get information off the Internet. We can go to Wikipedia, or whatever that is, and get information and put together, we'll staple some sheets. That does not work. I said, when you start putting that kind of stuff in Burke and these white schools, then we can say that you're still wrong, but you're not wrong on a racially discriminatory basis. I had brought an amendment and added it to a bill to divide OPS into three districts. The media and people on this floor, some of them, misrepresented what I was doing and said that one was to be a Latino district, an African-American district, and a white district. They do not tell the truth, and that was OPS's official position, Senator Pirsch. But here's how the district boundaries would be drawn. [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR CHAMBERS: There are seven high schools in Omaha. Each of the districts...two of them would have two high schools, the other would have three. And you know where the boundaries would come from? The attendance areas drawn for those high schools by OPS. And if they would be segregative, under my proposal, they were segregative without my proposal because OPS had drawn those boundaries. In other words, OPS has not been honest. They have not told the truth and they have had people on the floor of the Legislature also not tell the truth. And I think they did that because they were ignorant of the facts and took OPS at their word. I'm giving a little background on my interest in better education and how long it has endured. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Lautenbaugh, you

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are up next and recognized. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And thank you, Senator Chambers. I mean, you're like a broken clock. You're right twice a session, and this is one of those times. As I said before, this is an important bill. And to be clear, colleagues, this is not a filibuster. This is not me trying to talk this bill to death and that's not what I'm about. But we have a problem in this state with education. And you may gasp and you may say, oh my gosh, that can't be true; our schools do great, my schools do great, my kids go to a good school. Well, your kids might, but too many don't, too many don't. And too many who wish to go to a good school, too many parents who wish their kids go to a good school have to put their children on a bus and send them elsewhere. And that's not how our system is supposed to work. We are supposed to have neighborhood schools that provide a quality education and neighborhood schools are part of communities and provide lots of other services for the community as well and are a focal point of the community and are a point of pride for the community. And instead, when we tolerate the fact that, well, yeah, your local school is abysmal, but we provided a safety valve; you can get on a bus and go to a different part of the city or a different part outside of the city, send your kid elsewhere. That's not acceptable. And some of you in rural areas think, well, our kids get on buses to go to school every day. Well, that's correct. You live in a rural area and your school isn't going to be near your home. I mean, you live in a rural area. That's a fact of life. But in an urban area it's different. We have different issues. We have different challenges. And the community is a different thing. And it used to be a point of fact and a point of faith that you had a school in your neighborhood where your kids would go and you could take pride in it and you were involved in it. And our times have changed, and the economy has changed. And when we talk about other issues on the floor, we talk about single parents and two parents working and the economic realities that too many parents...well, most parents find themselves in and what they have to do to get by today. And when you also say, in an urban setting, that if you want to get your child a quality education, you have to put your child on a bus for what effectively amounts to three hours every day, there is almost no way, in reality, that that working parent, sometimes single parent, is going to be involved in that school, in the extracurricular activities, in the parent-teacher conferences, in the PTA meetings, etcetera. That's not going to happen. And we're a poorer society for it, because when parents aren't involved in the school, the school goes awry. We have words on the outside of this building talking about the watchfulness of the citizenry. I'm butchering that quote, and I apologize. [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR LAUTENBAUGH: And I introduced several bills this year to eliminate some boards, but one thing I did not try to eliminate was the local school board because those work well when parents are involved and paying attention. And in my own school district, we took our eye off the ball for too many years and it's gone horribly awry. And

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we're trying to right that ship and that's going to be a multiyear project and, hopefully, it will work out. But when you tell parents the way they can get a quality education is to send their kids to some district that they don't even live in, that's not school choice. That's a recipe for disengagement. That's a recipe for inattentive parents. That's a recipe for not paying attention to your own district at home. [LB438]

PRESIDENT HEIDEMANN: Time. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh. Those wishing to speak on LB438, we have Sullivan, Chambers, Larson, Harms, and Lautenbaugh. Senator Sullivan, you are recognized. [LB438]

SENATOR SULLIVAN: Thank you, Mr. President. I can't agree more that this is an important conversation that we're having this morning. You know, in this body we often talk about the value of the resources that we have in this state: our natural resources, our water, our land. But you know what. Our most valuable resource is the human capital and the young people that we have. And there is no more important job that we have than to educate our young people. And no child should fall behind; no child should fall between the cracks; no child should be disengaged in this process. We want them all to be successful. And I'm proud of the system that we have. But I agree with Senator Lautenbaugh and Senator Chambers that we are far from perfect. We need to work on things. And I hope that you will join me in a bill that I'm expecting will come to this body for full and fair discussion, and that's my LB1103, which is a proposal to embark on a visioning process for education in this state, because I know we face challenges. I know we have shortcomings. But we can address them in a collective manner. As Senator Adams indicated when he introduced LB438 yesterday, we have an assessment process in place, but we don't have an accountability system. This is the start of it with LB438. We are starting the process. And it will have many changes and it will look differently by the time we are thoroughly working through it. And one of the decisions that the committee made when they deliberated on LB438 was to take a look at changing the number of priority schools. The original bill indicated there should be five. We recommended as a committee that there should, for starters, be just three. It wasn't just about cutting that fiscal note from \$4 million to \$800,000. But certainly, as we start this process, we need to be wise in the use of resources. We don't know for sure how this is going to work. We don't know how much it will cost to have these intervention teams come in. So that really was one of the considerations. Let's go slowly on this. The other thing was that we have to develop the structure on how these teams will work, what they will look at. Certainly, the bill says that the intervention team will have full access to all the details of the district all the way from staffing to fiscal. But again, we don't know how much time and effort that's going to take. Furthermore, that we thought perhaps in identifying those priority schools, just three, we could identify in certain parts

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of the state or certain state or certain types of schools in different situations. So, I can't emphasize enough that this is just a start in this accountability...building this accountability system. I think we need to go slow. I think we're in full recognition that more will...priority schools would need to be identified, but this gets us on the path. Thank you, Mr. President. [LB438 LB1103]

PRESIDENT HEIDEMANN: Thank you, Senator Sullivan. Senator Chambers, you are recognized. [LB438]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I think education is extremely important. I believe that knowledge is power. And I believe that the truth will set you free by liberating your mind. I try to put into practice the things that I acquired through my education, and I don't mean just in the classroom. I did a lot of reading. I did a lot of observing. I attended meetings. I've been a consultant for the U.S. Department of Education, which shocks some people. I even went to review the teacher training college at Carnegie Mellon. Some people have never heard of Carnegie Mellon. I went to MIT, the Massachusetts Institute of Technology; to a school in Pennsylvania, I forget whether it was Pittsburgh or Pennsylvania University, and that's when I was a much younger man. My interest in education had been made clear and it was known to people in Washington. When I came to this Legislature, I listened to the kind of things white people talked about, and I'll tell you why. The only way that a minority group or an unpopular group has a chance to bring about any change is to position his or her issues in such a way that they affect white people in general. Then white people will say, well, to benefit myself, I have to go along with this, even though it benefits those people I don't care about. So that's the way I would try to craft programs. I listened to all the talk about local control, local control. When I got the legislation...and it was the law, it was passed into law, Senator Raikes and I agreed to create with others the Learning Community as an alternative because both of us were term limited out and we could not protect that division that the law made in OPS. It wasn't that the idea was bad. And I based it on local control. I had argued that the people who live in an area served by the schools are the ones who should have influence in the running of those schools. No school building was going to be picked up and moved from where it currently was to someplace else. That division had nothing to do with attendance at schools. It had to do with administering the schools. And I said, local control is all right as long as white people are talking about white people controlling. But when we talk about the schools where our children go, the schools that are worse than stepchildren, worse than orphans, treated almost like the enemy, then suddenly local control was not acceptable. White people wanted to continue controlling the schools in our area. And people asked me, what would that control consist of? I said, just look at your schools and it consists of what it consists of in your community. A school district is what we would have had. The other two would have had the same thing however they broke out based on the district boundaries, based on those attendance areas drawn by OPS. A school district hires its superintendent. It determines how many administrators there will be. It sets up

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standards for the teachers. It helps organize the curriculum. It establishes the points of interest and emphasis. And as Senator Lautenbaugh touched on, it gives a stake to the parents in the schools where their children attend, because they will not see people who are going to tell them,... [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR CHAMBERS: ...if you come up here raising cane, as they called it, because you say your child is not getting an adequate education, we have an arrangement where we will ban and bar you from this school where your child goes to school. And that's what they were doing. And I was intervening for parents who wanted to be involved in the schools. But the school system banned and barred them. And you know what they would do if a parent came anyway because the parent was that concerned about his or her child? They had the cop who was stationed in the school take the parent outside, and if the parent objected, he or she could be arrested for looking out for your child. And this is what white people put on our children. And I was supposed to accept it. You all talked about local control. This that we're talking about here today kind of ties into that because the underlying legislation and programs are supposed to provide a decent educational opportunity for all children wherever they are. [LB438]

PRESIDENT HEIDEMANN: Time. [LB438]

SENATOR CHAMBERS: Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Larson, you are recognized. [LB438]

SENATOR LARSON: Thank you, members of the body. Would Senator Adams yield to a few questions? [LB438]

PRESIDENT HEIDEMANN: Senator Adams, would you yield? [LB438]

SPEAKER ADAMS: Yes, I will. [LB438]

SENATOR LARSON: Thank you, Senator Adams. It's my understanding with the Sullivan amendment, AM1580, it drops you down from five to three schools? [LB438]

SPEAKER ADAMS: That's...I believe that's right. [LB438]

SENATOR LARSON: And as I read through the amendment, I'm trying to get a grasp of exactly, once you're a priority school, what the school has to do to become a...following the strict curriculum and whatever the State Board operates in. How long are you expecting that once a school is designated as a priority school and only three of

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however many schools throughout the state, what does it take for them to become a nonpriority school? When do they get off this designation list? [LB438]

SPEAKER ADAMS: You know, I don't have a specific answer for you. That's going to be up to the State Board if they follow the plan and they're...the numbers that the State Board has arrived at improve, whether that takes one year, two years. I think that would be up to the State Board to make that determination. [LB438]

SENATOR LARSON: And I looked in the Sullivan amendment and I came up in the queue before I got it...before I was able to read it all through, and they talk about if a school has been in there for five consecutive years, then something else happens. And like I said,... [LB438]

SPEAKER ADAMS: That's right. [LB438]

SENATOR LARSON: ...I was right there when I was...when I was called to the mike because it was my turn. In the end it just seems that we're changing it from five to three and three schools throughout the state. I have one of the lowest performing schools in the state in my district, Santee High School, that represents a reservation. And my concern is, is this...you know, they have had...and the school board and the local community has done a lot to try to work on that school, but there's issues, underlying issues that continue to hinder it or hold it back. And when we're only talking about three schools, there's obviously issues in Omaha and Lincoln with these schools too. I'm just not sure three is enough. Do you have...I mean, why just three or why just five and throughout the state? [LB438]

SPEAKER ADAMS: Well, I'm going to try to get to that question. I'm going to back up a little bit from what you're talking about. What we're trying to do here is to say to the Department of Ed, here's the statutory authority to go in and try to help rather than punish. And for the very school district, I'm guessing, that you're talking about, what they're asking for is help. And the move from five to three, in part, it was dollars; the other part was, very simply, getting the State Board the opportunity to get their hands around how they're going to intervene in these school districts and help them. [LB438]

SENATOR LARSON: I appreciate that. And I guess the concerns that I have...and I understand the concept of instead of punishing, let's try to help these schools. But I think, first of all, by putting a number, regardless, I think we're telling school districts, well, and since they can be reoccurring priority schools, this is...I mean, we're still shutting and not helping so many school districts...or schools across the state that need it. And I feel and a concern of mine is that some schools districts, like Santee, are going to be left out or other school districts in rural Nebraska that need the help because of other issues. But Omaha and Lincoln...again because I feel, as a rule, Senator, oftentimes when you have state government located in Lincoln and most the people that

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are within the bureaucracy represent Omaha and Lincoln, it's very easy to pick the priority schools that are close to home and ignore rural Nebraska. And I think that's why this is going to happen, especially by putting a number on it. If these schools are looking for help, let's help them. And not to beat a dead horse, as Senator Lautenbaugh has continually brought up, but... [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR LARSON: ...this is a time, and I think he has a bill coming up concerning charter schools that is a tool for them to help that has been effective in other states. That's not a punishment. That gives them the tools to help. That's a true education reform is charter schools. Instead of we can only help three schools across the state, let's give those schools across the state an opportunity to help themselves instead of requirements from the Department of Ed who they can only help three at a time. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Larson. Senator Harms, you're recognized. [LB438]

SENATOR HARMS: Thank you, Mr. President, colleagues. I've looked at this bill pretty carefully. And one of the things I just want to caution us about is one of the concerns that I have...not so much about this bill to start with, is the fact that so many of our children who come into our school system come in with a great deal of deficiencies. And if we don't start to address through early childhood development, like through the Sixpence program, if we don't start to place more dollars into that particular system to prepare the child from zero to five years old, when they walk into our public school system, many of those children are five years behind, colleagues. And I can tell you right now, as they go through this school system, they will not make up the five years. And we're going to evaluate the child and the teachers about whether or not they meet certain guidelines and certain levels of quality. They're not going to meet that quality and we're going to punish them. But the simple fact is that you have a large number of children coming in already with deficiency. Let me give you an example. In the evaluation of our Scottsbluff Public School system, this last year 61 percent of the children who entered that school was what we call at-risk children. They did not have the basic ability to be in kindergarten. And so now we're going to watch those children go all the way through this system and we are going to see failures all the way along the line. So when we talk about this aspect of it, I would be in hopes that we start to focus on before the child gets there, because that's where we're failing. That's the problem we have. And if you don't deal with that, I don't care what kind of evaluation system you put in, I don't care what system you establish, it will not be successful. I'm not being critical of the bill, I think we're just short one aspect. And I would be in hopes that we would be bright enough to ask or to put into this bill or amend this bill to have an evaluation of the children when they come into kindergarten. Because then we'll be able to determine

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what our problems are; what we're going to be confronted with in the future. And I can tell you right now that if you look at the long-range planning documents we have, which will be released in here, hopefully soon, there's a lot of evidence in there that talks about what I'm telling you now. We need to pay some attention to that, because I don't think what you do in regard to these schools, there will be a lot of difference...you make a lot of difference. I don't think you can make up five years. And the point is that when a child's greatest learning experience and brain development occurs from zero to five, that's when the neurons of that child are completely developed. That's when the time is determined of his intelligence or her intelligence; the time that you're going to have in regard to wellness. Everything at that point is determined. And I would be in hopes that we would give that consideration. So I'd like to, if I could, carry this on a little further into another area. And I wonder if Senator Adams would yield. [LB438]

PRESIDENT HEIDEMANN: Senator Adams, will you yield? [LB438]

SPEAKER ADAMS: Yes, I will. [LB438]

SENATOR HARMS: Senator Adams, thank you very much for your involvement in this. And I think it's the right idea, I just think we're falling short a little bit on the early childhood side and I would be in hopes that somehow we could...we could find a way to incorporate this. And my question to you is that as we choose these three schools, and I'm thinking about rural Nebraska, because that's the thing I probably most understand, a lot of those schools are a long ways away from each other. And to try to bring them together in some type of relationship, I don't know, I think it probably would be difficult. I don't think it's impossible to do. [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR HARMS: Thank you, Mr. President. My point that I'm asking you about is the indicators that we're going to use to determine the school and whether the school is failing, what criteria are we going to use to do that? I saw the list in the bill. But what are the basic scores? I mean, where are we on the basic foundation to determine whether or not these indicators are having a positive or negative effect on that school? [LB438]

SPEAKER ADAMS: Senator, good question. What the State Board at this point would intend to do, is to use scores that they already have. For instance, they would use math assessment scores; they would use reading assessment scores. They would use graduation rates at the high school level. They would use growth modeling where what we do is we look at Johnny in the third grade and see how he did on reading, and then we look at the same child again in the fourth grade and the same in the fifth to see if there's growth, if there's improvement. You take all those together... [LB438]

PRESIDENT HEIDEMANN: Time. Thank you, Senator Harms, Senator Adams. Next up

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we have Senator Lautenbaugh. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I wonder if Senator Adams would yield to a couple of questions. [LB438]

PRESIDENT HEIDEMANN: Senator Adams, will you yield? [LB438]

SPEAKER ADAMS: Yes. [LB438]

SENATOR LAUTENBAUGH: Thank you, Senator. Senator Adams, just to flesh out what transpires here when this bill goes forward, so the department intervenes in three schools and what happens? [LB438]

SPEAKER ADAMS: The number is three. The reality, I would expect, Senator Lautenbaugh, is that they may directly intervene in three; there may be ten others where they're going to be having contact with them and let them know. But what would happen is, the State Board would identify a team of people that would go to that school district and would have the statutory authority to have access to their finances, their curriculum, their...the folks that they have working there, and develop a plan to get them turned around. And the school district would need to then implement that plan. [LB438]

SENATOR LAUTENBAUGH: And what happens if that plan doesn't work? [LB438]

SPEAKER ADAMS You know, you...you've opened the lid on something. I don't have an answer to that. I'm not sure that the State Board has an answer. Now one answer would be, take their accreditation away. The likelihood of that is slim to none, particularly when you get outside of larger areas and the school district is more...the area...just one building. [LB438]

SENATOR LAUTENBAUGH: And when we take away accreditation, can you do it school by school? Are we talking district? [LB438]

SPEAKER ADAMS: It's by district. [LB438]

SENATOR LAUTENBAUGH: Thank you, Senator Adams. Folks, we're...that's kind of the nub of the problem I have...one of the problems I have with this is that we're talking about intervening in a few schools and this is meant to bring accountability. But what happens on the back end if they don't perform? I mean, everything that I've tried to do in education, and I think everything everyone has tried to do in education has been about trying to bring about better results. But this bill will create the potentiality of the state intervening in three districts and maybe casting a watchful eye on a few more. But by the numbers, we have, I think, 90 or 150, depending on how you measure, that warrant our attention right now. We should be looking at them and saying you're failing right

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now. Failing right now. I'm going to say that a third time: failing right now to educate children. Fourth time: failing right now to educate children. And so we're going to intervene and try to assist with a plan. And if that doesn't work, well, what happens? In a few years maybe there will be another plan. Folks, with every year we fail more children. In my district we don't fail them in the traditional sense; we don't hold them back. As I referenced yesterday, we don't really issue diplomas anymore; we give participation certificates. They're called diplomas, but that just means you sat there the requisite amount of time. That doesn't mean you necessarily learned. Doesn't mean you're necessarily competent to have a job or go on to college or be an adult or perform and contribute to society. That means time has passed and you have been there while time has passed. It is meaningless. [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR LAUTENBAUGH: It is meaningless and we tolerate it. And understand when I say, we tolerate it, I'm talking about 49 people who tolerate that. That's us; we let this go on. And if this bill passes in its current form, we will continue to tolerate that. We will have a plan of intervention in three schools and maybe cast a watchful eye on a couple more...few more, but if they don't perform, they don't perform. And again, this is not a deal where we, you know, things aren't up to snuff and somehow we lose a couple points off of profitability or something like that. These are kids who don't have a future. [LB438]

PRESIDENT HEIDEMANN: Time. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh. Senator Campbell, you're next and recognized. [LB438]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues of the Legislature. I have started taking more intense interest in the bill and looking through some of the materials and wondered if Senator Adams would entertain several questions. [LB438]

PRESIDENT HEIDEMANN: Senator Adams, will you yield? [LB438]

SPEAKER ADAMS: Yes, I will. [LB438]

SENATOR CAMPBELL: Senator Adams, as I look...as I began to look through this, is there a cost to the schools that are designated? [LB438]

SPEAKER ADAMS: A cost, Senator, is that what you asked? [LB438]

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SENATOR CAMPBELL: Yes, to the school district. If they're designated as one of the three, are they required to provide financial? [LB438]

SPEAKER ADAMS: If they have...the state would. If they have people that are...if they have staff members that are part of the intervention team or assisting the intervention team, the school is obligated to continue to support those folks as they normally would contractually. I think, frankly, the bigger thing to the school is its reputation. That's the bigger cost of being identified. [LB438]

SENATOR CAMPBELL: Senator Adams, one of the things that, as I listened to the discussion, and I would tend to agree, it seems to me that three is a small number to start with, although I understand that you can kind of test everything out and make sure it's...in the conception of this idea, was it ever thought--start with three and then phase in, in the second year, another two or three schools? [LB438]

SPEAKER ADAMS: No. Actually, it started at five, got reduced to three. [LB438]

SENATOR CAMPBELL: And just stayed there. [LB438]

SPEAKER ADAMS: And there it is. [LB438]

SENATOR CAMPBELL: Would you object to looking at some kind of a phase plan where we could add some more schools in like year two after everybody sort of got their feet on the ground? [LB438]

SPEAKER ADAMS: You know, I think that what you're advocating may be okay. I'd certainly want to sit down and talk to the Commissioner of Education and see, in terms of his planning, how that would work in. But I think it's possible. [LB438]

SENATOR CAMPBELL: And my last question, Senator Adams, is Mr. Bonaiuto testified in a neutral position and could you just summarize what his concerns were? [LB438]

SPEAKER ADAMS: That was a year ago, Senator, and Mr. Bonaiuto always testifies in a neutral position, so I don't know. (Laughter) [LB438]

SENATOR CAMPBELL: Thank you, Senator Adams. Will continue to listen to the dialogue, but I'm very supportive of this program. I agree with my colleagues that have spoken that we need to take action and start a program that very specifically targets help and assistance to these schools. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Campbell. Senator Chambers, you're up next and recognized. This is your third time. [LB438]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when Senator Lautenbaugh says 49 of us tolerate this and have, he's not talking about me. I've been fighting this issue on the floor of the Legislature ever since I got down here. One of the first things I did, and it took me years, was prohibited corporal punishment in the public schools. And I had to fight tooth and nail against the teachers, principals who wanted it, preachers who wanted it. That was the most basic thing that I could go after where children would have physical safety in the schools and they did not. That's what I had to do. Then because the school board runs the schools, I had to fight several years and overcome gubernatorial vetoes to require district elections for the public schools in Omaha. And they had been having district elections in rural areas for as long as anybody could remember. Those are the things that I did, and I fought it year after year. And Senator Lautenbaugh and none of the other people in Omaha came down here to speak for that. In fact, the white community was opposed to it; made it clear they were opposed to it. So I have been riding this horse for a long, long time. Senator (sic) Mackiel left here; part of it was because of heat that I was putting on him and had been putting on him for years. He had said several years ago, around the '90s, that it would take at least ten years to do something about improving the schools in my community, which they put the euphemistic name or title "academies" on, take ten years. I said I cannot go for that because ten years from now we will have lost what amounts to a generation of children; these schools will not have been improved and I'll be saying the same things ten years from now that I'm saying at that time, and it's true. It's been far more than ten years ago and I'm still fighting the same battle. Senator Lautenbaugh probably doesn't remember that it took a lawsuit to find that Omaha had deliberately segregated the schools. Tech High was a black school; it was segregated. And the judges said, you may as well have written "colored" in letters a foot high and put it across Tech High School. The fixtures in the girls bathrooms did not work. The shower stalls had fixtures where no water would come out. I was a young man and I was fighting those things, resisted every step of the way. So some people are just now waking up and they should not think that because awakening came to them that everybody had been asleep. During this discussion, and it puts me in a bad situation because I can't focus on this bill like I want to, I'm going to have to give some background on what brought the Learning Community into existence. The agreements that were reached--one of them even involved an area that the current Lieutenant Governor was in on. Rural areas were losing money in state aid because they were losing population. And then Senator Fischer came to me and said, what can we get out of this? I said, what do you need? We need some money not based on student population. So I said, I will help you get that money. It was more than a million. I forget how much exactly. They were meeting with people from Omaha about it and the Omaha people didn't want to see that happen and Senator Fischer came back and she said, I told them Senator Chambers is for us getting this money, tell him you won't do it. And nobody came to tell me that. And... [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

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SENATOR CHAMBERS: ...then Senator Heidemann was in on some of those discussions. And they got that money. The rural people got that money. And after they got what they wanted, and I was out of the Legislature, Senator Fischer came with a bill to say--take away the per diem from the members of the Learning Community. That was all a part of it. They wait until I'm gone and then do it, just like they did, Senator Wallman, on the prairie dog bill, just like they did on the mountain lion hunting bill. Then I have to try to clean that up when I would rather, like at this moment, focus on this bill. But I'll do what I can with the time that I'll have. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Continuing discussion on LB438, we have Senator Burke Harr, Larson, Harms, Lautenbaugh, Carlson, Bloomfield, Kolowski. Senator Burke Harr, you're recognized. [LB438]

SENATOR HARR: Thank you, Mr. President. Let me say I'm definitely for the underlying bill and amendments. I think this is good legislation. I think it's a way to look at our schools and see where we're doing poorly and maybe have an outside source come in and look and see what best practices are and how we can implement those. So I'm very much for those bills. I would also say that option in is not a bad thing. Community schools or neighborhood schools are great. We're, in my family right now, personally going through that, whether we go to a neighborhood school or opt into a different school district. Personally, my wife works for a school district...or school. Her school is over half option-in students. I don't think it ruins a community. I think it creates a diversity, a voluntary diversity that may not exist otherwise within that neighborhood. I'm fortunate, my neighborhood school has great diversity. But that being said, I understand the concerns of some of the other senators. And with that, I would yield the remainder of my time to Senator Chambers. [LB438]

PRESIDENT HEIDEMANN: Senator Chambers, 3 minutes and 53 seconds. [LB438]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Harr. Since I touched on the Learning Community, let me say just a little more about that. During that period, there were what you could call border wars, boundary wars among the metropolitan school districts. Eleven of them comprised the Learning Community; some in Sarpy County, some in Douglas County. There was a law on the books which indicated that within the geographic boundaries of Omaha, there could be one school district. Well, because when the courts said that OPS had segregated the schools and there had to be what they called integration, white people who didn't want their children going to school with black children, engaged in what was called then "white flight," and they ran to the suburbs to get out of the OPS district. Unfortunately for them, some of the territory of their district extended into or within the corporate boundaries of the city of Omaha. So what the administration of the schools in Omaha decided, since a lot of the property tax revenue...buildings were being built in western part of the city, and the tax

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base was diminishing while the responsibilities of the district were increasing, they would invoke that law: one city, one school district. So to give you an image, it would be like several people standing in a circle and their body is outside the circle, but their feet extend within the circle. So when OPS, if they would have done what they were going to try to do, would create one school district, then any part of any suburban district that extended within the city limits of Omaha would become a part of the Omaha school district. That meant buildings, everything else. So when these districts saw part of their feet would be cut off and a part of OPS district, they suddenly became interested in finding a way out. I had told Dr. Mackiel...and I was at a meeting he had, and Senator John Lindsay was there, he's now a lobbyist for OPS, where I said I will not let the Legislature repeal that law that says: one city, one district. And they knew I could deliver. And then instead of playing the cards close to the chest, they started telling the other school districts: the big man is on our side, speaking of short little me. But that let the other senators know they were not going to do away with that law so they wanted to find a way out of it. The idea of the Learning Community came up when Senator Raikes and I realized we were going to be term limited out. [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR CHAMBERS: We couldn't protect the division of OPS into three districts so we decided to work with others to have the Learning Community to try to put in place something that would do away with the religious...the educational disparities between the children attending school in OPS and the children in the outlying suburban areas. So it was agreed that to make up for the flight of the tax base, that structure known as the Learning Community would have a common levy. And to make it as simple as I could, you put a bucket there and everybody put something into the bucket based on what they have. And then people took out of the bucket based on what their needs were. That resulted in OPS tapping into some of that hitherto money that was hitherto. It had fled. That was the common levy. Some people don't like that now. But my time is out so I won't start on something that I can't finish. But before we're through, I'll have to try to do it. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers and Senator Harr. Senator Larson, you are recognized. [LB438]

SENATOR LARSON: I'd yield my time to Senator Lautenbaugh. [LB438]

PRESIDENT HEIDEMANN: Senator Lautenbaugh, 4 minutes and 57 seconds. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Larson. History is important because, you know, it's how we got to where we are. But we are where we are. And, you know, we've all done things in the past and we've all paid attention in varying amounts in the past and the kids that have moved through the

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system have moved through the system. And some of them have moved on and had successful careers and gone to college, and some have not gone to college but got into a trade and had successful lives otherwise. And some have gone on and gone to prison depending on how badly we failed them. And I don't say that facetiously or to make light of the situation. I'm saying that every year that we talk about pilot programs and every year we talk about having a good start and starting to look at something and, well, we're getting our legs under us and let's, you know, we have a new guy in the position so let's see what we can do. There's nothing new under the sun really in education. And anyone who tells you that we're pioneers in Nebraska, as far as education goes currently, they're mistaken. We are behind the curve as far as reform goes. We're behind the curve as far as choice goes. We're behind the curve as far as accountability goes. I introduced an amendment now, just so we wouldn't run out of time accidentally and stop talking about this. Again, but this is not a filibuster. This is an occasion to talk about something important. And still, as I look around the room, there are a lot of empty chairs, and there are a lot of side conversations, and we are not engaged in this. And maybe we should be shouting and pounding on the lectern here and...I don't know who "we" are. Maybe I should be shouting and pounding on the lectern here and jumping up and down. This is not about punishing teachers. Nobody goes into teaching with a nefarious motive. I mean, what's the end game in that? If you go into teaching with a desire to not teach students, I mean what's your end game? If you go into teaching and you don't want good outcomes, what do you want? It's not for the money. I mean, yeah, that doesn't work. There's no alternate motive there that you can attribute to people who go into teaching. And we're not talking about punishing districts for the sake of punishing them or punishing schools for the sake of punishing them. That's not what we should be about. But at the same time when you've got schools that you can just reasonably and without fear of contradiction classify as failing, we should not be afraid to call them failing schools. And we can all talk about what we've done in the past and how concerned we've been in the past, last week, last month, last year, last decade, but so what? We are failing kids right now and the question is, do we continue or do we, to use something that everyone is tired of hearing about, put the amber lights on education and say, oh my gosh, how long can we tolerate this? Regardless of what we've all done in the past, how can we tolerate this another day? [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR LAUTENBAUGH: How can we tolerate this another minute? And this bill is not brought with bad motives, for crying out loud. That's not what I'm standing here saying either. But the point is, I mean, I'm an outsider in the education world. Heaven knows, I'm not credentialed in any way in that arena; I'm not on that committee. But there's a part of me that just wants to run screaming down the hall and say, oh my gosh, do you see what's going on here? And we continue to talk about it. And we can talk about the past and we can talk about what we have done and what has worked and what hasn't worked historically and bills that we have and haven't passed, but we have

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to live in the now and look at how we're failing our students on this very day and tomorrow and the next day. [LB438]

PRESIDENT HEIDEMANN: Time. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh. Senator Harms, you're recognized. [LB438]

SENATOR HARMS: Thank you, Mr. President. Senator Lautenbaugh, would you yield just for one quick question? [LB438]

PRESIDENT HEIDEMANN: Senator Lautenbaugh, would you yield? [LB438]

SENATOR LAUTENBAUGH: Yes. [LB438]

SENATOR HARMS: Senator Lautenbaugh, you have talked about the schools failing. I'm just curious, do you have any idea, in the school districts that you represent, how many of those children come into school are children at risk? What percentage of those children are not ready for kindergarten? [LB438]

SENATOR LAUTENBAUGH: Well, you asked a couple of different questions there. [LB438]

SENATOR HARMS: Well, let me just back up and single it out for you. Do you know how many children enter the school that are at risk, kindergarten? The only reason I'm asking is...I'm not trying...it's not a trick question. What I'm trying to get to for you is I would...(inaudible) that data is available and I would like for you to get that data and look at it, because I think then, once you see that data, the percentage of the children that are at risk, then you're going to understand, I hope, what the problems are as those children cross...all the way across the twelfth grade. That's really what I'm after. And I think what you're saying is, yeah, they probably are failing, but I'm not sure it's the school so much as the fact the children come in there...they're not quite ready. And that's my point I wanted to make to you. Go ahead. [LB438]

SENATOR LAUTENBAUGH: If we're...we would define "risk," I guess, in a variety of ways. One of the measures we use frequently that we talk about is free and reduced lunches. And by that standard, the district I live in pretty heavily relies on free and reduced lunch. [LB438]

SENATOR HARMS: I can...I think you can get the data in my office, through my planning office. Just stop in and have your...somebody come up and talk to Ty. We can

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get that for you, because I think you'll find that pretty interesting. I found it shocking about my own district that 61 percent were not ready. So now I know why, when they go across the public school system, they're having trouble. But that's just what I wanted to say. Thank you very much. Senator Adams, would you yield just for a quick question? [LB438]

PRESIDENT HEIDEMANN: Senator Adams, will you yield? [LB438]

SPEAKER ADAMS: Yes, I will. [LB438]

SENATOR HARMS: We talked about the data comparison. Is this data...are we going to be comparing apples with apples? Does everybody collect the same kind of data? Because the one thing I learned about the planning committee when we get into all this, there are so many variables out there, sometimes you really have to burrow down into that data to find out whether we're really comparing each other accurately. Do you know how that will be done? [LB438]

SPEAKER ADAMS: We'll be using the same data that is currently available to the Department of Ed that is on their Web site: math results, reading results, graduation rates, growth modeling; we'll use all of that same data. [LB438]

SENATOR HARMS: Are they using any of the No Child Left Behind data? [LB438]

SPEAKER ADAMS: Same thing. Only... [LB438]

SENATOR HARMS: Is the same thing? [LB438]

SPEAKER ADAMS: We not only look at No Child Left Behind data. We actually, two years ago, in a bill that we moved through here, expanded what we look at, beyond just what No Child Left Behind asked for. [LB438]

SENATOR HARMS: If this bill would pass, which I would hope that it would, is there any chance that the State Department of Education could give us a little more information about how this is going to get compiled; how they're going to use the data; the benchmarks and what those scores might be so that you have a little more...you're a little more comfortable with understanding how your school is going to be compared and where that bottom line is going to be? [LB438]

SPEAKER ADAMS: There's no reason why that can't be provided. I don't know that they immediately would have that, but within the next several months they ought to be able to do that. [LB438]

SENATOR HARMS: Right. Yeah, I think that would be really helpful, at least for me. I'd

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like to see what the scores are and how they determine those scores and how they compare. The other thing I wanted to ask you about, just briefly, is the intervention team that goes in. What is going to be the credentials of the people that are going to be on the intervention team? I mean, what expertise are they going to have and how is that going to be put together? [LB438]

SPEAKER ADAMS: The bill doesn't go into that much detail. [LB438]

SENATOR HARMS: Right. [LB438]

SPEAKER ADAMS: I would like to see, for the record, I would like to see education professionals... [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SPEAKER ADAMS: ...from the outside come in take a look. [LB438]

SENATOR HARMS: Yeah, I agree with...that was what I was leading up to. I agree with you. [LB438]

SPEAKER ADAMS: I mean, if I had my choice, I could name off half a dozen people right now that I know could go in and make a difference. [LB438]

SENATOR HARMS: Yeah, that's what I was really after and I would be in hope they would have the right background and the credentials, because if they don't have...I don't think we'll be able to help the schools like we want to help them. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Harms. Senator Lautenbaugh, you're up next and recognized. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And Senator Harms touches upon obviously a very important topic and that's whether or not kids are showing up ready for school. And oftentimes, in my district and otherwise, they don't, measured by income, which is a reliable measure of a lot of things as far as whether or not that kid has been prepared for school. But the point is I think all too often in the education arena is that we use that as a catchall excuse for a failure to perform. And I opened on a bill in Education a while ago and I talked about a school out in Grand Island, if memory serves, that has something bumping up against 80 percent free and reduced lunch and is outperforming schools that have 7 percent free and reduced lunch. Well, what are they doing? How are they doing it? Wouldn't you like to know? And if you knew that, wouldn't you like your school to emulate it? I would. Part of a bill I have that provides accountability also provides grading of schools. So parents are going to know

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if the school is performing well and if a district is performing well, in a simple to understand A through F grade. And that school out in Grand Island, I'm betting, is going to get an A. And what's in the water out there? What are they doing at that school, despite the overwhelming prevalence of free and reduced lunches, that is leading to such good results; and how do we replicate that across the state? I'm not saying that poverty is not an issue or that poverty is not something that provides the obstacles to education. It provides all sorts of challenges in the lives of the parents and the lives of the child, heaven knows. I don't come from poverty but I come from what, by any reasonable measure, would be called a lower-middle class south Omaha neighborhood. I understand that. But I also know that schools that perform well can rise above that. Schools that perform well can rise above that. Poverty cannot be the catchall excuse for a failure to educate and failure to perform by our schools. But all too often, historically in my district but otherwise elsewhere, we've used that as, well, you have to understand these kids just aren't ready to learn. Well, I'm sorry, but that's the hand you're dealt. Teach them. And that may sound harsh but that's what those teachers want to do. That's what that board and superintendent want to do. And, you know, I smile when I think of this bill because we have different conceptions of what's in order here. Some people think of the State Board or State Department of Education as coming in with the green eyeshades on and having a, you know, discussion over coffee about how this should change and how we could do better at these schools that are failing. And I keep using the F word: failing. Failing, failing, failing, because some of these schools are, by any reasonable measure, failing our children. I have a different image in mind of reformers from the State Department of Education in a perfect world swinging in on ropes through the windows and saying we're here to take over; we've assumed control; this ends today. [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR LAUTENBAUGH: I'm thinking of Wyatt Earp saying, I'm Wyatt Earp; this all ends today; we're going to do better. What you've known isn't what you're going to know going forward. And that may sound crazy and that may make me sound ill-informed, but every day we tolerate what we have we are failing our kids. Maybe not your kids and maybe not my kids, but we're failing a lot of kids, and not in the traditional sense of holding them back. We're failing in the sense of failing to educate them. And so we're failing our society and we're failing at an obligation that we all, when it's convenient, talk about having. So it's impossible to overstate the importance of this conversation, and... [LB438]

PRESIDENT HEIDEMANN: Time. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh, and that was your third

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time. Senator Carlson, you are recognized. [LB438]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I've been listening most of the time to the debate on this bill this morning. And in listening to Senator Lautenbaugh and others, something that comes to mind is that most of us stand for local control and we really don't like it when we're told that what we're doing is not right and somebody else is going to tell us what to do. And so here we're talking about legislation by the state, but basically we really don't like to be told by the state what we have to do. And I'm one of those and I think most of you are, I really don't like to be told I'm wrong. Sometimes I am wrong, probably more often than I think I'm wrong. But I don't like to be told that. And we don't like to take blame as a state, as a school district, as an administration of that school district, as faculty of that school district, and as families who make up the school district. We certainly don't like it when our children don't achieve and we're being told that they're not achieving. And it's human nature. Basically, we don't many times like to face reality and accept it. But as I'm listening this morning we need to face facts and then to figure out what the best solution is. Now in looking at this bill, and I had it printed out, and talking about local control, I went through the bill and I made some changes, and every time I saw "state" I wrote in "federal." If this had been a bill that was coming down from the federal government, I don't think anybody in here would like it. And there's just a natural tendency to object to something that seems to come from the outside and doesn't allow us to solve our own problems. Now this bill may be important and I'm not saying it isn't. It may be timely. It may be serious. It may be in need of action. And in no way am I criticizing Senator Adams, but this is a holdover bill. Why didn't it have a priority if it's really, really important? It did? Okay. I take that back then. I won't address Senator Adams anymore, but I appreciate that. Okay, it did have a priority. Now Senator Lautenbaugh got my attention when he said that our schools and students are failing, failing, failing. I'd like to address Senator Lautenbaugh if he would yield. And how much time do I have, Mr. President? [LB438]

PRESIDENT HEIDEMANN: You have 1 minute and 45 seconds. Senator Lautenbaugh, will you yield? [LB438]

SENATOR LAUTENBAUGH: Yes. [LB438]

SENATOR CARLSON: Senator Lautenbaugh, the last time you spoke you went into this a little bit, but after what I've said and I know you were listening, what's the answer? [LB438]

SENATOR LAUTENBAUGH: The answer--the answer--doesn't exist. There's an array, I would submit, of answers and people will disagree. The bottom line is I think accountability has to have actual accountability. And I don't mean to take all your time, Senator Carlson, and I have an amendment coming and I'll give you time back because

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I'm out of time myself, so I can't give you any more time now. But you asked. Accountability has to mean something in the end. [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR LAUTENBAUGH: I would say that if the school fails to correct with this intervention, then someone has to take it over, and that doesn't mean the district takes it over and that doesn't mean the department takes it over necessarily. That means a third party comes in and says we are going to run this school; it's already failing; you can't fall out of a well; we can do better. Accountability, there has to be an endgame. For true accountability to exist, there has to be a hammer; there has to be a sanction; there has to be something that happens if you fail to perform. [LB438]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. And we just want to make sure it's the right hammer. Thank you. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Carlson. Senator Bloomfield, you are up and recognized. [LB438]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I'd like to ask Senator Adams a question if he would yield. [LB438]

PRESIDENT HEIDEMANN: Senator Adams, will you yield? [LB438]

SPEAKER ADAMS: I will. [LB438]

SENATOR BLOOMFIELD: Thank you, Senator Adams. I discussed this briefly off the mike with you, but I want to get your comments in the record here. As I understand this from reading it, the three lowest scoring schools would receive this priority without any consideration of where they might be in the state. Would you expound on that a little bit. [LB438]

SPEAKER ADAMS: The geography has nothing to do with it, Senator. You raise a good point. And what we're talking about here, too, remember, is not necessarily a school district, but this is building-specific as well. And what the State Board is asked to do in this bill is to come up with a methodology, an objective methodology, to determine where those schools are...not where they are but which ones they are. And they may be in the Panhandle, they may be east of 72nd Street in Omaha, they may be on a Native American school to the north. There's nothing geographically that identifies where the state is going to intervene. [LB438]

SENATOR BLOOMFIELD: So they could all three conceivably be in the same school district. [LB438]

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SPEAKER ADAMS: Conceivably, I...yeah, I mean, conceivably. [LB438]

SENATOR BLOOMFIELD: Okay. I'll probably have some more questions as we go along on this, but I'd like to yield the rest of my time now to Senator Mello. [LB438]

PRESIDENT HEIDEMANN: Senator Mello, you have 3 minutes and 20 seconds. [LB438]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I originally wasn't going to speak a lot on this bill, in part because I read through it and I think the general concept is something that's long overdue in regards to looking at persistently low-achieving schools that we know exist not just only in my school district in Omaha Public Schools, particularly in my legislative district and Senator Nordquist's in south Omaha, but other districts around the state. But, of course, anytime I hear my good friend and colleague Senator Lautenbaugh stand up and discuss the perils of trying to blame poverty of why we just don't have the education system that we have and need right now, I get a little nervous and I get a little concerned. Because, unfortunately, that mind-set is what's I think trying to drive a national debate right now when it comes to education policy, that, you know what, there's just poor kids and we've just got to deal with it. And that's just not an excuse we should use of why children coming into kindergarten are just not prepared to learn or why they don't have access to pre-K or why their test scores are lower or why school districts have to test kids regardless of how long they're in school, how many days they've missed school, whether or not they have a learning disability--a variety of issues that are out there that unfortunately are getting glossed over in regards to this issue of our schools are failing, quote unquote. I wish, Senator Lautenbaugh, there was simply a silver bullet to deal with poverty. There's not. As Senator Harms mentioned, our school district, the Omaha Public School district, has one of the largest poverty rates in the state. Now, if we want to talk at length about LB438 in regards to the necessities of Medicaid and the necessities of school lunch programs and breakfast programs, of anything else that we need to do to try to consider providing the wraparound services to those children living in poverty, let's have that conversation. Let's have that debate, because I don't think anyone on this floor wants to see a public school fail. But for any one of us to try to gloss over and ignore the fact that research study after research study after research study shows poverty is the driving force, particularly in urban inner city schools... [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR MELLO: ...in regards to low academic achievement. And for...to try to insert this concept that it's simply an excuse that we've got to get over, I'm looking forward to the research you will provide this body over decades to show how that's not true. I'm

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giving you that opportunity to give this entire body and the public at large research documents that show poverty is not the driving force in regards to low academic achievement in inner city schools. That...I think if we want to have the debate, let's have that debate. LB438, they think, is trying to address what we know is a challenge that all of us can agree on. But to trivialize the fact that we know we have high poverty school districts and high poverty needs and to simply say it's an excuse for the challenges public school teachers and districts face, I think we're being intellectually dishonest about the reality of the state of our public school system. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Mello and Senator Bloomfield. Senator Kolowski, you are up next and recognized. You are recognized, Senator Kolowski. [LB438]

SENATOR KOLOWSKI: Thank you, Mr. President. I stand in support of this bill, LB438, and the amendments as stated. I've really enjoyed the conversation, having spent my career in education, and listening to all the major points that are coming out. I think Senator Adams has an excellent idea here. It's something that whose time has come in Nebraska. There needs to be a shift in our thinking. Those who have mentioned local control, which we have a great tradition on in the state of Nebraska, that comment will be lengthened to local control with state accountability. When there's money, there's responsibility and there's accountability. And that will continue to grow with more and more assessments and different things that we will do with schools to learn where they are and how we can improve upon them. Senator Lautenbaugh's comments about where we stand as far as the quality of schools in our state, we have a mixture, there's no doubt about that. We have outstanding examples both in public and private schools that do an excellent job and have great results. We have a number of districts and schools in the middle that are doing well, and struggling, depending on the nature of the school, the area that you're searching out, and the overall results they're getting as far as student performance. And then we have some that are really struggling and the scores show it. The attitudes of the parents and the students in the school and the administration and the teachers all need improvement. As we look at the things that we need to do and what needs to be done in school as a whole, I stand here to tell you that we know what needs to be done. Do we have the will to get it done becomes the driving force with each school, each administrator, and each teacher as we look at what we can do and know how to do to make those improvements. The rigor, meaning the curriculum, the instruction, the assessments, professional learning communities of the staff within that school, the relevancy, the culture and climate of the school, what's taking place and how kids and staff feel about being there and the relationships they have as well, and relationships, the student-teacher connections in that school, along with advisement programs that make big schools smaller and give kids the personal attention they need, because every one of them needs that help as they go through. The central target for all of this is improved student performance. We could talk all

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around every other issue, but if we don't do that and have that, we're not going to be hitting the target. We'll be missing the target every time. Local control with state accountability: why would that be important? Look at the pages we have in front of us in this Chamber today. Ask where they've come from, what towns they grew up in, what schools they attended. Whatever and wherever that might be, from Omaha to Scottsbluff, they all need an equal shot, an equal chance, an equal set of preparations to be successful as they moved on to the college or university of their choice, or whatever they're moving on to after their secondary school experiences are done. That's the bottom line: What are we doing to prepare... [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR KOLOWSKI: ...all kids equally for that opportunity? I hope that we'll consider that as we move on. We know what to do. We know how to do it. Do we have the will to perform it? And I really thank Senator Adams for bringing this forward. I think it's a historical moment in our educational process in Nebraska to have this kind of opportunity to help schools become better and make a difference for the future. Thank you very much. [LB438]

PRESIDENT HEIDEMANN: Thank you. Senator Cook, you are up next and recognized. [LB438]

SENATOR COOK: Thank you, Mr. President. And good morning, colleagues. I rise in support of LB438 and the amendments to it this morning. I supported it out of committee and look forward to seeing it in practice so that we might address some...to derive some best practices that can be applied broadly across the state, not just within these school buildings. I have a bill proposal that is yet to be considered by the Education Committee that also provides what has been described as help versus punishment for schools that are serving children in poverty--which is across the state, by the way. I would also like to address the issue that has been raised this morning. We're talking about education, absolutely. I do not want to filibuster this bill. But again and again I hear on this floor and in conversations in the community about the reasons why we have, for example, a disproportionate number of African-American children in poverty, not achieving, not graduating, or if they're graduating, not ready to attend college. We talk about poverty, absolutely. We talk about the need for early childhood education. That's something that I'm so glad that the body has some agreement on, that we believe it is valuable and we're willing to commit to that. The issue of limited English proficiency has come to fore. People are accepting that. Sometimes I do feel, colleagues, that we frame our conversation around those issues, poverty, early childhood, limited English proficiency, because we are uncomfortable talking about the impact of race on the situations that we see in the schools, not only in Omaha but across the state. We had hearings yesterday in the Education Committee, that went into the evening, on the Learning Community. That has been a fight from the beginning. What I had hoped to bring out in the hearing

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was the fact that this all started with the issue of essentially people--Senator Chambers called it flight, I'll call it white flight--families moving from the central city of Omaha. Certainly they wanted to move up into the world for a shiny new house. Oftentimes though, I hate to say it but it is a fact in the state of Nebraska, people move away from people that they do not relate to racially. So with that, I'm going to offer some other reasons why, other than the state of our educational system and the race of the children, other reasons why we see disparities in achievement. There is a loss of manufacturing jobs. That happened because of the way our economy changed and some of the policies, federally and locally, about shipping jobs out of the United States. There are discriminatory practices within organizations across the state about who they're hiring and who they are promoting to get salaries that can support a family. There was an Interstate 75 that came through my neighborhood, north Omaha, straight down the middle. And as I made reference to earlier, taxes, people who owned homes, people all of a sudden didn't want to support the Omaha Public School district and they just didn't anymore. With that, I would relinquish the rest of my time to Senator Chambers. Thank you. [LB438]

PRESIDENT HEIDEMANN: Senator Chambers, 1 minute and 26 seconds. [LB438]

SENATOR CHAMBERS: Thank you, Senator Cook, not just for the time but for your comments. Thank you, Mr. President. There are a lot of excuses given for nonperformance in the schools. Senator Kolowski was right when he said we know what to do; is the will there to do it? And when I get a little larger block of time... [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR CHAMBERS: ...I want to say something again about the notion of the common levy. Just as kind of an intro, all the children up to a certain age, pursuant to the Nebraska Constitution, are supposedly given the opportunity for a public education. We add that that should be a quality education. If everything were fair in this society, it wouldn't matter whether a child was going to a school that was across the street or across town. But because of the racism in Omaha, where neighborhoods have been deliberately, calculatingly segregated by the realtors, you're going to have pockets of different ethnic groups. Then what they want to do is superimpose a school system on a segregated community and say, well, the schools... [LB438]

PRESIDENT HEIDEMANN: Time. [LB438]

SENATOR CHAMBERS: Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers and Senator Cook. Senator Adams, you are up next and recognized. [LB438]

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SPEAKER ADAMS: Thank you, Mr. President. Members, I have stood here and listened to the arguments, or maybe not arguments, but I've listened to the commentary, and it's valuable. Whether you like what's in the bill or not, that's what we're here for is to talk about these issues. And we shouldn't be afraid of it. Now I'm just going to take my limited experience in education and tell you there is no silver bullet. I heard somebody else say that just a little bit ago. It doesn't exist. We can go through a list a mile long of let's do this, let's do this, let's do this. Program after program after program doesn't fix this. It just doesn't. But what I hear everybody saying, and even if I don't hear it I think I sense it--I guess you can go to the mike and tell me I'm all wrong if you want--is that we need to do something to these low-performing schools. Something needs to happen. I don't disagree. That's why this bill is here. I can't tell you that because of this bill schools instantly are going to be turned around or next year going to be turned around or the next year. But if we're frustrated about just talking about it, LB438 attempts to do something about it. Maybe not enough, maybe not to enough, but it attempts to take control and say we're not going to just sit by and collect data and label schools and do nothing about it. This attempts to do something. I'm going to yield the rest of my time to Senator Chambers. Thank you. [LB438]

SENATOR COASH PRESIDING

SENATOR COASH: Senator Chambers, 3 minutes. [LB438]

SENATOR CHAMBERS: Ten minutes? [LB438]

SENATOR COASH: Three. [LB438]

SENATOR CHAMBERS: Oh. Oh, thank you. Mr. President and members of the Legislature, and thank you, Senator Adams. This idea of the Learning Community cannot be forgotten. Senator Lautenbaugh gets distressed when people talk about the past. I majored in history at Creighton University and that's what I got my degree in, but even before I got that degree I read a lot of history, and it's important to know where you came from. And if Senator Lautenbaugh's race had had a history like mine, he would want to know how we came to the turn of events that we find ourselves facing now. So I read a lot of things to explain and give answers to me that I couldn't get in the public schools or anywhere else. So I'm going to talk about the past. That is essential. And I also will let him and others know that I've been this road many times and I've seen things that would work; I've seen things that won't work. And I am not docilely going to go along with something warmed over that has not worked. I think, as the Speaker pointed out, the discussion is good. It's going to take a combination of things to get to where we want to go and it won't happen overnight, unfortunately. I wish it would. But I'm going back to something that Senator Kolowski said: The will to do it must be there. We could write all the treatises, we can collect all of the statistics, we can draw all the conclusions we choose, but unless the will to do something is present, nothing will

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change. Those of us who speak, hope that we can stimulate in people's minds a determination that something needs to be done and that we're going to do it. That's why I won't just fight against LB438 even though I think there are changes that need to be made. Every time I want to talk about the bill, there's something else... [LB438]

SENATOR COASH: One minute. [LB438]

SENATOR CHAMBERS: ...that I want to talk about, namely, that common levy. And here's what I'm going to say about it, then let it alone. All of these districts are going to contribute to that pot according to their ability, and then that money is going to be distributed on the basis of need. The Learning Community is like an overarching umbrella, and beneath it are 11 school districts which are to work together to try to provide educational opportunity for all of the children in the districts under that umbrella, provide the opportunity. And I will fight tooth and nail against any attempts to prevent to change that. And for some of these new senators, their senators got what they wanted out of the deal and now they want to throw away the deal. It's not going to happen while I'm here. I cannot just look at trying to do things in the classroom. [LB438]

SENATOR COASH: Time, Senator. [LB438]

SENATOR CHAMBERS: I have to hold on to what...you said time? [LB438]

SENATOR COASH: Time, Senator. [LB438]

SENATOR CHAMBERS: I'm sorry. Thank you, Mr. President. [LB438]

SENATOR COASH: Thank you, Senator Chambers. Senator Krist, you are recognized. [LB438]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. I didn't intend to talk about the Learning Community but I wanted to make a few comments because Senator Chambers just finished talking about it. And, Senator Chambers, I want to thank you for your pledge to make sure that the Learning Community stays as long as you're here, because I think it's an important concept. The problem with the Learning Community is with the formula and the distribution of the monies. And we can fix that, we can tweak that, we can move forward with that. When Bennington comes and tells me that they have no problem paying in \$300,000 to the Learning Community; they just don't want it to go to--let me fill in the blank--wealthy school districts in west Omaha. Okay? And it needs to go where it needs to go. So the formula needs to be tweaked so that you have a DC West or a South Sarpy not coming to the table and saying if I didn't have to pay into the Learning Community, you wouldn't have to give me any state aid. That statement was made over and over again in the hearings that I have been and I attended statewide. So if that's true, and I'm sure it is,

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then we have a problem with the formula; and we can tweak that. But the Learning Community concept is valid. It's working. And I will refuse to have another Detroit formulate itself in the Omaha metropolitan area. Now on to my point. I've had a bill in the Revenue Committee for four years. This year, last year, it was submitted under LB14. The reason I submitted the bill and believe in the bill is very clearly that there are many, many, many alternatives to education. And the more alternatives and the more competition, the better education is going to be. I think that's true. I think if I asked any educator in here, Senator Kolowski, Senator Adams, you'd say the more competition that's out there, the better a product is going to be. We're spending almost \$1 billion a year in TEEOSA and that's isn't all the state aid that we're pumping out in education, and we're watching alternative forms of education wither and die. I think the private education plays a role. It plays a role. What LB14 does is establish a possibility for benefactors to contribute to scholarship funds to keep some of those alternative education up and running. And I was told four years ago, we don't have the money for that. And now this year I hear the Governor say, we've got more than enough money; we need to give it back to the taxpayers. So I'd like to say this about that: If we want to curb the spending on education, we need to look at the alternatives that are out there; and LB14 is one of those alternatives. If we want to analyze the education system as it exists in the state today, we need to pass LB438, AM1240, AM1580, and I support those. It's a step in the right direction. I would agree with Senator Adams and others who have made the same comment. Senator Lautenbaugh, through his actions, has taken a huge step, a huge step, to giving new direction to the Omaha Public School system and it's starting to work. But when he analyzes the fact...or when he says that there's an analysis that we are not well in education all around the state--I'm paraphrasing--I agree. We need to pay attention to it. But I have never in my life agreed with the concept of throwing money at something to fix the problem. We can't go above a billion dollars a year. [LB438 LB14]

SENATOR COASH: One minute. [LB438]

SENATOR KRIST: We need to look at how we're spending our money, where we're spending our money, where our kids need extra effort in any district around the state. LB438, AM1240, AM1580 goes a long way to starting that conversation and continuing the conversation. And I believe alternatives like LB14 and charter school systems may also be a factor and a play that helps us fix the education system around the state. Thank you, Mr. President. [LB438 LB14]

SENATOR COASH: Thank you, Senator Krist. Senator Larson, you are recognized. [LB438]

SENATOR LARSON: I yield my time to Senator Lautenbaugh. [LB438]

SENATOR COASH: Senator Lautenbaugh, 5 minutes. [LB438]

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SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Larson. And thank you, Senator Krist, for your comments. You are dead on. And, Senator Chambers, I want all of my comments today to be understood. And I appreciate history as well; I'm just saying that we can't be captives to it; we have to understand it. And I did note one of your comments about the Learning Community, I think you basically said, from each district according to its ability and to each district according to its need. Well, that hasn't always worked out down on the individual level. And you've touched on maybe why some of us have a problem with the Learning Community. But in any event, Senator Mello, I don't think you understood my prior comments at all, but...and I'm thrilled to have you here today. What I was getting at and what I tried to say clearly was that poverty is an issue. No one I think denies that. But poverty can't be the excuse for failure. Should we be mindful of the fact that it's an obstacle? Absolutely, every day, because it is. When kids come to school hungry, to say it's an obstacle to learning is an understatement. But as I pointed out earlier, there is a school out in Grand Island that is doing remarkable things and has an 80 percent free and reduced lunch rate. Wouldn't you like to know what they're doing? Wouldn't you like to emulate that in your schools? And we had a conversation off the mike where I explained...I was asked, what's the endgame with your objection to this bill? And again this is not a filibuster and I'm not trying to prevent this bill from advancing to Select File, but I believe there can be work done. But my endgame on this bill and what do you want and what's going to happen brings up the question of what's the endgame of the bill; and that's where we started. What if the plan doesn't work? What if we intervene in three schools or five schools or ten schools, and the intervention just plain doesn't work? And again, odds are it won't without a hammer. And that may sound harsh but I don't feel inclined to be polite. And I don't think there's any teacher out there that is taking offense to what I'm saying here, because the teachers want the kids to succeed. I don't think there's any school board that doesn't want the kids to succeed. But we don't exist in a vacuum, and this is not a book club or a debating society down here. I received a text from an elected official in Omaha as this debate is going on. And he's not on a school board; he's on a different board. And he's not in my political party; he's in a different party. And his assessment watching this debate was, and I quote: Three priority schools, that's reform??--with two question marks; would be laughable if not pathetic. [LB438]

SENATOR COASH: One minute. [LB438]

SENATOR LAUTENBAUGH: Would be laughable if not pathetic. That is an outside world assessment of what we're talking about. And those aren't my words and I'm not saying that about this bill or the people who brought it or the Speaker or Senator Sullivan. I know what we're trying to do and everybody wants to do the same thing. But I'm saying more and faster and with an actual sanction if you fail to perform with the intervention. And what would that actual sanction be? Well, we've had discussions here for several years as to...and it seems to me the thing that everyone fears the most, God

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forbid, is that someone else comes in and runs the school, someone who is not controlled by the school board. And I have a funny feeling that if you told some of these school districts, if you don't get your house in order, some outside entity will come in and run that school as a still public school, it's just won't be you. [LB438]

SENATOR COASH: Time, Senator. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Bolz, you're recognized. [LB438]

SENATOR BOLZ: Thank you, Mr. President. This discussion has turned into an opportunity for dialogue about success and promoting academic and social and emotional and other types of success in the school environment. And I wanted to use a moment to talk about an issue that I think is particularly important and perhaps not given the attention it deserves within the academic setting, and that is our children's mental and behavioral health. Like many of you, I meet regularly with teachers in my district, and they say that behavioral health needs are growing dramatically. They rank it, in my small group setting, as the number one challenge, the number one priority they face in trying to promote success for kids. And it offers me an opportunity to discuss a program that is working called the Nurturing Healthy Behavior program which provides trained consultants for academic settings for kids who just have behavioral and emotional needs that are beyond the skill set or beyond the capabilities of the school setting. And so I rise to, first, flag the importance of paying attention to children's social and emotional development, and mental and behavioral health in this broader academic success context; second, to point out that interventions can be successful and we can point to the Nurturing Healthy Behavior program as a successful intervention. The University of Nebraska Medical Center has done an evaluation of this program and has found that it has brought more kids up to age level to where they should be in their academic setting; that their social and emotional behaviors have improved and have better situated them to learn in a classroom. And so given that particular perspective on this conversation, I was hoping Senator Adams would yield to a question. [LB438]

SENATOR COASH: Senator Adams. [LB438]

SPEAKER ADAMS: Yes, I'll yield. [LB438]

SENATOR BOLZ: Senator Adams, I was just curious if there was any deeper discussion about the makeup of the intervention team and whether or not there was discussion about a school social worker or a psychiatrist or someone from a behavioral perspective being involved in that team? [LB438]

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SPEAKER ADAMS: There wasn't, not in preparation for this. I certainly hope that there would be if this bill moves forward and the board is authorized to create that intervention team, that they would take those things into consideration. [LB438]

SENATOR BOLZ: Very good. So you believe there is room for that sort of skill set to be engaged in this initiative? [LB438]

SPEAKER ADAMS: Yes, I think there could be. Sure. [LB438]

SENATOR BOLZ: Very good. Thank you, Senator Adams. With that, I'll yield the remainder of my time to Senator Chambers. [LB438]

SENATOR COASH: Senator Chambers, 2 minutes. [LB438]

SENATOR CHAMBERS: Thank you, Senator Bolz. Mr. President and members of the Legislature, what I'm going to say about poverty, in my words, what Senator Lautenbaugh is saying or getting at. This idea of schools using as an excuse, and that's what they do, how many children are in families where they're entitled to a reduced lunch. When I was on the Learning Community, and Senator Kolowski can confirm it because he was there, I told him, don't bring that up. That's something which is a moving target. It shifts. As the economy collapses, there are people who were able to afford what they needed for their children, now they don't; so the number of children on reduced lunches rises. It doesn't change anything as far as how the teachers teach the curriculum or anything else. When you use these false standards or measures, it always provide an excuse because the ultimate aim of every one of these things is to show why teachers can't teach. Well, what some people are starting to say now... [LB438]

SENATOR COASH: One minute. [LB438]

SENATOR CHAMBERS: ...is that they don't learn how to teach. You have to look at these schools and colleges of education because they are not training people to teach. And when these people get into the classroom, they find excuses for why they're not doing what they ought to do. They, in turn, are covered for by the principal in the building. And where do they point the finger? At the parents and the children. In south Omaha they had an influx of what were called DPs, or displaced persons. Many of their parents could not speak English, but they were taught to speak English. Many of their parents could not read, but they were taught to read. So this idea of you being impoverished and because your parents can't read, you can't read, it's an excuse and I think it needs to be pointed at. But again, there are so many other issues I have to touch on, I can't focus on all of them. But what Senator Lautenbaugh is saying... [LB438]

SENATOR COASH: Time. [LB438]

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SENATOR CHAMBERS: ...is generally correct about that poverty thing being an excuse, and teachers are starting to use it now... [LB438]

SENATOR COASH: Time, Senator. [LB438]

SENATOR CHAMBERS: Oh. Thank you, Mr. President. [LB438]

SENATOR COASH: Thank you, Senator Chambers. Senator Bloomfield, you're recognized. [LB438]

SENATOR BLOOMFIELD: Thank you, Mr. President. I share some of Senator Carlson's concerns on local control, but I do have another question on another item that I would like to ask Senator Adams about if he would yield. [LB438]

SENATOR COASH: Senator Adams, will you yield? [LB438]

SPEAKER ADAMS: Yes, I will. [LB438]

SENATOR BLOOMFIELD: Senator Adams, again I asked you this off the mike and I ask it here just so that it is on the record. On the amendment it says that this intervention team shall also be eligible for reimbursement of actual and necessary expense incurred in carrying out his or her duties as a member of such team. I want to be sure in my own mind, does that apply to any equipment or materials they would think they might need to help that school? For example, if somebody on that team decided that the student needed a laptop, could they go purchase one and be reimbursed for that? [LB438]

SPEAKER ADAMS: Not on the state's dollar. No. That language is meant to reimburse the actual expenses of the intervention team, their mileage, their meals, as they're working with that school district. They may, in a plan, recommend that the school district do X, Y, and Z. That's up to the school district to fund those things. No, that legislation does not say we're going to put more money into the school. [LB438]

SENATOR BLOOMFIELD: Okay, thank you. Because I know my wife, being a retired teacher, frequently took money out of her own account to buy things that the school did not supply, and I think most teachers have done that. And I just wanted to make sure we weren't opening a floodgate there. And with that, I would yield the remainder of my time to Senator Lautenbaugh, if he could use it. [LB438]

SENATOR COASH: Senator Lautenbaugh, 3 minutes. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, Senator Bloomfield. And, Senator Chambers, when you're right, you're right. It hasn't come up in

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recent memory, but today is the day, I guess. Yes--and we can't make that clear enough, I guess, for some--poverty is an obstacle but it can't be an excuse, because that's an excuse for doing nothing and that can't be tolerated. I had a bill in Education last year, and a testifier came in opposed to it and said, well, what we need to do is end poverty. And my response in closing was, well, I hope they have set a date because that would be great. But as someone famously said, the poor will always be with us. And understand, I do know of what I speak. I'm a proud product of Omaha South High and I said I grew up lower-middle class, that's probably overstating my background as well. And one of the great thrills of my life was going to Creighton with a bunch of doctors' kids and lawyers' kids and finding out what the poor needed from them and what the working class needed. They must have taken a field trip to my high school so they knew what we needed. I was actually there. Poverty is a problem but not an excuse for failing to perform and for failing our kids, and we have to get past that. And you can't stand up here and say that at the mike and have someone come and say to you, how dare you say that about OPS. [LB438]

SENATOR COASH: One minute. [LB438]

SENATOR LAUTENBAUGH: I love OPS. I want OPS to succeed. My kids go to OPS. Believe it not, every day I get up and think about how can OPS be better. And if I don't think about it, there are two or three people that text me and remind me I should be thinking about what are we going to do today to advance OPS. That's what I do. You may not know it and it may not always be evident when we're talking amber lights or God knows what, but it's on my mind always, because it's huge and it's a huge problem and it's my problem and that's where my kids are. But I cannot tolerate an excuse for action or a feint at action. I have an amendment in place that probably reads as kind of a snarky thing and it's not...well, it's meant as what it is, but I just wanted an amendment so the bill didn't pass without having the occasion to continue to discuss this. But I hope you're all thinking about this. [LB438]

SENATOR COASH: Time, Senator. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

SENATOR COASH: Senator Harms, you are recognized. This is your third time. [LB438]

SENATOR HARMS: Thank you, Mr. President and colleagues. I want to make sure that you understand that I support this bill. When I first got up I had a lot of questions and was asking and looking for some answers. But we have to start somewhere with our schools. We have many of our schools that, quite frankly, are failing. And we need to reach out and find some way to make a difference in those schools. And when I look at what we're going to be confronted with in the future, this is a knowledge economy. This

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is an economy that kids are not going to be able to...a high school diploma will not even nearly be enough to get a decent job in the future. And we have children living in poverty, we have children who come into our school systems who are not ready for kindergarten. And we have to be ready to address this issue, and we're not going to be able to do this unless we actually put something like this together. Are we concerned whether it's going to be successful? Sure we are. Will they fail? They might fail in different areas. But we have to start and we have to start now. We wait any longer and we're just going to be that much further behind. Our kids who graduate from the public schools will not be able to be competitive with a changing, global economy. And when they go into higher education, higher education is then confronted with these students don't have the basic skills to take these classes. So I think that as we look at it, if we're not careful we'll put all of our system down a notch, and we cannot afford to do that. America has lost the expertise and the knowledge of the future and we cannot allow that to continue to happen. We have so many children that are going into our school system, as I said earlier, that don't have the basic skills. And we have to address that issue at the same time we address this issue. And I will tell you, I have no concern that the State Department of Education will not fulfill the requirements of this bill. I think most of us know Dr. Matthew Blomstedt. Dr. Blomstedt is a very bright, articulate man. He's the new commissioner. We had him here as an analyst for the Education Committee. He's very bright. He's got all the skills, got all the set of skills that are needed to make this successful. So as you think about this, regardless of all the problems we have, regardless of what we think some of the issues are, we have to have a time to start, and this is the time right now. If we wait any longer, it's that much more difficult for us. If we wait any longer, our kids will not be able to compete in this changing global economy. It's going to take knowledge for our young kids, our young children as they go through our school system. They have to be prepared for that. They have to know how to learn and how to study and be ready for what's before them. For every kid and student that drops out of our public school system, there's no hope for that student. For every student who leaves our public school system because they don't have the skills, we can almost bet that we're going to see those kids in trouble and we're going to pay at the other end. We're going to pay on the prison side, the jail side. I don't think that's what Nebraskans want. At least in rural America, when you look at it, people want their kids to be successful. They want them to be better...many parents want them to be better than they are, to have greater skills, greater opportunities. So now is the time to do this. Now is the time to make the changes that we need in our school system. I would urge you to support this bill. I would urge you to get behind it. And I also, for those of you who are going to be returning, I would make sure that you put a trail on this; you make sure that you have some discussions with Dr. Blomstedt and make sure that you understand that we are making progress... [LB438]

SENATOR COASH: One minute. [LB438]

SENATOR HARMS: Thank you, Mr. President...and that we are making a difference.

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That's your challenge. Our challenge is to get this bill approved so our State Department of Education and Dr. Blomstedt can get after this program and make a difference. That's what we're talking about: making a difference with our children, whether they're living in poverty or not. We need to address it today. Thank you, Mr. President. [LB438]

SENATOR COASH: Thank you, Senator Harms. Senator Lathrop, you are recognized. [LB438]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I am in support of LB438. I was in my office. I felt like after doing the whole motorcycle helmet thing, that I was going to kind of take a little break from the floor and try to get some other things done. And I had the TV on and there was Senator Lautenbaugh talking about the schools that are failing and this bill. And I have to tell you what went through my mind which was, like so many subjects that start out in a committee I don't serve on, when the bills come up I feel a little bit like the guy that walked into the middle of a conversation that's, you know, people have been talking for 20 minutes and then you walk up to the conversation and you really don't know what they're talking about and you're trying to catch up. And they have already established sort of the tone and the tenor of the conversation, they've established where it's going. And when these Education bills...I'd say that's true with water, although I have tried to catch up a little bit on that. When Education bills comes up, to some extent with Appropriations too, and I get...I listen to the debate and I'm like, oh, I wish I knew more about this. I will say this, that I share the concerns Senator Lautenbaugh has expressed. I appreciate that this is a step in the right direction. But, you know, one of the points Senator Lautenbaugh made was, gosh, there's a lot of people missing from the floor. And I'm thinking, this may be the most important subject we deal with this year, which is how do we get our kids to achieve at a level that we want them to achieve at? And this is a bill intended to address that. And when I look at some of the things that have taken up an enormous amount of time to this point this year, I'm like, we should spend the next three days on this if we need to. Because we should have a dialogue that happens on this floor and it should happen on this bill, because I can't think of another one, where we talk about achievement. And then those of us that are not in Education Committee dealing with this subject matter every day, can fully understand what are the considerations and what are the options. And so I really don't have any great insight but to suggest that if you're not here, you might want to get here. If you're not engaged, you might want to get engaged, because we're probably not going to deal with...I know you're probably thinking, am I going to prioritize this or that and when is my bill going to come up? We probably don't have anything more important that we're going to deal with this year than education. That's probably true every year. It's more important than the tax cut or the tax package that will come out of Revenue, because it's about our kids. Senator Lautenbaugh is exactly right: Every time we graduate a class, we lose a chance to educate them and better prepare them, and we do have challenges. And for those of us that are not on the committee, Education Committee, and don't fully understand the issues and the detail of those

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issues, this is as good a time as any to have those that know more explain it to us, and those who have ideas to share them with us. And that would be my thoughts on LB438 and where we're at today. Thank you. [LB438]

SENATOR COASH: Thank you, Senator Lathrop. Senator Mello, you're recognized. [LB438]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. In respects to some of the dialogue and conversation on the floor debate, if poverty is not...if people are saying that poverty is not the excuse, that there's no excuses about why our schools are failing, I want to read you a couple statements here and some articles. You can Google public schools, poverty, and excuses, and come up with a litany of reports and analyses that refute what is now being determined as a corporate-backed reform effort that's trying to say that poverty is not an excuse. One thing right here, from Paul Thomas, "Children in poverty line up at the starting line with a bear trap on one leg; middle-class children start at the 20-, 30-, and 40-meter marks; and the affluent stand at the 70-, 80-, and 90-meter marks. And while gazing at education as a stratified sprint, 'no excuses' reformers shout to the children in poverty: Run twice as fast! Ignore the bear trap! And if you have real grit, gnaw off your foot, and run twice as fast with one leg!" I don't think anyone on this floor is going to say that our schools aren't...that they can't do a better job. I don't think anyone in this body will say that we don't expect more from school administrators or from educators. But there is a real-world reality of social inequality that has persisted for generations, and the failure to acknowledge that social inequality and the lack of trying to address it through strategic and financial means is turning a blind eye to a problem. A bill that was introduced in 2012, LB1124, introduced by Senator Brenda Council, cosponsored by Senator Ashford, Senator Burke Harr, myself, Senator Nordquist, looked to address similar issues that Senator Adams has in LB438. Senator Lautenbaugh is looking for a hammer to make sure there is some kind of repercussion for schools, school districts, that aren't addressing these priority schools. Our bill in LB1124 said that the Department of Education could remove or take away their accreditation, or dissolve the school, for that matter, if after five years of being a priority school they weren't achieving progress laid out by an independent team, intervention team, that was made up of ESU members. The general concept that we have in front of us, colleagues, is something I support because I worked on it in 2012. Part of the reason we weren't able to do it was because of financial reasons and we needed more time to evaluate an option to move forward. Senator Adams did that and provided us an option in LB438. And granted, I would love to have 25 priority...I'd love to have this bill where every persistent low-achieving school would become an intervention school. The question is, are we willing to finance and put the money in to make this happen? That's the simple question: Are we willing to put our money where our mouths are? If we don't want excuses for our schools failing, are we willing to put the money in the resources to help them not fail? Senator Bolz raised a great issue. I met with south Omaha school teachers prior to the beginning of session,

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and I asked them what was the number one issue you're dealing with that you think the state needs to address when it comes to public education. Overwhelmingly, every one of them said when children in elementary school are coming into our classrooms they are having traumatic behavioral health problems. It's tough to teach a child who needs mental healthcare, every single teacher from kindergarten to seventh grade. You show me where teachers have certifications to be mental health practitioners. You show me where public schools are now becoming our healthcare providers and their job and responsibility is to provide those children mental healthcare. For us to just blatantly say there's no excuses, colleagues, for why schools are failing; colleagues, we're not living in a reality and we're cherry-picking the bits and pieces of data and anecdotes that we want to do to make our argument. I'm not saying that Senator Lautenbaugh, Senator Chambers, Senator Adams, or anyone in this body... [LB438]

SENATOR COASH: One minute. [LB438]

SENATOR MELLO: ...doesn't want to see our public schools improve, doesn't expect more from public servants in the classroom. But I've sat with my teachers. I've asked them that question. And unless we're willing to admit that it's going to cost money to change fundamentally what we're asking public schools to do, in this case become mental health practitioners, then we need to take a step back and evaluate really what we want to do, really I think what LB438 starts us down a road to do. And if we really want to bring a hammer to something like this, we have to be willing to be put money into to so there is actually a consequence for schools who don't meet what we want to see happen when intervention teams go into those districts. Thank you, Mr. President. [LB438]

SENATOR COASH: Thank you, Senator Mello. Senator Karpisek, you're recognized. [LB438]

SENATOR KARPISEK: Thank you, Mr. President. I'd like to yield my time to Senator Lautenbaugh. [LB438]

SENATOR COASH: Senator Lautenbaugh, 5 minutes. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, Senator Karpisek. I don't think pound for pound Senator Mello and I are saying something that's terribly different. Poverty cannot be the excuse and I don't think he's saying it is either, but it's certainly a reality to be dealt with and it's part of our reality. And he's right, we all do want this to get better. Heaven knows, there's no point in not wanting it to get better. I don't understand how that could be otherwise. But Senator Harms said that, you know, he trusts that the new commissioner will carry out the requirements of this bill. Well, of course he will, because it's not what you would call heavy lifting, I would submit. There will be an intervention by a team; and again, as coming full circle to how we started, and

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if it doesn't work, well, maybe there will be another intervention with another team. How do you know when you're done? Of course, I mean, that's...thinking to myself here, I say that when I talked to my wife the other day. I said, what are you doing? She said, nothing. I said, how do you know when you're done? How is the commissioner going to know when he's done? And I'm not trying to be flippant and denigrate this bill. What I'm saying is there's no end to it. There's no "or else." There's no "or we're going to do this." And there are plenty of "or elses" we could contemplate. And Senator Mello, here's where we do diverge. He started talking about are we willing to spend the money that it will take? It isn't always, are we willing to spend the money. Sometimes it is, are we willing to accept something that we've somehow constitutionally, down to, for some of us, our cellular level, been unable to reconcile in the past? And that is that sometimes when a failure is persistent you say to the local school district, all right, we're taking the ball away from you; we're sending somebody else in to pitch. And that somebody else would be a not-for-profit that runs schools elsewhere. And you're probably tired of hearing about this, but, Lord, help me, I'm quoting Senator Lathrop at this point, who was quoting me, so he was obviously right on: This is an important--the important--topic. Maybe I'm late to the party but I see it--this is the important topic. We're talking about how to educate our children. And I'm reminded of a line from...I don't remember what show it was, probably King of the Hill, because I've used that one already this year, where parents are turning over their kid to be disciplined, and they are sort of the flower children of the '60s, and said, you know, help us; we've tried nothing and we're all out of ideas. Well, that resonates with me sometimes when we talk about education. I was on a panel the other night where we were talking about school choice, and someone said, well, we were pioneers in school choice... [LB438]

SENATOR COASH: One minute. [LB438]

SENATOR LAUTENBAUGH: ...because you can move from district to district. That's not pioneering anymore in school choice. That's paying...I won't say paying lip service because it is certainly an element of school choice, but that's not enough. That's not enough for parents who want their kids to go to a good school. And we can do more and we should do more and there should be something at the end of this bill when the intervention hasn't worked. And, you know, I want the intervention to work. But when it doesn't, and sometimes it won't, when it doesn't there's got to be an endgame. There's got to be a hammer. There's got to be a sanction. There's got to be an "or we're going to go this different direction." And there are plenty of different directions to go. We just need to, at long last, be willing to accept that those are acceptable. [LB438]

SENATOR COASH: Time, Senator. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

SENATOR COASH: Senator Avery, you're recognized. [LB438]

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SENATOR AVERY: Thank you, Mr. President. I'll yield my time to Senator Lautenbaugh. [LB438]

SENATOR COASH: Senator Lautenbaugh, 5 minutes. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, Senator Avery. This is a day of firsts. I don't know that Senator Avery has ever yielded me time, but...and to be fair, I did ask him to do so. To be clear, this is not a filibuster again. This is again an important, I hope to all of you, discussion. And Senator Harr asked me for additional details on a chart I handed out in the committee that showed that per pupil spending and increased funding isn't always the route to increased performance. And we get into trouble when we compare state to state, anyway, because you have to reasonably take into account cost of living and all these things; so you're not always comparing apples to apples. I understand that. But sometimes...we all like local control, as Senator Carlson said, but sometimes there has to be an outside stimulus for these districts. Sometimes you have to be standing there tapping your toe at the schoolhouse door, and saying, okay, faster please, or else. This bill lacks the "or else." And again, I speak of the district that I know best, because it's where I live; and to be clear someone pointed out, well, you don't have poverty in your district. I was speaking of my school district, not my legislative district, which is, you know, pretty...my legislative district is pretty fairly middle class. It's not a high poverty area, heaven knows. But my school district is a different story. And sometimes they do need help to do the right thing. We all do. Sometimes they do need us on the outside saying, it's okay to walk into that school and take the ball away from that principal and say, you're just not getting it done. And we know the law of large organizations; other things come to bear that don't have to do necessarily with education. Sometimes it's we can't remove this principal because we just removed her husband who was principal at another school; we can't remove them both in the same year. Things like that get in the way of removing someone just because they should be removed. And some of them need to go. This is not an indictment necessarily of teachers. This is not an indictment of all administrators or all principals. And Senator Kolowski said we know what to do. Well, yes, we're not in the situation of having to reinvent the wheel here vis-a-vis education. We're not the first state to have kids. We're not the first state to struggle with the question of, gee, how do we educate them. There's nothing unique about Nebraska in this regard, absolutely nothing, except that we seem to be, have to be, pulled kicking and screaming to reform and accountability. And this bill is called an accountability bill and I want it to be an accountability bill. And there has to be, again, an end to it. And you're thinking, please God, let there be an end to it at this point. I get that. But there has to be an "or else." There has to be a "you have to get your house in order or we're going to do this." [LB438]

SENATOR COASH: One minute. [LB438]

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SENATOR LAUTENBAUGH: And I keep coming back to that school in Grand Island that succeeds despite poverty. Other schools, other cities, other states succeed despite poverty. We can too. It's something we have to deal with. We talk about these kids coming to school not ready for the school. We have to have the school ready for the kids. They're the hands we're dealt. And again, it doesn't do any good to say we just have to end poverty, because again, that means we're not going to do anything yet again. And not doing anything is intolerable. And I think you get out of people--and I'm talking about the districts at this point because they're made up of people--you get out of people exactly what you expect of them. And this is our chance to tell them, very clearly, this is what we expect of you. We're going to help as we can, and this is what we expect and we know it can be done... [LB438]

SENATOR KRIST PRESIDING

SENATOR KRIST: Time, Senator. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Lautenbaugh and Senator Avery. Senator Murante, you are recognized. [LB438]

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. I'll yield my time to Senator Chambers. [LB438]

SENATOR KRIST: Senator Chambers, 4:55. [LB438]

SENATOR CHAMBERS: Thank you, Senator Murante. Thank you, Mr. President. Members of the Legislature, Senator Lautenbaugh may not be a mind-reader, but he provided a segue into what I was going to talk about. Charles Dickens wrote a book called Great Expectations. I'm not going to say anything about the story. But the key word is "expectations," and it goes back to this idea of poverty. I want Senator Mello to understand that I know that to be impoverished puts you at a disadvantage, and when you are impoverished and black it's a double disadvantage. And I had to work extra hard and I always had in the back of my mind I have to do better than these white kids to get just what they get; I have to outdo them in everything. But in my early years in school I had a problem recognizing letters of the alphabet. I had problems learning how to read. But I did it somehow. These schools, these administrators, have been allowed to hide behind the notion of poverty, and teachers are not completely stupid. Even if they're stupid, if that's what you want to say, they're not completely so. And if they see that now what is accepted as a way to slack off is to be teaching children who are impoverished; so you don't expect anything from them. And the children are not stupid either, and they can read adults. They don't expect me to do anything; they don't want

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me to do anything; I don't want to be here anyway, then I'm not going to do it. And then the teacher will tell the kid, the children, I've got mine, you get yours--talk to children like that. I went to these schools. I never had a black teacher in my life. So all the teachers who have humiliated me and made fun of me were white. The teachers who read Little Black Sambo and let the white kids laugh, was a white teacher. And my parents told me to respect all adults, and especially your teacher. And this one that my parents told me to respect was reading a story and letting the little white kids laugh at me after I heard her say on other occasions, if a child stumbled or was trying to read and made a mistake, she stopped everything and said we don't laugh at each other. What was I taught immediately? I'm not a part of that "each other"; I can be laughed at; I am to be laughed at. You all couldn't survive what I survived and function like I functioned. You have no idea what goes through my mind every day that I'm down here with you all and listen to what you say: the things that upset you, the things that throw your train off the track. And I was going through harder things than that when I was a child. And I could have been thrown off the track and I don't know what kept it from happening. But when you have a system and there are problems in the system, you cannot entrust the creators of the problem with finding the solution to the problem. The solution to the problem is to get rid of those who created it, and the schools and everybody else in this society has now found a euphemism that they can hide racism behind, and that euphemism is poverty. But when I as a black man see the same kind of attitudes, the same kind of mistreatment, the same kind of wrongful conduct starting at the same source and winding up at the same victims, it's the same racism under the sobriquet of poverty. I told those people at the Learning Community, and Senator Kolowski was there. I said, they say this is poverty,... [LB438]

SENATOR KRIST: One minute. [LB438]

SENATOR CHAMBERS: ...they are talking about school lunches. It's racism, that's what it is. And they found something they can hide behind. It's not...I'm not talking about impoverished children not being at a disadvantage. I'm saying poverty is not an excuse for these teachers not doing what they're paid to do. If they don't cut the mustard, get them out. And when you set up a system where you get five years to fiddle around, five years is too long. That's too long to determine that this is not working. Go to work for a corporation and you tell the boss, well, you've got to give me five years to see if I'm going to learn the job and be able to do it. It only happens where poor children and black children are involved. And the schools are where all of our children go and I don't want five more years. And if that's what it stays, I will kill this bill or I'll kill the session. I'm tired now. I've listened and this bill as written is not going to go where it needs to go. But as long as it's before us and we can work to try to improve it... [LB438]

SENATOR KRIST: Time, Senator. [LB438]

SENATOR CHAMBERS: ...that's what I'm going to try to do first. Thank you, Mr.

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President. [LB438]

SENATOR KRIST: Thank you, Senator Chambers. Senator Kolowski, you are recognized. [LB438]

SENATOR KOLOWSKI: Thank you, Mr. President. I stand before you again in support of what we're...this bill and also the amendments. We've had a lot of conversation this morning and Senator Adams has been asked a number of questions about operational decisions. We're setting policy. We need to stick to the policy and not get lost in all the minutia of where this may go as the State Board of Education and the State Department of Education put it into operation. We need to think about that and remember that as we go along. I'm very prejudiced about leadership, leadership at the building level, leadership at the district level, that will make a difference as this gets enacted and we impact the schools that are struggling, the most struggling schools that we have within our state. Senator Chambers mentioned the issue of his own historical background, the history major that he was, as I was. And I think we need to continue to look in the historical picture of where we are with this process and where we're going and not be hysterical; let's be historical. Education has been talked about in every angle here this morning as we heard a number of people speak to the issues of what's going on in districts and how they have been successful or not been successful. Education is not about seat time. Education is about competency. And I hope we'll be able to remember that and keep that at the forefront of our thoughts as we move along. I'd like to yield the rest of my time to Senator Mello, please. [LB438]

SENATOR KRIST: Senator Mello, you're yielded 3 minutes. [LB438]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And thank you, Senator Kolowski, for yielding the time. Valerie Strauss wrote in The Washington Post, in September 2012; she quoted Kathryn Strom, who is a doctoral fellow in teacher education and teacher development from Montclair State University, where Ms. Strom was quoted in this article, saying, "The no excuses rhetoric, that poverty is not an excuse for failure, is one that is dearly beloved by the corporate education reformers because it allows them to perpetuate what many recognize to be the American myth of meritocracy and continue the privatization movement under the guise of improving schools while avoiding addressing the deeply entrenched inequities that exist in our society and are perpetuated by school structures." I actually agree where Senator Lautenbaugh was going last time he was on the mike, in the sense that there seems to be some general consensus. Now whether or not there is the, I would say, the hammer, quote unquote, that he is saying needs to be brought down on school districts for their failure to addressing low-achieving, persistently low-achieving schools, we're not there yet, I think, in regards to AM1580 and/or the Education Committee amendment and the underlying bill. But he ended his floor statement saying, we'll help you to a point, but--and that's where he lost me. Because nowhere in the conversation

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has anyone acknowledged we'll help you to a point but. And where is that "to a point"? I have yet to hear a school in my district in south Omaha, in comparison to where Senator Lautenbaugh represents in OPS, where our land valuations are significantly lower than his, our household income is significantly lower than where his district is. Our schools are achieving at a persistently lower level than the schools in his district. So I will have to refute the argument that school funding and education funding is not the problem, because when I talk to teachers in my schools who have kindergarten classes at Beals Elementary... [LB438]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB438]

SENATOR MELLO: ...where they say they have a school classroom of 27 students, it's awful tough to teach five-year-olds when there's 27 of them, and you're hoping that you get a paraeducator to help bring down the teacher's ability to spend one-on-one time with a student. Colleagues, that is directly attributed to funding. Class size is directly attributed to whether or not we're providing schools more funding. And I didn't anticipate LB438 to be a debate about school funding, because I agree, I think, Senator Lautenbaugh, there's some agreement between us. But to make statements that funding is not the issue here, I will have to reject that. School funding is the issue. Our public schools need more funding. It's been noted year after year. We heard it through the Tax Modernization Committee process. We've heard it every year I've been down here. LB438 doesn't change that. And to solve some of the problems outside of the classroom is a whole nother ball of wax that we're going to have to discuss. [LB438]

SENATOR COASH: Time, Senator. [LB438]

SENATOR MELLO: I think we have other bills to do that. Thank you, Mr. President. [LB438]

SENATOR COASH: Thank you, Senator Mello. Senator Ken Haar, you are recognized. [LB438]

SENATOR HAAR: Mr. President and members of the body, I rise in support of LB438, Senator Adams' bill. Obviously it's not a silver bullet, but I think it's something that we need to do. In my time at the mike I just wanted to congratulate Lincoln Public Schools that passed a bond issue with 67 percent. I would have settled for that when I was...my second election to the Legislature, and just say congratulations again to the people of Lincoln who put their money where their mouth is when it comes to education. I passed out a sheet today and it says, "...the state today must set an intention and a timeline, at the end of which we are indeed investing far more in early learning than in prisons." And this is a lofty goal but we need to keep thinking about this. We know brain science tells

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us, the best education practices tell us that we have to get kids early; that educational development starts right away, and if kids come to school unprepared as kindergartners, they're going to stay behind for the rest of their time in school. And if you look at this, we spend approximately \$12 million on early learning and \$170 million on prisons. That's wrong. That's wrong. And, of course, just spending money on preschools would not take care of the whole prison situation, but it would be a much better investment to be making than all the investment we make now in our prison system. I agree with the standpoint that, you know, money isn't everything, folks; but money is an important part of dealing with our educational problems. And if we really take seriously and we, especially for high-risk families, we put those kids in preschool, like Educare does at age six months, the return to society and to those children would be great. And it makes a lot of sense to do that. But it would take more money. You can't just shift...in our Education hearings this summer, we had one group come in, and I asked them about preschool. And they said, yeah, we believe in it. And then I said, where shall we get the money? And they just said, well, take it out of what you're doing for K through 12; just shift the money. That's not going to do it. We need to keep spending for a good education from K through 12, and it's going to cost more to start offering preschool education to especially high-risk families. It's going to cost more. It is going to cost more. Money is a part of the problem. So thanks for looking at this. Again I believe that someday we should be spending more on preschool than we do on prisons. Thank you very much. [LB438]

SENATOR COASH: Senator Schumacher, you are recognized. [LB438]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I've listened this morning about a debate on education, and it's been a far-ranging debate and a pretty good debate. But the focus has been on the mechanics of education, the financing of education, the motions of education: what kind of schools, what kind of teachers, who's doing it right, who's doing it wrong, who's misfortunate, who's too fortunate. And I'm afraid that what we have is missed the point, because education without a social goal, without a social purpose, is just going through the motions of running through the jungle. I submit, to the extent we have problems in education, it is because there is a lack of vision, a lack of social goals, a lack of our desire to build a pyramid or have a fleet that the sun never sets on, or maybe ride a rocket to the moon. It is because bodies such as this are failing to inspire. Why be educated if there's no reason, that reason being either to avoid the negative or to gain the positive? We are failing to inspire. We cannot shift that burden to anybody else. With that, I'd yield the balance of my time to Senator Adams. [LB438]

SENATOR COASH: Senator Adams, 3 minutes. [LB438]

SPEAKER ADAMS: Thank you, Senator Schumacher. Members, as we get closer to noon I thank you for the time so I can get a comment in. I'm not going to stand here and

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tell you that Senator Chambers, Senator Lautenbaugh, whoever else might have said it, that there's really no hammer in here. There isn't. The State Board of Education, right now, has the ability to take away accreditation of a school district, if that's the hammer that you want. I'm more than willing to think about the hammer. I'll be very, very honest with you. In putting this bill together, that was going to be the next step. And honestly, I didn't know where to go. I didn't know what that hammer ought to be. I want to give you something to think about before I shut up. As you're thinking about what the hammer ought to be, let's pick out one school. I don't know whether it's doing well or not. Let's go to Sioux County, the smallest school district we have in the state; 85 students K through 12. You're going to dissolve them? You're going to shut their doors? Charter school with 85 students? What are you going to do? That's what I wrestled with when I put this bill together. I wish I knew, I would have put it in here. Go to the Native American schools, Senator Bloomfield, Senator Larson. Are we going to close them? Where are those students going to go? Charter? Maybe. Is there critical mass there? I don't know how much time I have but I'm going to take a shot at this. [LB438]

SENATOR COASH: One minute. [LB438]

SPEAKER ADAMS: How much? [LB438]

SENATOR COASH: One. [LB438]

SPEAKER ADAMS: Well, that's not enough time, but going to take a shot. I can't stand here today and tell you that charter schools are bad, wrong, we shouldn't be doing it. I can't do that because there have been some successes with them. But if you look at the research, you don't just open the door and say, willy-nilly, pick a town, pick a school district, and do what you want to do, because I'll bet you, I don't know, for every public school that's gone awry there probably have been some number of charter schools that haven't done real well either. There is a defined place, potentially, for them, under certain circumstances that research says they may be successful. I'll leave you with this: As you think about what the hammer ought to be, think about 249 school districts that are just as different in this state from one end to the other and how you're going to make that fit. [LB438]

SENATOR COASH: Time, Senator. Thank you, Senator Adams. Mr. Clerk. [LB438]

CLERK: Mr. President, thank you. I have items. Your Committee on Health and Human Services, chaired by Senator Campbell, reports LB660 to General File. Transportation, chaired by Senator Dubas, reports LB816, General File; LB983, General File with amendments. General Affairs, chaired by Senator Karpisek, reports LB1104 indefinitely postponed. Confirmation reports from the General Affairs Committee, three separate reports, all signed by Senator Karpisek. I have hearing notices from the Judiciary Committee and the Revenue Committee, signed by their respective Chairs. I have a

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Reference report referring LR440 to the Banking, Commerce and Insurance Committee to conduct a public hearing. (Read LB872A by title for first time.) I have priority bill designations: LB983 by the Transportation Committee; and Senator Burke Harr has selected LB752 as his personal priority. Amendments to be printed: Senator Lautenbaugh to LB438, and Senator Nordquist to LB191. A name add, Mr. President: Senator Gloor would like to add his name to LB748 as an introducer--cointroducer. (Legislative Journal pages 526-530.) [LB660 LB816 LB983 LB1104 LB872A LB983 LB752 LB438 LB191 LB748]

And, Mr. President, a priority motion: Senator Krist would move to adjourn the body until Thursday, February 13, at 9:00 a.m.

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