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Floor Debate
April 18, 2017

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-sixth day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Senator Walz. Please rise.

SENATOR WALZ: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Senator Walz. I call to order the sixty-sixth day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: (Read corrections, Legislative Journal page 1051.) That's all that I have.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB91A and LB263A to Select File, Mr. President. That's all that I have. (Legislative Journal page 1051.) [LB91A LB263A]

PRESIDENT FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR93, LR94, LR96, and LR97. Senators, as we proceed into the session now, from now to the concluding day, there will be many bills on which many of you will want to speak. And I am going to be directing the pages to clear the speaking queue after each bill and then not reopening the queue until the Clerk actually announces the next bill. When he announces the next bill, then the queue will be open. Every senator will have an equal chance to jump into the speaking queue. Thank you. With that, Mr. Clerk, we'll now proceed to General File 2017, Speaker priority bills. Mr. Clerk. [LR93 LR94 LR96 LR97]

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CLERK: Mr. President, LB640, a bill by Senator Groene. (Read title.) Introduced on January 18, referred to the Revenue Committee. The bill was advanced to General File. I have committee amendments, Mr. President. (AM752, Legislative Journal page 971.) [LB640]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Groene, you're recognized to open on LB640. [LB640]

SENATOR GROENE: Thank you, Mr. President. LB640 is an attempt to put tax equity back into the Tax Equity (and) Educational Opportunities Support Act, TEEOSA. According to the Tax Foundation, we are fifth nationally as to property taxes paid per capita. And according to our own OpenSky, we are 49th as far as state aid support of public education, although, according to the publication Education Week, we are 10th nationally in per-pupil spending. Nebraska taxpayers do not need to apologize for lack of overall support for education. The fact is property taxpayers do shoulder the heaviest burden by far. My colleagues, you may have received e-mails from a coalition group called Nebraska United for Property Tax Reform and Education, a consortium of education and farm groups. I will use their words when defining the goal of LB640. Quote, this is from that group: We believe "adequate and sustainable funding high quality K-12 education is imperative for the future of Nebraska." We also believe that "tax reform which reduces the overreliance on local property taxes is necessary to ensure our tax system is fair to all Nebraska taxpayers." That statement is exactly what LB640 does. (A) It increases the state portion of public school funding by directing 100 percent of the income and sales taxes in the Property Tax Credit Fund to state aid for public schools. At present, it is divided among all local political subdivisions and at best schools receive 60 percent of the total. LB640 reduces the reliance on property taxes of public schools in two ways. It limits local property taxes as a source of school funding at 55 percent plus the override vote to recapture the portion not funded by state aid. It also takes further valuation increases out of the equation by controlling the answer at 55 percent. Valuations go up, levy has to go down. The 55 percent does not just help taxpayers in rural Nebraska. Elkhorn, Westside, West Douglas County (sic: Douglas County West) and Sarpy County South will also receive benefit from the 55 percent factor. It lessens property tax burden for citizens in equalized districts by lowering maximum levy 6.3 per...cents: to \$0.987 from the present \$1.05. Therefore, all taxpayers are given property tax relief through LB640. So why are some members of the coalition afraid of the fairness that the change LB640 will bring to school funding? Blunt and honest: School administrations in equalized districts do not want to give up any of their taxing authority. To put it simple, they know they have property taxpayers by the neck. No matter their financial situation, homeowners must pay their property taxes or lose their home on the courthouse steps. The loss of 6.3 cents in taxing authority is a nonstarter for them. It makes their life easier in management. School administrators' idea of leveling the three-legged school is not...is to not reduce property taxes but to increase the amount of income and sales taxes that fund public schools. They ignore the fact that in 2016 Nebraska was already tenth in the nation per-pupil spending at \$13,833 per student,

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which indicates we do not need more funding but, instead, a rebalancing of the sources, which LB640 does. Some agriculture and business groups wish to have their cake and eat it too. They want the benefit of the Property Tax Credit Fund but they also wish to gain added benefits from school funding relief by raising taxes on others. Some do not care that the shift of property tax burden for education was to rural areas and that a correction must shift back in that direction. They don't care, the rich farmers, rich rural people. Property taxes have skyrocketed over the last decade due to two factors. We must remember all property taxes are collected and spent locally. Not a dollar is sent to Lincoln. TEEOSA formula puts funding burden first on the local property valuations, thus shifting funding of schools away from state aid to local property taxpayers. LB640 will revert that back the other direction. The Property Tax Credit Fund has enabled local taxing entities to hide their annual spending increases behind the credit. The state has a constitutional duty to fund public education. It has no duty to give aid to any other local taxing entity as the Property Tax Credit Fund presently does to cities, counties, and all other taxing entities. Recent newspaper stories have been misleading. I spent three years studying this issue and years before that with my tax group. A half-hour analysis and a headline was misleading. They claim LB640 will shift most of the Property Tax Credit Fund to rural Nebraska. That is false. Sixty-eight counties out of ninety-three will receive more in relief from LB640 and 25 receive a small percentage reduction of the 25. Six are counties with large districts: Sarpy, Douglas, Lancaster. And 19 are small rural counties that lose a little bit of tax relief, LB640, versus Property Tax Credit Fund. I'm catching...I make decisions on reality, not assumptions. The truth is that proportionally tax relief that goes to agriculture with the Property Tax Credit Fund is not much different with LB640. If you'd work...if we'd look past the initial use of the Property Tax Credit Fund as a funding source, which I believe is a minor part of this bill and the only reason we're using it is there's no funds for an A bill, the purpose of this bill is to put a fix to TEEOSA into law. And we're using the Property Tax Credit Fund to do that. We may finally put an end to the rural-urban rift of this...in the state if we pass LB640. Everybody will get some of their property tax, their income and sales taxes back through state aid to education. That is not happening now. I would hope most of you are able to do so and to understand what the real purpose of LB640 is. It's tax equity; it is not a money grab or a tax grab from rich farmers or rich rural areas; it is not businesses gaining and homeowners losing. LB640 puts equity back into funding of our schools for every single property taxpayer in the state, every single one. So I would hope you would look past the initial funding source and some minor issues that you have and let's put a framework into place that is advantageous to all taxpayers, is advantageous to the state of Nebraska, that puts the control of our school funding back into the citizens, to the citizens. So I would appreciate that you vote green on LB640. We have an amendment, committee amendment which Senator Smith will talk about, but the amendment replaces the original bill and that will be our focus today. Thank you. [LB640]

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PRESIDENT FOLEY: Thank you, Senator Groene. (Doctor of the day introduced.) As the Clerk indicated, there are amendments from the Revenue Committee. Senator Smith, as Chair of the committee, you're recognized to open on the committee amendments. [LB640]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. A public hearing on LB640 was held in front of the Revenue Committee on February 16 and the bill was placed on General File April 10. The committee amendment, AM752, is the result of many long and sometimes impassioned discussions by the Revenue Committee. LB640 is the first of a group of tax-related bills we will consider this week to address how as a state we collect and distribute taxpayer dollars to carry out essential government functions. Nebraska has a tax problem. This isn't a rural issue. This isn't an urban issue. It is a Nebraska issue. Our taxes are too high. And it's not just our property taxes. It's also our corporate taxes. And it's not just our income taxes. And it's not also...it's income taxes, corporate taxes, and property taxes. And in order to grow Nebraska, as we have talked about several times on this floor, we must make our tax climate more competitive. According to a March Tax Foundation report, Nebraska has the 14th highest income tax per capita and the 8th highest property tax burden. In listening to his constituents, Senator Groene has opted to tackle the property tax portion of this statewide problem. But, as Senator...as Speaker Scheer so articulated, articulately said during floor debate last week, when we come into this Chamber, we are statesmen and stateswomen, and the policy decisions we make should be based on what is best for Nebraska, the entire state. Having said that, I commend Senator Groene for thinking outside the box and for attempting to provide some tax relief in an innovative manner with LB640. AM752 becomes the bill, but the basic premise of Senator Groene's original bill stays intact. First and foremost, beginning in 2018-19, the maximum levy limit for school districts is reduced from \$1.05 to \$0.987. A district has the ability to access up to an additional 3 cents if a temporary reduction of TEEOSA aid occurs and it's approved by a two-third majority vote of the Board of Education. However, if approved, only 75 percent of the reduced TEEOSA aid may be generated with the additional 3 cents. The temporary reduction in aid is only valid for a specified period of time after which it will revert back to the original formula. Beginning with tax year 2018 and each tax year thereafter, the Department of Education will certify to the State Treasurer the statewide increase in TEEOSA that results from reducing the statutory maximum levy from \$1.05 to \$0.987. The State Treasurer will transfer an amount equal to this increase in TEEOSA aid from the Property Tax Cash Fund to the Tax Equity and Educational Opportunities Fund. For tax year 2018 and each tax year thereafter, the amount of property tax relief shall be the amount available in the Property Tax Credit Cash Fund after transferring funds for TEEOSA aid and the newly created school district property tax relief aid. A school district qualifies for property tax relief aid if its General Fund property tax receipts exceed 55 percent of its total General Fund revenue. Beginning in school fiscal year 2018 and '19, the Department of Education is directed to calculate a preliminary equalization amount to determine if a school qualifies for an option enrollment relief correction. A school district qualifies for the option enrollment relief correction if it does not qualify for school district

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property tax relief aid and its net option funding is greater than 90 percent of the preliminary state aid calculated for the school fiscal year. Preliminary state aid is the sum of the preliminary equalization aid net option funding, best practices aid, allocated income tax funds, and community achievement plan aid. The option enrollment relief correction for each qualifying school district is equal to \$0.63 per \$100 of adjusted valuation. A school district receiving relief aid will have its budget authority reduced by 25 percent of the property tax gap unless two-thirds of the Board of Education vote to override all or part of the reduction. Again, this committee amendment becomes the bill. While LB640 seeks to use the \$224 million each year currently in the Property Tax Credit...relief Credit Cash Fund, much of the bill deals with the state aid formula. I am, admittedly, not the resident expert on TEEOSA and I would encourage you to direct any questions related to the state aid to Senator Groene. With that, I'll conclude my remarks on AM752. Thank you, Mr. President. Thank you, colleagues. [LB640]

PRESIDENT FOLEY: Thank you, Senator Smith. Mr. Clerk. [LB640]

CLERK: Mr. President, Senator Groene would move to amend the committee amendments with AM992. (Legislative Journal page 1021.) [LB640]

PRESIDENT FOLEY: Senator Groene, you're recognized to open on AM992. [LB640]

SENATOR GROENE: Thank you, Mr. President. On a major bill like this, you find some errors and some tweaks that need to be done. AM992: If there isn't enough money in the Property Tax Credit Fund to fund LB640, it is prorated but it is...the language in the existing bill does not make it clear that it should be prorated for both the equalized districts' recapture of their 63...\$0.063 loss of levy authority plus those unequalized districts with 55 percent. So the amendment just adds clarity that if the money is short in the Property Tax Credit Fund to fund it, it's prorated across for all districts. It's fairness. I'd like to make...clarify something, too, about equalized districts. If we do not fund the Property Tax Credit Fund, if we don't fund TEEOSA, those equalized districts will not be harmed by the loss of their 60...\$0.063 because it falls back, fail-safe, into the TEEOSA formula where equalization...I mean local property taxes go into it first and then it's minus from total revenues that are needed and TEEOSA fills back in. So first money will come from the Property Tax Credit Fund to fund that change. If that's not there, it goes to TEEOSA. Why we did it this way is because we have no money, we have no ability to make the shift back to the state to do its duty to fund public schools by putting it in the TEEOSA formula. But the Property Tax Credit Fund is there and LB640 will do two major things. It will keep the state's duty to increase funding to schools, quit funding giving tax relief and aid to the cities and the counties which the Property Tax Credit Fund does now. Long range, it fixes it, it fixes it. So if the Property Tax Credit Fund is not funded, the rural districts will have to go back to raising their levy. They have no fail-safe that the big urban schools do to make sure they are

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funded. So all AM992 does is to clarify that everybody is prorated; all school districts, what LB640 gives them in state aid is prorated. So thank you. And it's just basically a clarity amendment to LB640. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Debate is now open on LB640, the committee amendment, and the AM992. Senator Baker, you're recognized. [LB640]

SENATOR BAKER: Thank you, Lieutenant Governor. Good morning, colleagues. I have a lot of problems with LB640 and its amendments. Senator Friesen, would you yield to a few questions? [LB640]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB640]

SENATOR FRIESEN: Yes, I would. [LB640]

SENATOR BAKER: Senator, you selected LB640 as your priority bill, is that right? [LB640]

SENATOR FRIESEN: Yes, I did. [LB640]

SENATOR BAKER: Do you believe the state of Nebraska has some responsibility for funding K-12 schools? [LB640]

SENATOR FRIESEN: Yes. [LB640]

SENATOR BAKER: Are you aware of an organization called Nebraskans United for Property Tax Reform and Education? [LB640]

SENATOR FRIESEN: Yes, I believe I'm familiar with them. [LB640]

SENATOR BAKER: So that group has about 16 organizations who have signed on: Nebraska Farm Bureau; Nebraska Council of School Administrators; NSEA; Nebraska Rural Community Schools Association; Women Involved in Farm Economics; Gage County Property Tax Group; Nebraska Wheat Growers; Schools Taking Action for Nebraska's Children for Education; Nebraska Fair; Nebraska Corn Growers Association; Reform for Nebraska's Future; Nebraska Farmers Union; Nebraska Soybean Association; Nebraska Pork Producers; Independent Cattlemen of Nebraska; Greater Nebraska Schools Association. Are you a supporter of this group, Senator, and its principles? [LB640]

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SENATOR FRIESEN: I support their principles and their goals but (inaudible)... [LB640]

SENATOR BAKER: So the principles, in short, principle one: "Adequate and sustainable funding of high quality K-12 education is imperative for the future of Nebraska." And principle two: Tax reform which reduces the overall reliance on local property taxes is necessary to ensure our tax system is fair to all Nebraska taxpayers. By the way, I support that organization also. Senator Friesen, to your knowledge, is reducing income taxes part of the plan to accomplish those two guiding principles? [LB640]

SENATOR FRIESEN: Well, I'm looking at comprehensive tax relief for this state. And I guess I...as far as LB640 concerns, I think most of them are opposed to it in its current form but they don't take into account the amendments that have been presented to make it better. [LB640]

SENATOR BAKER: So do you support reducing income taxes? [LB640]

SENATOR FRIESEN: Sure, I do. [LB640]

SENATOR BAKER: Okay. Do you believe that LB640, amended by AM752 and AM992, go toward accomplishing the purposes of Nebraskans United for Property Tax Reform and Education? [LB640]

SENATOR FRIESEN: There will be some more amendments that make it even better. [LB640]

SENATOR BAKER: Okay. This is not really new money, is it? It's more a matter of taking money out of one pocket and putting it in another, isn't that true? [LB640]

SENATOR FRIESEN: That's true. [LB640]

SENATOR BAKER: Do you have a copy of AM752 in front of you? [LB640]

SENATOR FRIESEN: I'm sure I do somewhere in this pile of paper. [LB640]

SENATOR BAKER: Okay. Well, anyway, on page 9, starting on line 6: A local school system shall qualify for school district property tax relief aid pursuant to this section for each tax year when, for the next...for the most recently available complete data year as of January 1 of such tax year, the General Fund property receipts exceed 55 percent of the total General Fund revenue for such local system. Thank you, Senator Friesen. Want to look at some data now. You know, much

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is talked about sometimes about equalized districts and nonequalized districts. And I think, if I'm not mistaken, there's 75 equalized districts this year. Maybe that's projected to be 71 next year. At any rate, about 31 percent of school districts in Nebraska are equalized school districts. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR BAKER: Students in the equalized district: 243,503 students. So in other words, equalized school districts educate...responsible for the education of over 77 percent of the students. Students in nonequalized districts: 72,039, 22.8 percent of the students. Now let's look at districts who are over, who meet that threshold, who have 55 percent or more of their revenue coming from local property taxes. Of those districts--I think there's 193 of them--10 of those have a General Fund levy of under \$0.40 per \$100 of valuation. Lowest one is 26.74 cents. These people would receive property tax relief funds. Between the \$0.40... [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR BAKER: ...\$0.40 and \$0.50 there's 20 more districts and... [LB640]

PRESIDENT FOLEY: It's time. Senator Baker. [LB640]

SENATOR BAKER: ...those districts... [LB640]

PRESIDENT FOLEY: Senator Baker, that's time. [LB640]

SENATOR BAKER: Thank you. [LB640]

PRESIDENT FOLEY: Thank you, sir. Senator Groene, you're recognized. [LB640]

SENATOR GROENE: Thank you, Mr. President. I keep forgetting to thank Senator Friesen for prioritizing LB640. He's had a lot of input in its final product and it's his priority bill. I'm going to make some statements about to answer Senator Baker. All of us, all of us pay income and sales taxes, so do those rural districts. They receive little to none of their income and sales taxes back in state aid to education, little to none. Their money flows to equalized districts. Their income and sales taxes funds the larger equalized districts. That I would call an inequity, an injustice. We are all individual citizens. We all pay our income taxes, sales taxes, and property taxes. We are not Omaha and we are not Lynch, Nebraska. We are individuals. We all have a

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right to have our schools funded by the state of Nebraska, period. As far as levies, my standard statement to that is, when you show me a levy and what I can pay with...buy with it, I will then decide my property taxes are based on levies. But until then, I will base my property taxes on the dollars I pay to the courthouse: farmland, ag land, a house in Omaha that went up \$80,000-90,000 this last year. Let's say land was \$1,000 ten years ago. At \$1.05, that person paid \$10.50-an-acre tax. It went up to \$4,000 in ten years, no fault of the owner. He bought no land. He knew that price was too high. He's trying to make a living. He's now paying 50 mills instead of \$1.05. He is now paying \$20 an acre. That is what you pay your taxes and not levies. And ten years prior to that he was paying \$10.50. So let's not get into this levy war because it's meaningless. We pay our taxes in dollars. In a handout, I think everybody got a yellow folder of information. You can find your county in there. My staff did a good job of comparing Property Tax Credit Funds with local current state aid to each county to the schools. And we did it by county geographic area, so we had to split some school districts up by percentage. You will find that, yes, some large counties like Douglas County lost \$1,800,000 difference between Property Tax Credit Fund and LB640. When taken in perspective, the Douglas County collects \$464 million in property taxes. They lost .00379 percent of next year's...maybe next year's Property Tax Credit Fund. There's no guarantee that that will be there the next year. LB640 puts a guarantee to those taxpayers that their levy will go down 6.3 percent (sic) for the future...cents for the future. I hear that there's no promise that the Property Tax Credit Fund will be funded. That is true. There's no promise that TEEOSA will be funded. But for once the Property Tax Credit Fund will have a purpose. It will not just be a coupon on the bottom of your statement. It will go to our schools, which is the duty of the state to fund. Also, LB640 doesn't start until the '18-19 school year. Next year the Property Tax Credit Fund will be distributed as is. We will have time to examine it. The Department of Education, which, by the way, worked hand in hand with my office in creating LB640... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: I am actually proud that that consortium is against it because when you put 16 different people in a room and 16 different groups and they all got to agree, they won't. Secretly, a bunch of them said it's a great idea, great starting point, and that's what LB640 is. It is a starting point that we fix TEEOSA, we put tax equity back into how we fund our schools, and the state steps up and does its duty. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Friesen. [LB640]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So in my third session of my first term, we finally get to really talk about property taxes and school financing on the floor of the Legislature. It's been a long two years, as Senator Harr would know. When we look at property

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taxes in the rural area and school funding, we tie those two together and things have changed over the years. We no longer have majority of residents living in the rural areas farming. They've moved to the cities. There's less and less of us farmers. And the way we fund schools is obsolete. We talk a lot about how much we love our kids by how much we're willing to spend on schools. I love my kids more than I love...Warren Buffett loves his. If we would put Warren Buffett's house next to mine, I would love the kids in our school district a lot more than he does. So the way we fund schools is wrong and it needs to be changed. There's no schools in my district receive any equalization aid. They're funded by property taxes and other revenue. They do get a little bit of their income tax back, 2 percent maybe, I think, at the most. We've even chiseled that down from the 20 percent where it's supposed to be. There's no foundation aid. A couple of schools do get some aid because they have option students. But other than that, there's no equalization aid. We fund our kids' education. And the state really has no obligation. All of our money goes into the TEEOSA getting close to a billion dollars and that money is distributed through a formula that is no longer valid and accurate either. It works well for the urban senators because you get all the money. So property taxes funding schools throughout the state are anywhere from 30...well, that 26 percent, I guess, on up to \$1.05, to the lid, and it's everywhere in between. And when I look at currently in Hamilton County, which I'm more familiar with, property taxes fund 68 percent of their...the schools. That's where my property taxes go. And so when I look at the total and what it's done, we've had a 180 percent increase in the check I have to write to fund schools, to fund property taxes in general. And that's over a ten-year period. That's 18 percent a year increase in the check I write. If homes in the Omaha area would go up 18 percent a year, I think I'd have a little more support on how we fund schools through...or education, because even when there's...the valuation goes up 15 percent, they seem to get pretty excited. I've seen my taxes go up 18 percent, not my valuation, my taxes. And when you look at the rural community, the farm community, that's probably about, what, 6 percent in Hamilton County. They're funding 68 percent of the school funding. And neither of these bills, none of this amendments or anything does anything to address the shift that has gone to agriculture. My focus has been to get more state aid to schools, to schools that don't receive any equalization aid. I'm not addressing the shift that happened to agriculture. None of these bills or amendments here does this. We still have had a massive shift from residential and commercial to agriculture. And we... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR FRIESEN: ...continue to bear that burden. But again, none of this addresses that. If these bills...if LB640 would go into effect, it would bring more state aid to all those nonequalized districts that currently receive none. And with the amendments, LB640 in its current form, you're right, it's a shift of dollars. It shifts a little bit from the urban to the rural areas. It does nothing different to alleviate ag's problem. But it does shift a little bit. But we have had a massive shift. We've had a billion-dollar shift over the past ten years from agriculture to the

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urban areas. And until we address it in even a small way, which this would be a very small way,... [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR FRIESEN: ...some of the amendments finally do something. [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. [LB640]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Kolowski. [LB640]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I'll...I'd also like to yield my time at this time to Senator Baker. Thank you very much. [LB640]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Baker, 5:00. [LB640]

SENATOR BAKER: Thank you. Continuing on, we're talking about the districts who receive 55 percent or more of their school revenue from local property taxes. And we already got to the point we say, well, there's 58 of them who have a tax levy under 60 cents; from 60 to 70, 36 more districts; school districts with a General Fund levy of 70 cents, 80 cents, 120 of those districts who would qualify for property tax relief aid under this bill. Therefore, nearly half of the districts in Nebraska are under \$0.80 per \$100 of valuation but would still qualify for district...school district property tax relief; \$0.80/\$0.90, 29 school districts; \$0.90 to \$1.00, 34 (districts). And those who would qualify for school district property tax relief aid who are currently levying over \$1.00, there are ten of them, and that includes districts like Waverly, York, Norris, Blair, districts with a couple thousand students. So apparently it costs more to educate 2,000 students than 300 or 400. Now look at the districts who are under 55 percent and who would not receiving...not be eligible to receive any school district property tax relief. Of the 53 districts, 37 currently have a levy over \$1.00; 46 have a levy over \$0.90 out of the 53. And again, these districts who are under 55 percent and who will receive no school district property tax relief aid, educate 226,834 students, educate 72 percent of the students in Nebraska. The average levy of school districts who will qualify for school district property tax relief aid is \$0.717 cents per \$100. Of those who don't qualify, the levy is closer to \$1.00. You know, this isn't just urban versus rural. It's also rural versus rural. I'm not against putting more state revenue that would go to all schools, no matter what their levy is, and, in turn, have them be able to drop their property tax asking by the same amount. I support that kind of a concept. But that's not what this bill

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does. Senator Friesen owns land in the Heartland school district where the total school levy-- that's General Fund levy and whatever other levies they may have--is 47.39 cents. He and other landowners and residents of that Heartland school district would receive school district property tax relief aid. If Senator Friesen's farm were in the Beatrice school district, he'd be paying more than double the amount of taxes for the school levy and he would lose his current property tax credits. So people from the Beatrice district asked me, why would we do something like this? I don't know what to tell them. This is Bizarro world. Is Senator Halloran available for a couple questions? [LB640]

PRESIDENT FOLEY: Senator Halloran, would you yield, please? One minute. [LB640]

SENATOR HALLORAN: Yes, my pleasure. [LB640]

SENATOR BAKER: Senator, do you reside within the Hastings Public School district? [LB640]

SENATOR HALLORAN: No, I live outside of Hastings city limits so I don't live within that school district. [LB640]

SENATOR BAKER: You're not in that school district? [LB640]

SENATOR HALLORAN: No. [LB640]

SENATOR BAKER: Okay. [LB640]

SENATOR HALLORAN: Adams Central. [LB640]

SENATOR BAKER: Do you...to your knowledge, is there any farmland in the Hastings Public School district? [LB640]

SENATOR HALLORAN: No, there's not. [LB640]

SENATOR BAKER: None. Okay. So at present, all property owners in Hastings receive property tax credits, is that the case? [LB640]

SENATOR HALLORAN: I would assume that's the case, yes. [LB640]

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SENATOR BAKER: Yes. So they would...people, residents of the Hastings Public School district, would lose their property tax credits because Hastings Public Schools does not receive 55 percent or more of the General Fund (inaudible) property taxes. Their total school levy, including all funds, is \$1.32 per \$100. Is the Silver Lake school district in your legislative district, Senator? [LB640]

PRESIDENT FOLEY: Time, Senators. Thank you, Senator Baker and Senator Halloran. Senator Linehan, you're recognized. [LB640]

SENATOR LINEHAN: Thank you, Mr. President. I'd like to thank Senator Groene and Senator Friesen for all the work they've done on this bill. It's impressive. I have great empathy from where they're coming from. I live in...my district is Elkhorn Valley and Waterloo, so I have farmland. And I'm lucky in the fact that it's a very...considering the state, it's an affluent district. I have many homeowners that are also farmland, ranch land owners. My own family still has a farm. What we have to understand, we have a tax problem in this state that is related to a spending problem. The reasons I am not enthusiastic about increasing more money to schools or taking in more sales tax is we don't have any limits here on what we're spending. I find it amazing, some of my e-mails. They're complaining about Senator Groene's bill because he wants to set a maximum levy at 55 percent. Oh, we can't do that. Well, what can we do then, because TEEOSA was born out of frustration over property taxes 37 years ago, or 1990, whatever, 37 years ago. And our spending in schools has gone up dramatically since we've started state aid to schools. So I...we've got to fix it, there's no doubt about it, because affluent people don't have to live here. Farmers can sell out. We can't break our farmers with property taxes and we can't chase homeowners out of the state with property taxes. And if you add the property tax burden that our homeowners and farmers are facing...and many of the homeowners, at least in my district, are also in the highest income tax bracket. Once their kids are out of school, they have no reason to stay here; as a matter of fact, it's financially incompetent to stay in Nebraska once you've retired. So we have to fix this. And their efforts here need to be appreciated by all of us because we don't have any sign that the economy is going to get better in the next two years. So we're going to have to convince people they've got to figure out a better way to do the things they're doing. And we have great schools, not all, but many of them are great schools. We have to figure out how they can do it with less. I agree that we need to spread the burden out but, again, not until we figure out how we're going to control the spending. When I asked the Department of Revenue when I got down here in January, and since it's the day that we all pay our income taxes...and I know it's hard to have empathy for affluent people. But there are several people in Nebraska, 16,000, according to the Department of Revenue--16,000, that's a large number--of income taxpayers who, when they paid their income taxes today, didn't get to write their property taxes off because they were caught in the federal property tax by the alternative minimum tax. And the federal government decides that you shouldn't pay that much in property taxes because most of what a lot of the homes in my district are paying in property taxes, if you were in California or

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Florida or somewhere else, it would be a huge home, so the federal government decides that you should pay more in income taxes. So we have 16,000--well, at least in 2015, could be more today with inflation--16,000 people who are paying their taxes today that didn't get to write off their property taxes, or at least not all of them. So if we don't think we have a problem both in the rural area and the cities and in the suburban areas with property taxes, we're fooling ourselves. And unless we fix it here, the voters will fix it, because they do petitions in this state. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR LINEHAN: So I...I'm going to listen to the debate today. Again, I greatly appreciate the work they're doing. I also appreciate the work Senator Smith has done on income taxes because they're both too high and we have to get them down or we're going to...the crisis will continue, people, because people don't have to live here. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Baker, you are recognized. [LB640]

SENATOR BAKER: Thank you, Mr. Lieutenant Governor. Would Senator Halloran finish up with me with a couple questions? [LB640]

PRESIDENT FOLEY: Senator Halloran, would you yield, please? [LB640]

SENATOR HALLORAN: Certainly, Senator. [LB640]

SENATOR BAKER: Senator, is the Silver Lake school district in your legislative district? [LB640]

SENATOR HALLORAN: Silver Lake is in the Adams Central district. [LB640]

SENATOR BAKER: Okay. So Silver Lake school district property owners pay a total school levy of 48.48 cents. So the property owners receive the school district property tax relief aid under this. Hastings would not. Thank you, Senator Halloran. [LB640]

SENATOR HALLORAN: You're welcome. [LB640]

SENATOR BAKER: Is Senator Ebke up there? [LB640]

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PRESIDENT FOLEY: I do not see Senator Ebke at the moment, Senator Baker. [LB640]

SENATOR BAKER: Okay. [LB640]

PRESIDENT FOLEY: Oh, yeah. I'm sorry. Yes, she is here. Senator Ebke, would you yield, please? [LB640]

SENATOR BAKER: Okay. Senator Ebke, you yield to a couple of questions? [LB640]

SENATOR EBKE: Sure. [LB640]

SENATOR BAKER: Senator Ebke, do you reside within the Crete Public School district? [LB640]

SENATOR EBKE: Yes, I do. [LB640]

SENATOR BAKER: And would it sound about right if I said that Crete Public Schools has a total school levy of about \$1.27? Does that sound about right? [LB640]

SENATOR EBKE: With the bond that we passed, yeah. [LB640]

SENATOR BAKER: Yes. So Dorchester school district just down the road has a total levy of 69.22 cents. Crete Public Schools would not get property tax relief aid; Dorchester would. Do you think that people...you can explain that to the people in the Crete school district? [LB640]

SENATOR EBKE: Well, as part of a sort of a shared pain, it would be difficult and certainly it depends on how it's structured, but, yeah, I think it could be explained. Whether they'd like it or not, I don't know. [LB640]

SENATOR BAKER: Thank you, Senator Ebke. Senator Groene, would you yield to a few questions? [LB640]

PRESIDENT FOLEY: Senator Groene,... [LB640]

SENATOR GROENE: Yes. [LB640]

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PRESIDENT FOLEY: ...would you yield, please? [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR BAKER: Senator Groene, do you live within the North Platte Public School district? [LB640]

SENATOR GROENE: Yes. And they get 1,386,000 extra dollars because of their levy lowering by 6.3 cents. Everybody wins, folks. [LB640]

SENATOR BAKER: All right. So, Senator, the North Platte Public Schools has a total school levy of just over \$1.18. Wallace Public Schools, is that in your district, Senator, legislative district? [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR BAKER: They have a levy of 54.42 cents. [LB640]

SENATOR GROENE: So? [LB640]

SENATOR BAKER: One gets...one would get property tax relief aid and one would not. [LB640]

SENATOR GROENE: One gets property tax relief aid, one gets a reduction in their levy of 6.3 cents, which gives property tax relief to the taxpayers in those equalized districts, sir. There's two sides of this coin. We covered every issue. Every property taxpayer gets aid, reduction in property taxes, through...and when I get up again I'll go through every school you're mentioning with the form here and tell the dollars they receive. Thank you. [LB640]

SENATOR BAKER: So...thank you, Senator Groene. So Gage County is in my legislative district. I mentioned that before. Beatrice Public School district property owners pay \$1.08 per \$100 of school taxes. They would lose their president...their present property tax credits. Freeman, Diller-Odell, and Tri County property owners would receive property tax relief aid even though their total school levies are far less than Beatrice's. Senator Groene, got a few more questions, if I may. [LB640]

PRESIDENT FOLEY: Senator Groene, would you yield to additional questions? [LB640]

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SENATOR GROENE: Thank you. Yes. [LB640]

SENATOR BAKER: Senator Groene, what bill do you like better, LB640 and its amendments or LB409... [LB640 LB409]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR BAKER: ...as amended by AM955? [LB640]

SENATOR GROENE: They're not related to each other. [LB640]

SENATOR BAKER: What do you like about LB640 and its amendments? [LB640]

SENATOR GROENE: It puts...I think I've said that a few times. It puts tax equity back into the TEEOSA formula. [LB640]

SENATOR BAKER: Senator Groene, are you familiar with the initiative petition 412 that was on the ballot in 1996? [LB640]

SENATOR GROENE: Yes, that was mine. [LB640]

SENATOR BAKER: It would have created property tax... [LB640]

SENATOR GROENE: No, it wasn't mine, excuse me, no. [LB640]

SENATOR BAKER: It would have created property tax limits for governmental subdivisions. [LB640]

SENATOR GROENE: Excuse me. Now what was the year? [LB640]

SENATOR BAKER: 1996. [LB640]

SENATOR GROENE: I was wrong. I lived in Colorado at that time and my job and I was not here. I've heard rumors about it. I moved back in '98. [LB640]

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SENATOR BAKER: So on that, on that measure that would have created property tax limits for governmental subdivisions, 25.44 percent of people said yes, 74.56 percent of the people voted against it. [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR BAKER: Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker and Senator Groene. Senator Halloran, you're recognized. [LB640]

SENATOR HALLORAN: Thank you, Mr. President. And I, too, want to thank Senator Groene and Senator Friesen, Senator Smith for a lot of hard work. Clearly that's not something that happened quickly. I do want to make a comment. Last two weekends ago, I did a town hall meeting in Hastings but in my district. One of the individuals there stood up and asked a question about property tax and his preface to it was this. He said, you know, I just paid \$89,000 in property taxes--a lot of people aren't paying attention right this minute--\$89,000 in property taxes. And then he quickly said, I would qualify for every welfare benefit program that exists. Okay? So he's land rich, he's net poor. He's on welfare. Now to compound this, I had a couple come up to me afterward, happened to be retired teachers, came up to me afterward and said, well, what's the problem, the farmers are rich, they got all this \$10,000 ground, why don't you sell some ground? I had to go through business 101 with these folks in a nice way. I shouldn't have had to. Business 101 in agriculture is, we aren't in the business of selling our ground. Our farm ground is an asset that we use to produce crops and livestock to make a living. And he paid \$89,000 and he is now cash poor, probably has to borrow to buy food but that's okay. He's not looking for sympathy. He's a very proud man. I could see the lump in his throat. But just so everyone understands here, and this isn't to create a rural/city issue, but we got an ag economy in the ditch. And when you have to pay more in property tax than you'll ever come close to netting, you got a real problem. I'm going to yield the rest of my time to Senator Groene, if he'd take it, please. [LB640]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Groene, 2:45. [LB640]

SENATOR GROENE: I'd like to remind everybody LB640 does not touch the needs side of education. They will be funded just like they would have been if not...if LB640 didn't pass. What it does is rearrange and equalize the source of the funding. Senator Baker, his Norris School district will receive an extra \$1,300,000 in state aid because of this...of the levy lowering. Every single district, every single district, every single taxpayer will receive property tax relief either through the 55 percent limit or the lowering of their levy, of the max levy, from \$1.05 to \$0.987.

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Everybody receives some. Is it exactly dollar-for-dollar, exchange? Also, something else, if you look at the 25 districts that...counties that actually lose in the exchange from Property Tax Credit Fund, 19 of them are on...are very, very rural districts, counties. It pushes those up in to pay for more of their school, up into the mid range. It takes the top range and brings them down with the levy. It works. LB640 favors nobody. There are actually counties out there and school districts where the Property Tax Credit Fund actually is nearer or as much as they pay property taxes to the school. This puts equity on both ends of it, on both ends of it. All of those school districts--Hastings, which Senator...Beatrice, in his district, reaps \$736,000 more in state aid. That offsets the Property Tax Credit Fund. And I will tell you this. That lowering of max levy is always going to be there, always. Property Tax Credit Fund might not be. And the property tax credit goes down, down, down as statewide valuations go up because it's divided, prorated across all valuations. It will not be \$89.57 next year because the valuations went up. You divide total valuations into \$224 million, everybody gets a little less. The next year they get a little less. The 6.3 cents is always there. LB640 is a long-range fix to the TEEOSA problem. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Lowe, you're recognized. [LB640]

SENATOR LOWE: Thank you, Mr. President. You know, this week is the week where we all, and last week, where we all go down to your accountant and you file your tax forms and you send them off and I don't think I looked once at my levy. What I looked at was the check I wrote, the several checks I wrote to pay our taxes. I'm still paying taxes. And I think that's what we have to look at for our constituents, not the levy, not how much it's going to raise or lower, but it is the taxes. Our people of Nebraska need tax relief. The rural farmers need tax relief. As I look at the property taxes that have come in, the counties with over 30,000...or \$30 million in tax receipts that are coming in are all mostly rural. These are our farmers. Now this is not a rural-urban split. This is what's happening. This is fact. Our farmers are land rich and paper rich, but cash rich our farmers are not. We need to stick up for our rural people as well as our urban people. And LB640, AM752, and AM992 are a way of doing that and still taking, with great respect, those who are in the urban areas. If Senator Groene would like the rest of my time, I'd be glad to yield to him. [LB640]

SENATOR GROENE: Yes, I would. [LB640]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Groene, 3:00. [LB640]

SENATOR GROENE: Thank you, Senator Lowe and Mr. President. Hastings Public Schools will receive \$667,000 more in state aid due to the lowering of their levy. Especially in cities, there's an awful lot of folks who have the homestead exemption. That doesn't happen in rural

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Nebraska out in the farmlands. So a lot of those folks get their property tax relief already and it's growing. TIF takes huge amounts off the property tax levies in the urban districts. They don't complain. The schools haven't complained about that, about losing that property tax revenue. Silver Lake, which is another one we've brought up, receives \$774,000 more in state aid. Their needs remain the same. We're not messing with poverty needs or anything else. We're not taking away from children. We're just fixing a growing problem and a terrible problem in this state of an injustice of how we, the state, funds its schools. I've heard that we do not fund schools, this state doesn't, because we haven't funded TEEOSA completely over the last 25-30 years. We have risen in five years from 15th in the nation per-pupil spending to 10th. That wasn't a lack of funding that drove us up. And don't blame the rural districts. Yes, there are districts that pay 20 and 30 and you say, well, that averages in, causes...you just take a look at some of the urban districts and put their spending per student into that comparison of states and we do not...they do not sit on the bottom. There's very few, as Senator Baker pointed out, there's very few students out there in rural compared to the whole, 40,000 versus 300,000, that maybe we're spending more money per student. We have to. And by the way, look at the pay of the teachers of the rural schools versus the urban schools. You will find we're not throwing money away at the employees. We're not even close to some of the raise of spending. Administrators,... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: ...take a look at that. Maybe it's because we pay for our own schools in rural Nebraska. Maybe that's why a little more frugal. And I keep hearing, well, if we do this, they'll just raise their levy anyway. They can't. TEEOSA does have some lids in there of spending growth at 2.5 percent a year, 1.5 the next two years because of LB409. They will drive...it will drive their levies down, which will drive down the property taxes everybody pays. Always remember we pay our property taxes in dollars, not in valuations, not in levies. LB640 puts us all...as Education Chair, in the future I would like to see everybody in the TEEOSA formula so then we can concentrate on what needs to be concentrated in Education instead of this bickering and fighting and split of groups' stance. Greater Nebraska Schools Association, the small schools association, all they fight about is who gets the money. [LB640 LB409]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR GROENE: Let's fix that. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. (Visitors introduced.) Continuing debate, Senator Friesen. [LB640]

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SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Senator Baker, would you yield to a question? [LB640]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LB640]

SENATOR BAKER: Certainly. [LB640]

SENATOR FRIESEN: So what you're saying is LB640, if we would remove the levy caps and allow levies to fluctuate wherever they needed to be, you would be in favor of that? [LB640]

SENATOR BAKER: No. I think there's...reasonable to have a levy cap. [LB640]

SENATOR FRIESEN: Oh. So you do want to control spending. You just... [LB640]

SENATOR BAKER: I think that's part of the compact that schools have to live within their means, like everyone else. [LB640]

SENATOR FRIESEN: So would you support new revenue coming in to help fund LB640? [LB640]

SENATOR BAKER: Yes, I would. [LB640]

SENATOR FRIESEN: You...would you support a sales tax increase? [LB640]

SENATOR BAKER: Yes, I would. [LB640]

SENATOR FRIESEN: Would you support an income tax increase? [LB640]

SENATOR BAKER: No, I would not. [LB640]

SENATOR FRIESEN: Thank you, Mister. I appreciate the answers, an interesting conversation on the side. So right now property taxes are...this bill would take the cap on property taxes down to 40 percent. What if we did a kind of a reverse LB640 and we just said that all schools should be funded with at least 50 percent of property taxes? Do you think that's the way we should go? So then we'd take those schools that are at 32 cents now, they'd be boosted up to 50 cents. We just do the reverse. That way, all schools are funded through the same method kind of equally.

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We take everybody and put them at 50 cents or 60 cents and they must be funded at that, that would be an interesting concept. But instead I would like to see LB640 funded with new money and bought (sic) down to 40 percent of the school's revenue. I think it's only reasonable. When we look at the shift that has occurred, you know, and we talk about TEEOSA and how it's not been funded, well, TEEOSA doesn't matter to us, the 175 school districts that don't receive any TEEOSA funding. The state has always tweaked TEEOSA, has for years. And I agree everybody is a little bit hesitant to depend on the state for state aid because every time we run a little short of money we tweak everybody's program. We've tweaked TEEOSA and it's had unintended consequences. And now it has shifted that revenue from the rural areas whose property values have increased; we've shifted it to those areas where it has not. And when you look at residential and commercial property values, they've been flat, basically steady, up 10 percent, 15 percent over the few years. Some have actually dropped. And so that shift has gradually been happening on to rural school districts. And again, I am looking out for the rural school districts and trying to get them some state aid. I don't think our funding is fair and equitable. When some school district received no state aid, I have a bill that is stuck in committee that would do a foundation aid and it would go out to those school districts who don't receive any state aid. It's a very simple bill, doesn't even cost a lot because we're talking so few students. When you look at the amendments that have presented, you see a couple of them up there; but if you look on your computers, you'll see the other amendments that have been offered, that we probably won't get to today, that do bring new funding into this bill. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR FRIESEN: And that does extend the option to buy down to a 40 percent cap over the next few years. With all of these amendments, if they would all pass, LB640 does what it's intended. It would bring all school districts within that 30 percent to 40 percent range of being funded with property taxes. It would put a 40 percent cap. We could remove the levy limits, wouldn't matter, and we could have a consistent, stable supply of money for school districts. And it would be just a little bit more dependent on us state senators to make sure that that funding was there. Maybe instead of starting new programs, like we did the first two years that I was here, we would concentrate more on funding education. But instead, it's pretty easy to say, well, that's a state...it's not a state problem, it's a local issue.... [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR FRIESEN: ...it's a local problem. Thank you, Mr. Lieutenant Governor. [LB640]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Erdman. [LB640]

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SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor, and good morning, colleagues. I rise in support of LB640 and the amendments. I will say this. Senator Groene is one of the hardest working farm boys I know when it comes to being involved in what he thinks is right. And I appreciate that. I appreciate his work on LB640. Senator Friesen is very committed to property tax relief and to helping all property taxpayers in the state. One of the things that I realized a couple of weeks ago that I did not know at the time, but there is a school district out in Adams County and it's called Adams Central. And I never understood before a couple of weeks ago how that came about, and that school district was started by none other than Steve Halloran's dad. Senator Halloran's dad started that school district with a couple other gentlemen because they seen a need for education and they weren't getting what they thought they needed from the current school system. So people do things that are outside the box once in awhile and I think that's what Senator Groene has done here. I have a friend lives back home and he farms there and he has a quarter section of ground, which is 160 acres of dryland. He showed me his tax statement from 2003 and his total taxes, property taxes in 2003 was \$125. He showed me that statement again in 2016. Nothing has changed. The ground is still dryland. Nothing has changed at all except for the value. His taxes are \$1,180. He went up 1,100 percent in 13 years. There's a problem. Houston, we have a problem. I talk to those homeowners when I'm knocking on the door and they say...they're older like me and they say, when my grandkids graduate from high school, I'm leaving the state. And I asked, why is that? Well, 30 years ago when we bought this house, our mortgage, our principal, interest, and insurance was less than our taxes are today and we can't afford to pay this. So this is not only a problem for rural people. The urban people are suffering under that same burden of their taxes. Their property tax is too high. Now we hear from some today that stand up and lament about LB640 being a bad thing and we should not do this. And they give the impression that they think TEEOSA is wonderful, that TEEOSA works as it was intended and everybody's being treated fairly. Well, I'll tell you what, nothing could be further from the truth. TEEOSA is broken. It needs to be fixed. Senator Friesen introduced the foundation aid bill, made a lot of sense. There's a lot of things we do in this state that don't make sense, but I'll tell you one thing that the state constitution does say. It says that the state of Nebraska is obligated to furnish free instruction, free instruction in the common schools, K-12. There's about 176 school districts that don't get much help from the state. So perhaps we need to go back and review what the constitution says. What is the state's obligation to provide free instruction? So in those school districts where they don't get any state aid, they don't get any help from the state, how is that constitutional? And we'll talk about, later on today, how LB44 is not constitutional so we can't vote for that but yet we as a state go about doing things that are unconstitutional according to our constitution. It says the state shall provide free instruction and they're not doing that. So I don't know what you call that, but I think you'd call it unconstitutional. So as we go forward and you look at what LB640 will do,... [LB640 LB44]

PRESIDENT FOLEY: One minute. [LB640]

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SENATOR ERDMAN: ...and Senator Groene...thank you. And Senator Groene has admitted that it's a long-term solution, and we need to move forward with making long-term solutions. But I've watched the Legislature for years and we've been dealing with, or we've thought we have, property tax relief for at least 40 years, 40 years. I don't know about you, but I'm not willing to wait another 40 years. So here's an opportunity for us to join together, urban and rural, all together, to relieve the property tax burden not only on rural people but also all those people that live in Lincoln and Omaha. And you're going to understand, as your valuation went up this year, what the farmers have been understanding for the last ten years. Senator Harr said his went up 17 percent. How would you like that to happen for ten years in a row, see where your value is and what your taxes are? So we do have a problem. And I appreciate Senator Groene and Friesen bringing this bill. And I am strongly in support of this bill. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Erdman. Items for the record, Mr. Clerk? [LB640]

CLERK: Thank you, Mr. President. Enrollment and Review reports LB217, LB263, LB276, and LB487 as correctly engrossed. Enrollment and Review also reports LB605, LB481, and LB72 to Select File, some having Enrollment and Review amendments. I have a series of amendments to LB461 from Senator Harr. I have an Attorney General's Opinion, addressed to Senator Kuehn, to be inserted in the Journal (re LB44). That's all I have, Mr. President. Thank you. (Legislative Journal pages 1052-1066.) [LB217 LB263 LB276 LB487 LB605 LB481 LB72 LB461 LB44]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing debate, Senator Hughes. [LB640]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. Interesting discussion we're having this morning. I do want to thank Senator Groene and Senator Friesen for bringing this bill forward. I think the crux of this discussion for me is our TEEOSA formula is broken. If you're a school administrator, I certainly understand your willingness to defend this. It is a reliable source of revenue. That's one of the reasons that we tax property in the state of Nebraska is because it is a reliable source of revenue. There's a discussion I would like to have, a philosophical discussion about why we tax property, but that's probably for another day. Some of the things that I would like to point out is we hear about rich farmers. All farmers are not rich. There are poor farmers out there. And quite frankly, farmers own roughly half of the property in the state of Nebraska that they operate on. Somebody else owns the other half. The people who own the other half are the people who live in towns. It's the widow lady that her and her husband worked for 50 years to have, to get that paid for, and that's her retirement, that's her 401(k). She's paying income tax when she makes money on that land. That's another thing that we don't always recognize is that the income tax dollars that are paid by nonfarmers from farm income get figured into the mix. An interesting calculation here that the top 50 school districts in the state of Nebraska got 96.85 percent of the state aid. The top 50 school districts got almost 97 percent of

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state aid. Those top 50 school districts have 77 percent of the students and they spent...they are 72 percent of the spending. So there's some real disparity in these large districts that are fighting to keep their state aid. Ninety-seven percent of the students...or, excuse me, 97 percent of the state aid, 78 percent of the students, and 72 percent of the total spending. LB640 is a step in the right direction to fix the TEEOSA problem that we have. It's not a cure-all. I spent 12 years on the school board. I understand the school administrators' and the school boards' desire to have a stable funding base. And I've never, never stated that we need to cut spending. We need to adjust the shift. The shift that has occurred over the last ten years has been from agriculture to state aid. The TEEOSA formula is broken. Even the Governor has stated that our TEEOSA formula is broken, it needs to be fixed. This is a step in the right direction. Do I like the fact that we're taking all of the Property Tax Relief Fund? No. But I don't see any other way to make it happen. For the last two years Senator Friesen and myself and Senator Groene and some of the other rural senators have sounded the alarm bells that agriculture was headed for a train wreck. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR HUGHES: We're there. Our budget is certainly reflecting that. How do we have a billion-dollar shortfall when the economies in Lincoln and Omaha seem to be booming but the rest of the state is suffering? And I'm here to tell you today we're not done suffering. In my neighborhood, I've got retired farmers quitting because they can't afford to lose any more money; I've got young guys that are walking away from land because they can't make any money. And a parcel sold in my neighborhood, that's down 50 percent of what it was valued. It's selling for considerably less than the appraised...the assessed value. There's a world of hurt coming. And we need to protect Nebraska's largest industry. [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR HUGHES: This is a way. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Kolowski. [LB640]

SENATOR KOLOWSKI: Thank you, Mr. Lieutenant Governor. I stand to let you know where I am in opposition to LB640 and the amendments that are there. I fully recognize the work that's gone into this and the effort on the part of everyone who's contributed to this thus far. I agree with the statements that have been made that TEEOSA is broken. It's my fifth year in the Legislature, four years and five years down in the Education Committee, and I couldn't agree more. We've "bubblemugged" and baling wired and duct taped the model of TEEOSA as much as we possibly could. And every year we have the same discussions about needing to look at,

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needing to look at, get something different, make the changes that we need to see being done. I appreciate the work that's gone into what we have in LB640 but I do oppose it. I have put in a bill, LB484, that is not out of committee, to have a reexamination of the TEEOSA formula. We need to go back 27 years, 27 years, over a quarter of a century, 1990, when TEEOSA formula was formulated. Twenty-seven years, colleagues, and we have not had a relook, in depth, on a statewide level, at what we need to examine with the TEEOSA formula to make a difference with whatever it would be called into the future. But it certainly needs to be looked at. What we might be missing in this legislation at this level with the few people that have worked on it compared to a larger state committee being formulated to look at TEEOSA and other models across the other 49 states of our union, would be a much better way to go and put that before the people as an example of what direction we might go with the funding of our schools in the future. I would yield the remainder of my time at this time to Senator Baker. [LB640 LB484]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Baker, 2:30. [LB640]

SENATOR BAKER: Thank you, Lieutenant Governor. To Senator Friesen, who asked me if I would support a sales tax increase, I think that the first place to start would be looking at the sales tax exemptions that we have and certainly I would support Senator Watermeier's bill that would say that we're going to collect sales tax from remote sellers. And that may be a few years before we ever cash in on that, but I'd also remind Senator Friesen that all schools get some state money, special ed reimbursements and that kind of thing. So all school districts get some state money. To Senator Lowe I would say I agree farmers need property tax relief. And I don't hear from...any louder than from my farmers in the Beatrice school district and this bill doesn't help them. Senator Groene, would you yield to a question? Senator Groene. [LB640]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR BAKER: Senator Groene, were you involved with promoting initiative measure 423 in 2006? [LB640]

SENATOR GROENE: Yes, I was. [LB640]

SENATOR BAKER: That sought to amend Article III, Section 22 of the Constitution of Nebraska. Measure would have subjected the Legislature to a state spending limit based on total amount appropriated in the preceding fiscal year increased by the inflation rate plus percent growth of the state's population. Does that pretty well sum it up? [LB640]

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SENATOR GROENE: Yes. [LB640]

SENATOR BAKER: What were the results of that vote, Senator Groene? [LB640]

SENATOR GROENE: Originally when we took a poll, the public wanted it 70 to 30, and when...after the education lobby spent millions to defeat it, it lost 30 to 70. [LB640]

SENATOR BAKER: So the second house did speak in 1996 and 2006. Senator Groene, do you think school districts spend too much money? [LB640]

SENATOR GROENE: Some... [LB640]

SENATOR BAKER: Do you think... [LB640]

SENATOR GROENE: ...are not efficient. [LB640]

SENATOR BAKER: Do you think school administrators and teachers are paid too much? [LB640]

SENATOR GROENE: I do not know that, because of competitive. Some are and some aren't. Some, in like any industry, do more than their duty, some do not. But because of the CIR and the way we pay them, some get paid too much, some don't get paid enough. [LB640]

SENATOR BAKER: Senator, do you recall the Grand Island Public Schools business manager testifying before your committee? You asked them if they'd settled negotiations for next year and, if so, what was the increase. Do you remember that? [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR GROENE: Yes, I do. [LB640]

SENATOR BAKER: All right. [LB640]

PRESIDENT FOLEY: Time, Senators. [LB640]

SENATOR BAKER: All right. So then you asked... [LB640]

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PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR BAKER: ...if they'd gone to the CIR... [LB640]

PRESIDENT FOLEY: Time, Senator Baker. [LB640]

SENATOR BAKER: Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker and Senator Groene. (Visitors introduced.)
Continuing debate, Senator Hilkemann. [LB640]

SENATOR HILKEMANN: Thank you, Mr. President. I'm wondering if Senator Groene would
take some questions, please. [LB640]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR HILKEMANN: Senator, I'm trying to get my hands around this bill or get...from my
understanding, with this LB640 our property tax relief fund will go away completely. [LB640]

SENATOR GROENE: No. [LB640]

SENATOR HILKEMANN: Is that correct? [LB640]

SENATOR GROENE: No, that's not correct. [LB640]

SENATOR HILKEMANN: Okay. Tell me what's wrong with that statement. [LB640]

SENATOR GROENE: It still exists. We appropriate money into it. If LB640 gets first in, first
out to fund it for property tax relief, if we were to go \$300 million instead of \$224 million, that
remaining \$76 million would be split up as dictated in legislation now for the Property Tax
Credit Fund. The Property Tax Credit Fund remains. [LB640]

SENATOR HILKEMANN: So the fund remains, but if I understand it, that's what you're
utilizing the funds to support the redistribution of the money. Is that correct? [LB640]

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SENATOR GROENE: Just another mechanism for the same ends, which is property tax relief, just a different mechanism. [LB640]

SENATOR HILKEMANN: Okay. So then...okay. And then if we do that, Senator, then what we're then depending upon, if we put that money over to the local, we are then depending upon the local school system. In other words, I noticed that my hometown of Randolph receives like 2,800 percent more money than it's presently receiving. So what they're depending upon is that that local school district then is going to be lowering the taxes? Is that what we're depending upon? [LB640]

SENATOR GROENE: Not depending on it, they are forced to lower it because they have spending limits, budget authority or levy limits, and almost about 90 percent or more of small rural districts are up against their spending limits already. [LB640]

SENATOR HILKEMANN: Okay, now...so I...one of the things that I've always not...or that I've discovered about the property tax relief fund is that about 44 percent of that leaves the state. This would eliminate that. Is that right? In other words, it would be all utilized within the state of Nebraska. [LB640]

SENATOR GROENE: That is correct, sir, and it would all go to schools, which only about 60 percent of it now does. [LB640]

SENATOR HILKEMANN: Only 60 percent of it goes to...oh. [LB640]

SENATOR GROENE: And that's probably a high estimate, because when it goes...when the county assessor...or the county treasurer receives the check from the state, the Revenue Department, they then split it up and send a check to the county, a check to the city, a check to the NRD, the local rural fire district, and a check to the school districts in proportional amounts. LB640 will do the duty of the state and send it all to education. [LB640]

SENATOR HILKEMANN: Okay, thank you. One of the things...well, one question I'm also concerned about, Senator, is that we have a lot of small schools, and I understand it's just part of it. I was...I know that. I lived out in that area. Will this...do you think that this will increase more schools consolidating together or is this going to allow...it really bothers me that we have some of our school districts, some of our small schools, and again I understand when you're in Arthur County, Nebraska, there's not a lot of kids, but we have some of these schools spending \$30,000 or more per student for education. Is this...is there anything about this bill that's going to

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encourage these schools to consolidate or is this going to give them a mechanism to continue what I think is not the most judicious utilization of our money? [LB640]

SENATOR GROENE: First, Lynch is the only school that does over \$30,000 and they are isolated a long ways from anybody else. And, yes, that's another benefit of LB640. This will give incentive for rural school districts to consolidate because now we are capping the amount of property taxes that can fund that school so now they will look and they'll...if you can combine huge land masses of farm ground and towns together and make a more efficient school, it will drive down their levy and their individual property taxes because they know exactly that they're capped at 55 percent. Presently they are not. No matter what they do, they're going to fund that school with their local property taxes. LB640 will encourage consolidation. [LB640]

SENATOR HILKEMANN: Thank you, Senator Groene. If I have any time left, I'd surrender it to Senator Baker. [LB640]

PRESIDENT FOLEY: Actually that time is expired, Senator. [LB640]

SENATOR HILKEMANN: Oh. [LB640]

PRESIDENT FOLEY: Thank you, Senator Hilkemann and Senator Groene. Senator Groene, you're next in the queue. [LB640]

SENATOR GROENE: I want to thank Senator Hilkemann for those very good questions because they needed to be answered. You know, sarcasm, but Senator Friesen made a good point, but I got it better, when he said let's just reverse it. Since we have 175 school districts...or 174 out of 245 that basically pay for their schools with property taxes, they get a little bit of state aid, we...this body did that last year, made sure everybody gets a little bit of their income tax money back with 2.23 percent of your property taxes collected in your district. They're guaranteed that now. Special education money, the \$250 million isn't involved in this. Why don't we just get rid of state aid, equalization aid? If 175 districts can fund their schools with property taxes, why not the others? Why not the other 70? Why don't just the local people, it's the local school, fund their schools with property taxes? If 175 districts can do it, why can't the other 70? Let's do that. Let's do that. It's your school, you fund it. That's what you're telling 100...the citizens of 174 districts to do. Let me tell you something about rural Nebraska. Where is our economic development problem? Where is we...where are we depopulating? Where are the lowest incomes? It's in rural Nebraska. But we make them fund their own schools. What an economic incentive if we drove down the property taxes in North Platte, Nebraska, in Crete Nebraska, in Auburn, Nebraska. And a company came in and said we're going to pay only \$1.20 on property taxes? I don't need TIF; I'm going to build a factory out here. This greedy, rich, rural Nebraska is dying and urban

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America are taking our children. And we have a chance here through property tax relief to help economic development in rural Nebraska. What an original idea. Let's do it. Let's fix this problem with funding for our schools or else let's have everybody fund their schools locally. If 175 districts can do it, then the other 70 can, too. And, boy, what can we do with that extra money? We could give free education to every college student, we could cut income taxes, we could cut sales taxes, because everybody now is funding their schools with local property taxes. What an original idea. I came up with the wrong bill for equity. Equity: Everybody pays for their schools locally with property taxes. What a great idea. Thank you, Senator Friesen, for throwing that in there. No, we need to fix this thing. We need to fix this. And LB640 does it. And it has a funding mechanism in down economic times to use the Property Tax Credit Fund. Everybody has funded their needs. Everybody gets property tax relief. It varies a little bit here and there. And let's start with that framework and let's go from there. Thank you, Mr. President, for your...for the time. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. That was your third opportunity. Senator Brasch, you're recognized. [LB640]

SENATOR BRASCH: Thank you, Mr. President. And good morning, colleagues. I was one of the individuals on the Revenue Committee that did vote to support this bill. I will continue to support LB640 and these two amendments. Any amendments that offer to increase sales tax, I do believe that we are trying to reduce taxes. I don't want to increase taxes to reduce taxes. I'm wondering if Senator Baker would yield to a question, please. [LB640]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LB640]

SENATOR BAKER: Certainly. [LB640]

SENATOR BRASCH: Thank you, Senator Baker. And you have been very proactive on the floor today. One of your earlier comments on the floor was about a group that has come together, and is it in support or opposition of this bill? [LB640]

SENATOR BAKER: I received communications from a spokesman with the group that says they're not comfortable with this bill. [LB640]

SENATOR BRASCH: Who is this group and who is the spokesman? [LB640]

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SENATOR BAKER: All right. It's Nebraskans United for Property Tax Reform and Education, and they contact people, or Mike Lucas, superintendent of York Public Schools, and Bruce Rieker with Nebraska Farm Bureau. [LB640]

SENATOR BRASCH: Very good. And part of this group, I pulled up the news on-line. I'm curious, are you in favor of limiting the amount of property taxes that can be used to fund schools? [LB640]

SENATOR BAKER: It's limited right now. [LB640]

SENATOR BRASCH: Well, what the groups are saying is that this legislation falls short. Do you believe more should be done? Because this group that you're stating, you know, I'm looking in Accountability and Disclosure, I'm looking for information on this group, and what they're saying is it falls short. Do you believe it falls short? [LB640]

SENATOR BAKER: What is required in order to have meaningful property tax relief is to increase other revenue other than local property taxes. [LB640]

SENATOR BRASCH: All right. Since you quoted the group, I was wondering if you understand that they believe more needs to be done, and I am wondering if, when we come to our other property tax relief bills, ag land relief bills, if you are going to favor on the side of property tax relief. Yes or no? [LB640]

SENATOR BAKER: Senator Briese asked me not to take up all the time. He's got an amendment coming up that will address those things. We'll take a look at that amendment. [LB640]

SENATOR BRASCH: All right. Very good. Thank you. And, colleagues, fellow Nebraskans, what I see happening here, when you talk about newly formed groups, there's another one, press release, Agriculture Leaders Working Group. I will continue looking at Accountability and Disclosure. I want to know more, because when this bill was introduced February 16, the proponents represented there was Jay Rempe for Nebraska Farm Bureau, Nebraska Cattlemen, Nebraska Corn Growers, Nebraska Pork Producers, Nebraska Soybean Association, Nebraska State Dairy. This article talks about falling short of adequate relief. The opponent was the Greater Nebraska School Association, which I believe is the contact that Senator Baker spoke with. We are talking about agriculture being Nebraska's number one economy. One in four jobs is tied to agriculture. Why? It's because we do have the adequate growing conditions, the soil, the water, the ability. We have a large state... [LB640]

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PRESIDENT FOLEY: One minute. [LB640]

SENATOR BRASCH: ...to grow crops. And when one group in one month comes forward saying, yes, we can, and then next month saying, no, we can't, I have concerns. I have concerns, and I will speak on this again. Thank you, Mr. President. Thank you, colleagues. [LB640]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Linehan. [LB640]

SENATOR LINEHAN: Thank you, Mr. President. I'd like to ask Senator Baker if he would yield for some questions. [LB640]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LB640]

SENATOR BAKER: Yes. [LB640]

SENATOR LINEHAN: A bit ago you asked Senator Groene, I believe, if he thought teachers or superintendents were paid too much. [LB640]

SENATOR BAKER: I did ask that question. [LB640]

SENATOR LINEHAN: So do you think our Governor of the state of Nebraska is paid too much? [LB640]

SENATOR BAKER: No, I don't think the Governor is paid too much. [LB640]

SENATOR LINEHAN: How much do you think we should pay the Governor? [LB640]

SENATOR BAKER: I think it's probably about right. [LB640]

SENATOR LINEHAN: So then you think most superintendents and principals should make more than our Governor makes? [LB640]

SENATOR BAKER: Yes. [LB640]

SENATOR LINEHAN: Okay. How about the head of Health and Human Services? [LB640]

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SENATOR BAKER: Yeah, that's...I think those people who have those departments should be properly compensated. [LB640]

SENATOR LINEHAN: So should they make more or less than a principal at an elementary school? [LB640]

SENATOR BAKER: Do you understand the principal of marketplace, Senator Linehan? [LB640]

SENATOR LINEHAN: I do, and I find it very interesting when public employees talk about the free market because public employees are not in a free market. [LB640]

SENATOR BAKER: Oh, I would say they are. [LB640]

SENATOR LINEHAN: Unless you're saying that we have schools bidding against each other for teachers and superintendents. Does that happen? [LB640]

SENATOR BAKER: Absolutely. There's competition. There's a teacher shortage. There's a teacher shortage. It's only going to get worse. So school districts right now have trouble filling some positions, in particular in outstate Nebraska and in some particular academic disciplines all throughout the state. So there is competition for those... [LB640]

SENATOR LINEHAN: So what do you think...what do you think a starting teacher should make, a first-year teacher? [LB640]

SENATOR BAKER: I think most...I've always advocated some flattening of the salary schedule, but you know I think most starting teacher salaries right now are probably somewhere in that \$35,000 to \$40,000 range. [LB640]

SENATOR LINEHAN: Including benefits? Does that number include all their benefits? [LB640]

SENATOR BAKER: Does not. Includes their salary. [LB640]

SENATOR LINEHAN: So isn't it about, average, about a third of a starting teacher's salary goes for benefits? So on top of the \$35,000, you'd have to add \$10,000 or \$12,000 if you... [LB640]

SENATOR BAKER: As far as the total cost to the district, yes. If they... [LB640]

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SENATOR LINEHAN: So actually a teacher...starting teacher is earning, if you compare it to another job, \$48,000, almost \$50,000 a year when they start teaching. [LB640]

SENATOR BAKER: If you assume the other occupations don't provide any health insurance. [LB640]

SENATOR LINEHAN: No, I didn't say that. But most people, when they get a job, at least I've always looked and see what my benefit package is as part of the whole thing. So I...thank you, Senator Baker. [LB640]

SENATOR BAKER: Thank you. [LB640]

SENATOR LINEHAN: I've been reading this morning. There was a paper done a few years ago by Mr. Dulaney about the TEEOSA history, and one of the things they did originally was put an inflation factor into TEEOSA, which we're still working off of, and that inflation factor is 4.5 percent. So I pulled up on my computer here what our inflation has been in this country for the last ten years. It's never been 4.5 percent. In 2007, before our crash, it was 4.1 percent; in 2008 it was .1 percent; 2010, 2.7 percent; 2011, 1.5 percent; 2012, 3 percent; 2013, 1.7 percent; 2014, 1.5 percent; 2015, .8 percent; 2016, .7 percent; 2017, it's running at 2.1 percent. So we have a school aid formula and a public education system in the state of Nebraska that has for the last ten years, and you can see this by reading the papers about increases in teachers salaries,... [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR LINEHAN: ...up 3.5 to 4.5 percent. So for ten years they've been running on an idea that inflation and their costs have to go up 3.5, 4.5 percent, while everybody else in America has had to adjust. People had to pay more for their health insurance, even through an employees' plan. Their retirements have been changed to...very few, hardly anybody in the private sector, I don't know anybody in the private sector who gets a fixed annuity anymore. Even the federal system was changed in 1982 to halve their fixed annuity. Well, we have a public education system that still has a fixed annuity starting at age 55 if they've worked 30 years. This the public education system has been growing at that kind of spending when everybody else has been getting by with less, and it's not going to work. Again, I can't...I'm not sure if I'm going to vote or not vote for this bill,... [LB640]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Time, Senator. [LB640]

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SENATOR LINEHAN: ...but I do... [LB640]

SPEAKER SCHEER: Time, Senator. [LB640]

SENATOR LINEHAN: Thank you. [LB640]

SPEAKER SCHEER: Thank you, Senator Linehan and Senator Baker. Senator Baker, you're recognized, and this is your third time at the mike. [LB640]

SENATOR BAKER: Thank you, Mr. Speaker. Senator Groene, would you yield to more questions? [LB640]

SPEAKER SCHEER: Senator Groene, would you please yield? [LB640]

SENATOR GROENE: Sure. [LB640]

SENATOR BAKER: Did I misunderstand you? I thought I heard you say that you believe that property tax credit is a check sent to the school district. Did you say that? [LB640]

SENATOR GROENE: I said...no, I didn't. [LB640]

SENATOR BAKER: All right. Thank you for that. [LB640]

SENATOR GROENE: I said it's sent to the county treasurer... [LB640]

SENATOR BAKER: That's right. [LB640]

SENATOR GROENE: ...and the treasurer splits up the amount and divides it between taxing entities. [LB640]

SENATOR BAKER: That's correct. That's correct. Senator Groene, do you think TEEOSA is going to be fully funded this year? [LB640]

SENATOR GROENE: No. [LB640]

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SENATOR BAKER: So do you project it will be fully funded in the next couple years the way it looks? [LB640]

SENATOR GROENE: I don't see the future. You're relying on the same people you're taxing, the farmers, to turn it around for you. [LB640]

SENATOR BAKER: So here we go. We have TEEOSA not going to be fully funded and yet this bill seeks to lower the amount of local property taxes that can be levied. Is that right? [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR BAKER: All right. So what do you think is the role of local school boards, locally elected school boards, Senator Groene? [LB640]

SENATOR GROENE: The local elected school board should call a special election and ask the local citizens to decide if they want to overrule the levy limit and tax themselves more. That's the...if they believe they need more money, that's how. [LB640]

SENATOR BAKER: So they have the responsibility adopting a budget. [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR BAKER: And if they could be operating their schools for less money right now, don't you think they'd be doing that? [LB640]

SENATOR GROENE: No. They're a government entity. They spend to what they can get. [LB640]

SENATOR BAKER: School board members do? [LB640]

SENATOR GROENE: Yes. Look at most budgets. The TEEOSA formula says you have this much growth and this is your taxing authority, and they do it. It's like a credit card limit. They're all up against it. [LB640]

SENATOR BAKER: So... [LB640]

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SENATOR GROENE: Now, now, because of some things we changed last year, there's some rural districts that are actually lowering their spending because we took away the minimum levies. [LB640]

SENATOR BAKER: So with around 245 school districts and you know some boards have 6 members, a few have 9 or more, so you've got somewhere roughly 1,500 elected school board members. Do you think they know better what they need to do in their budget or do you think you know better what they ought to do in their budget? [LB640]

SENATOR GROENE: I think the state tells them what to do with their budget. Read the TEEOSA formula. We tell them what they will do with their budget. [LB640]

SENATOR BAKER: That's on the revenue side. It doesn't say anything about the spending side. [LB640]

SENATOR GROENE: Yes, it does. We limit their ability, our spending authority, or they are limited by their levying authority. We limit it. [LB640]

SENATOR BAKER: That's two separate things. There's a cap on budget growth and there's a cap on the levy. [LB640]

SENATOR GROENE: Uh-huh. [LB640]

SENATOR BAKER: So with TEEOSA going down, you also want to lower their ability, those who are already over a dollar, limit their ability to tax. Back to earlier conversation, you've stated I think on numerous occasions some displeasure that more districts are not taking their negotiations to the CIR for settlement. Is that true? [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR BAKER: All right. So is your position that school districts should pay people the very least that they can? [LB640]

SENATOR GROENE: There's an awful lot of factors involved here. The school districts should take advantage, take into consideration those who own the school, the local citizens and their property tax. They are not a utopia that extracts money from the residents in medieval times and then build their empire. [LB640]

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SENATOR BAKER: Are local elected school members representatives of the community?
[LB640]

SENATOR GROENE: Sometimes, because nobody runs for the school board because they're powerless. [LB640]

SENATOR BAKER: Are you aware, Senator, there are teacher shortages in a lot of areas of Nebraska now? [LB640]

SENATOR GROENE: Yes, and when I talk to young people, it's not because of money. It's because they don't feel safe in the schools... [LB640]

SPEAKER SCHEER: One minute. [LB640]

SENATOR GROENE: ...because they have no discipline. [LB640]

SPEAKER SCHEER: One minute. [LB640]

SENATOR BAKER: Are you aware that districts have to compete for good teachers and administrators? [LB640]

SENATOR GROENE: They can't compete because they cannot give a bonus or pay more. They all fit in their salary scale. [LB640]

SENATOR BAKER: If they had a substandard... [LB640]

SENATOR GROENE: There's no competition whatsoever. [LB640]

SENATOR BAKER: Of course there is. [LB640]

SENATOR GROENE: You have a price you pay, and that is it. [LB640]

SENATOR BAKER: If you have a teacher come out of college, decides to go to district A with a base salary of \$35,000 or district B with the base salary of \$28,000, which one you going to go to, all things...other things being equal? [LB640]

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SENATOR GROENE: They usually go where they want to live. [LB640]

SENATOR BAKER: All right. Senator Groene, what is your understanding of equalization component of state aid? What do you think about equalization? What's it for? [LB640]

SENATOR GROENE: Three-legged stool, if you read the documents and the testimony, a three-legged stool. Schools should be funded equally with income, sales, and property taxes. [LB640]

SENATOR BAKER: So that's what you think equalization is? [LB640]

SENATOR GROENE: That's what it said, if you read the testimony back. [LB640]

SPEAKER SCHEER: Time, Senators. [LB640]

SENATOR BAKER: So... [LB640]

SPEAKER SCHEER: Time, Senators. [LB640]

SENATOR BAKER: Thank you. [LB640]

SPEAKER SCHEER: Thank you, Senator Baker and Senator Groene. Senator Halloran, you're recognized. [LB640]

SENATOR HALLORAN: Thank you, Mr. President. If he would take the time, I would yield my time to Senator Erdman. [LB640]

SPEAKER SCHEER: Senator Erdman, 4:55. [LB640]

SENATOR ERDMAN: Thank you, Senator Halloran. I would like to ask...thank you, by the way, Mr. Speaker. I'd like to ask Senator Baker a question or two. [LB640]

SPEAKER SCHEER: Senator Baker, would you please yield? [LB640]

SENATOR BAKER: Certainly. [LB640]

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SENATOR ERDMAN: Senator Baker, in your earlier testimony that I heard earlier, you said there's a shortage of teachers. Is that a true statement? [LB640]

SENATOR BAKER: There is a shortage, and I think people in outstate Nebraska oftentimes get very few applicants for positions. Particularly in some... [LB640]

SENATOR ERDMAN: Okay. [LB640]

SENATOR BAKER: ...academic disciplines,... [LB640]

SENATOR ERDMAN: All right. [LB640]

SENATOR BAKER: ...there's a real shortage. [LB640]

SENATOR ERDMAN: So are you aware of a program called voluntary early separation? [LB640]

SENATOR BAKER: I am. [LB640]

SENATOR ERDMAN: Now as I reviewed in the last month or two about voluntary separation, I see a lot of teachers that have taken that option and have retired. And so if there's a shortage of teachers--and I'm going to have to take your word for it because I don't know that it is--but if there is and I was the administration of a school that was having trouble finding teachers and voluntary separation should be a voluntary thing, I would assume...of course you know what you do when you assume, but anyway, let's assume that that administration makes the decision we can't eliminate these people because we have a shortage of teachers, those two things don't line up. Either you have a shortage of teachers and you hold on to those people or you don't have a shortage of teachers and you let them go. Does that make sense? [LB640]

SENATOR BAKER: The voluntary separation agreement is something outside the state retirement system. It is a decision by each and every local school district whether they want to incentivize people to leave early, and those that do show data that it saves them money by encouraging people with higher salaries... [LB640]

SENATOR ERDMAN: Oh. Well, I've not seen that. How would it save them money? What I see is the people sign up for early retirement, and then they decide to pay them up to \$42,000 a year for five years, and then they go...that person was getting \$80,000 a year, and they replace that

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person with a \$40,000 teacher, and their mill levy stays exactly the same. And then they raise their mill levy 3.2 cents to cover the additional cost of early retirement. I'm not sure where the cost...I've never seen anyone show me where they made a cost savings by taking someone under early retirement. What it does do, I'll tell you what it does, it allows that district to continue to collect the \$1.05 and then that savings that they made by hiring the lower-paid teacher, they can spend that money on whatever else they want to spend it on. As far as a cost savings for the taxpayer of the district is nonexistent. And we hear this story on and on and over and over. And I've got hundreds of e-mails this last three or four days about don't take away the early retirement benefit. We're not taking that away. What we're doing is we're saying you've got to pay for it out of your current mill levy. So whoever is sending me e-mails, understand that we're not eliminating that option. What we're doing is eliminating you raising taxes to pay for it. So, consequently, I can't comprehend how you can stand up and say, on one hand, we have a shortage of teachers and then, on the other hand, you say I agree with early retirement. So either have those people teach until the average age of retirement or when they're supposed to retire and don't offer that early retirement. Those things don't make any sense. And we do a lot of things here, and we talk about the TEEOSA formula, how wonderful it is, and it's broken. And even the very first year when they put it in place, they never even implemented it one year. They never even did exactly what the formula said. One third was supposed to come from income tax, one third... [LB640]

SPEAKER SCHEER: One minute. [LB640]

SENATOR ERDMAN: ...was supposed to come from sales tax, one third from property tax. When they collected the first income tax they discovered it was such a huge number that, in their infinite wisdom, they cut it back to 2 percent. So we've never ever implemented TEEOSA once. And this whole thing that we're talking about, fairness, this is broken. And as I said earlier, the constitution says we must provide free instruction to the common schools, K through 12. And someone had said, well, that's your interpretation of constitutionality. Well, I'll tell you something, that's what it says. Somebody needs to sue the state and say, hey, start paying up. But this whole conversation about early retirement saves money and all these things that we're doing is helping save money is bogus. Okay? We got to cut spending. Senator Linehan nailed it on the head. Okay? There's one district in the state that I know of, in Chadron, that their teachers-- believe this or not, I know not a lot of people are listening--but they chose to take no increase. Their teachers are getting the same this year as they got last year. They said,... [LB640]

SPEAKER SCHEER: Time, Senators. [LB640]

SENATOR ERDMAN: ...hey, guess what, we got a problem. [LB640]

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SENATOR SCHEER: Time, Senator, please. [LB640]

SENATOR ERDMAN: Thank you. [LB640]

SPEAKER SCHEER: Thank you, Senator Halloran, Erdman, and Baker. (Visitors introduced.) Senator Friesen, you're recognized, and this is your third time. [LB640]

SENATOR FRIESEN: Thank you, Mr. President. So when we look at...I've heard numerous times TEEOSA is broken, so when we look at the funding of TEEOSA, I've had the comment made to me numerous times that farmers don't like to pay taxes so I did a little research. And if you look at the Fiscal (Legislative) Research Office, they put out a little booklet called Counties At-A-Glance. And in there they happened to just cover a few items that interested me and one of them is they looked at the per capita cost to each county of property, sales, and income tax. And lo and behold, I looked at Hamilton County and I consider it kind of an ag county. We were like number three in the state in income tax per capita. Nance County was right up there. Seems like Lancaster County was quite a bit down from there. So I started looking more, and when you add them all together, you look at the per capita income tax, sales tax, and property tax, and Hamilton County came in at \$5,100 per person. Lancaster County is \$3,003 per capita. So per capita we are funding TEEOSA only it doesn't come back to the rural areas in equalization aid. We are funding the Property Tax Credit Relief Fund and it's getting distributed all across the state. So when I say TEEOSA is broken also, it is. I find it really interesting that most of my urban colleagues are refusing to indulge in debating this. They just...they've left. They're unwilling to speak up. They've chosen Senator Baker as their spokesman and they're sitting on their hands, waiting for the bill to die, because it might take a little bit of revenue away from the urban districts. Didn't seem like I heard any complaints the past ten years when the shift was going the other way. So sit on your hands, say nothing, don't engage in the debate. I guess we'll just carry it on ourselves. York Public Schools is a good example of a broken TEEOSA system. Over the past ten years they've lost all of their equalization aid, so now their property taxes on the rural areas, in that they are at their \$1.05 limit, no longer receive equalization aid, and they cannot raise their property tax levy any more. So they're going to start cutting positions. They just don't love their kids very much. They have nowhere else to go for funding. Property taxes on ag land in York Public Schools is over \$100 an acre in many most cases. In the neighboring school districts they're around \$40 an acre. You have a \$60-an-acre difference because you're across the road. I have land in four different school districts, and I can only vote in one of them. I have no say in the others who wish to raise my property taxes. So, no, Senator Baker, I don't have representation on that school board, and they don't represent me. Does everyone feel that the education of our kids is a state purpose? Is it in the best interest of our state? [LB640]

PRESIDENT FOLEY PRESIDING

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PRESIDENT FOLEY: One minute. [LB640]

SENATOR FRIESEN: Do all of you realize that the constitution says that property taxes cannot fund a state purpose? If we were looking...all we're looking is fairness. Look at the fairness of the issue and be willing to debate it. Don't just sit there and watch and then say, well, you don't like LB640. All of these groups are opposed to it as written. They're not taking into consideration any of the amendments that have been offered. It is as written. The bill isn't that great as written. That's why there's amendments to fix it. Look at it. Debate it with us. [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR FRIESEN: Let's find out where funding belongs. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Bolz. [LB640]

SENATOR BOLZ: Thank you, Mr. President. I do appreciate the debate on this issue, and I do think it's an important discussion on the floor this morning. I happened to walk up the stairs with Senator Groene this morning, and he talked about how he'd been working on this bill for three years. And I do value any senator who is going to put multiple years of hard work into a policy discussion in order to promote a solution-oriented framework for some of these challenges in our state. However, my concern is the impact on property owners in south Lincoln, and one of the reasons this is a major concern is that over my time in the Legislature as an Appropriations Committee member I have prioritized investment in the property tax credit program. We've always worked hard to find room in our budget to invest in the property tax credit program because we recognize that that's a statewide need, and we've reached a level of a \$408 million investment in that program. I've always voted for those increases in committee, but what happens under LB640 is that that investment in property tax relief results actually in a property tax increase for homeowners in my district. The state property tax program is \$89.57 per \$100,000 of valuation. If you convert that levy, it equals .895 cents of levy. LB640 proposes to take away 8.95 cents of tax relief and replace it with 6.3 cents of tax relief, so that's a 2.6-cent tax increase, \$26 for every \$100,000 of value. And one of the most valuable and persuasive pieces of information that has helped me think about this piece of legislation has been an analysis done for me by Lincoln Public Schools of the property tax statement of one of my neighbors, someone who literally lives in my neighborhood. And the projected increase on their property tax statement is \$42.51. So I'm struggling to understand how I could talk to my neighbors about why this legislation works for them and how I could keep my commitment to that property tax credit program that I have made over time. And in fact you can identify 52 school districts, serving 228,000 students, or 75 percent of the students in Nebraska, who don't get the property tax relief they had proposed in this legislation. The districts are highly reliant on state aid, and as I

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understand the proposal, it would increase the demand for TEEOSA aid. So if state aid is reduced from full funding under current law, as it has been in the last...in 12 of the last 15 years, and as an Appropriations Committee member I'll also say that those are difficult conversations, where do we set TEEOSA when we can't fully fund the formula? And more often than not, we can't. School districts can face even higher property taxes. And homeowners might be in a difficult position where they're paying more in property taxes while their school system actually has less money. So these are the policy issues that I am trying to grapple with and understand as we do debate potential solutions in property tax relief and school aid funding. The other comment I would like to make during my time on the mike is that there are legitimate cost drivers both in urban and rural school districts that we have to pay attention to. They're legitimate and real. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR BOLZ: And I don't debate the point that different school districts value different things and will make different kinds of investments, but there are some fixed costs in both urban and rural districts that lead to increases, including population growth and one of the other cost drivers is special education. So as we're doing a better job of serving kids with special needs, sometimes those costs increase along with expectations from the federal level. In rural districts sometimes population can actually decline, but the overall cost of running a school continues, because even if your population declines you still need a principal and you still need to fix the roof. So I just want us to take a deep breath, colleagues, and think about what the cost drivers are for some of our school districts and recognize that those drivers are real things that make a real difference to real school children and real property taxpayers in the district. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Bostelman, you're recognized. [LB640]

SENATOR BOSTELMAN: Thank you, Mr. President. As I go about my district talking with people in meetings and that, and as I went around during the summer, the number one thing, one of the...I would say the number one thing that came up to me was property taxes. It didn't matter if you're in Ceresco and you're talking about houses that you had in Minnesota or a house in Missouri or it was a farmer over by Ashland who's talking about property taxes, ag land property taxes, comparing to Iowa or other states, property taxes is the number one thing. I'm glad we're having this discussion today. We need to continue this discussion. I thank Senator Groene and Senator Friesen both for bringing this out so that we can talk about this. Something must be done. We cannot continue to go down this path. More and more of our rural communities lose young families. That threatens the community at large. The school district, children in school,

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and everything within that community. And I just hope that we're able to continue to talk about this and find some real property tax relief in some form this session and then move that forward in the sessions to follow. And I yield the rest of my time to Senator Friesen. [LB640]

PRESIDENT FOLEY: Senator Friesen, just under 4:00. [LB640]

SENATOR FRIESEN: Thank you, Senator Bostelman. As we look at LB640 and the amendments that have been offered, and some of them you'll find on your computer, one of them is AM1036 with Senator Briese's bill. And I've heard a lot of concerns about the Property Tax Credit Relief Fund and, ideally, we would leave that fund intact. We would leave it funded at the current \$224 million a year and we would find a new revenue source to help fund LB640. And so one of the amendments does that and I think Senator Briese will cover on what that all does. But I mean, ideally, that's what we would do. We would add new revenue to this. We'd leave the Property Tax Credit Relief Fund intact and so, therefore, we would not hurt any of those school districts that are out there. But in the end we have to either find new revenue or we have to distribute current revenue in a different way. So when I look again at TEEOSA and how that funding has gone, if TEEOSA would have been addressed over the past years when it should have been, I think every couple years it should have been looked at, whether it was accomplishing its goals or not. And so as property land values rose in the rural areas and skyrocketed, you might say, TEEOSA was, in order to account for it, basically showed that those resources were there and taxes should be raised. And so, therefore, now you've got a business, and I will call it small business yet, that is now burdened with an unreasonable amount of property taxes. When I look at the property tax levels of the ag community, I mean, we're approaching that \$100 an acre in our area, so anywhere from, depending what school district, it's \$70 to \$110. That's your number one cost of putting in a whole crop. And ag goes in cycles. We've always done that; we always will. We have our ups; we have our downs. We have just come through the longest up cycle in my current history. Even in the '70s the runup that we had in ag was not near what happened just recently. We had an unprecedented seven-year runup in commodity prices because of drought and numerous other issues, and one that we'll probably never see in my lifetime again. And so as we see ag land values now, they've dropped some. They're going to be flat to trending lower slowly over the next five years until we see a commodity price runup again. And that's when we'll see ag land prices probably take a little spike. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR FRIESEN: But until then, we will just remain flat. And so property taxes will remain the way they are, which is unproportionally put upon ag land users. And I don't want to shift that back onto the residential areas in those small communities. Most of them are low-income

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housing that doesn't need any more of a burden. I want the state to provide more state aid to those unequalized school districts. LB640 does that. Thank you, Mr. Lieutenant Governor.
[LB640]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Briese. [LB640]

SENATOR BRIESE: Thank you, Mr. President. And good morning, colleagues. I rise today in support of AM992 and LB640. I thank Senator Groene for bringing us LB640. LB640 is an innovative approach to education funding that has the potential to inject elements of fairness and equity into how we finance K-12 education in our state. And it is fairness and equity that our taxpayers in Nebraska are demanding, and it is fairness and equity that our taxpayers deserve. And that's why I will be offering AM1036 to this bill. AM1036 expands the sales tax base and eliminates a pair of income tax loopholes and directs all of the dollars raised to be placed into the Property Tax Credit Fund. My intent is to generate new revenue for property tax relief and to replace all property tax credit dollars utilized by LB640. I passed out some handouts describing what I'm trying to do here. In arriving at this list of exemptions and services for inclusion into our sales tax base, care was taken to target those items not business-related and items taxed in our neighboring states of Iowa and Kansas. Fair to say that South Dakota taxes most of these items also. Note in the handouts I've indicated how neighboring states treat these items. You can also see the value of these exemptions. In addition to the expansion of the sales tax base, AM1036 will also eliminate a pair of income tax loopholes and, colleagues, these are special exclusions carved out for a small handful of high-income earners. They are also described in the handouts. When exemptions and exclusions eliminated in AM1036 appeared in other bills earlier this session, the Fiscal Office gave estimates which together totaled in the neighborhood of \$210 million. LB640 requires the dollars raised by the elimination of these exemptions and loopholes to be placed in the Property Tax Credit Fund for distribution to all Nebraskans as a means of property tax relief. And, no, this is not a tax increase. A tax increase is raising tax, raising dollars and funneling those dollars into another government program. These dollars are going straight back to the taxpayers, so it's not a tax increase. So to the extent that the LB640 mechanism utilizes the existing Property Tax Credit Fund, AM1036 should replenish it with a similar amount of revenue. Colleagues, we've already heard why the mechanism found in LB640 is sound tax policy. It gets us on a course to more fair and equitable education funding. But, colleagues, Nebraskans are asking for immediate tax relief. I received a phone call from a constituent a couple weeks ago. He was angry. He was angry that he did not see any significant tax relief coming out of the Legislature this year. His words are something to the effect of, all talk and nothing gets done. He and the majority of our fellow Nebraskans are demanding something that will provide substantial and significant property tax relief. It's time we do something significant for our property taxpayers and that means finding new revenue. I'd like to thank the Governor, along with several of our colleagues, for their efforts in the area of property tax relief. But in my view, these proposals do not go far enough. AM1036 is a means of finding

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new revenue, using that revenue to fund property tax relief for all Nebraskans. And, colleagues, if you're serious about meaningful property tax relief for all Nebraskans, you have to ask yourself how are we going to get there? And I believe we have only two choices to get there: number one, you dismantle K-12 education, which clearly is not an option; or number two, we change how we pay for things, which means finding new revenue. AM1036 is a means of finding that revenue, using it to inject more equity and fairness into our tax structure. [LB640]

PRESIDENT FOLEY: One minute. [LB640]

SENATOR BRIESE: Thank you, Mr. President. It will demonstrate to Nebraskans that we are serious about this issue. It's an opportunity to stand with our property taxpayers and move the needle on this. So I'd ask that we adopt AM992, keep LB640 moving. Let's get these other...let's get to these other amendments that will help make this bill a win for all Nebraskans. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Hilkemann. [LB640]

SENATOR HILKEMANN: Thank you, Mr. President. Would Senator Kolowski yield to a question? [LB640]

PRESIDENT FOLEY: Senator Kolowski, would you yield, please? [LB640]

SENATOR KOLOWSKI: Yes, certainly. [LB640]

SENATOR HILKEMANN: I've been noticing throughout the conversation here this morning that people have been talking about the TEEOSA formula, and I've heard it mentioned many times that our TEEOSA formula is broken. Now, you and I have had some conversations about this. Do you not have some thoughts on the TEEOSA formula? [LB640]

SENATOR KOLOWSKI: Yes, I certainly do, and thank you for asking. We have been operating under this formula, as I mentioned earlier, for 27 years, over a quarter of a century, when this was first formulated in 1990. The formula has had its ups and downs and, for the most part, as you examine the history of TEEOSA on a year-by-year basis, we react and move sections of the formula around to try to please certain groups, sometimes certain districts, certain individuals. And it makes a difference in what the formula looks like because overall, after a long period of time, it looks pretty discombobulated. What we have to do is get the answers to critical funding that is so important for public education in our state and anchor it within a new study that we should commission that I have in a bill that's sitting in the Education Committee, to bring that

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out and have that done on a wide basis rather than on the basis of a few people that have worked on this bill in-depth. Appreciate their work and their dedication to the task, but it doesn't get us to where we need to be. This is a major billion dollar a year decision that needs to be made for the state of Nebraska and for the future of education in this state. And I hope we'll be able to look at and move in that way in our near future. Thank you. [LB640]

SENATOR HILKEMANN: Thank you, Senator Kolowski. Senator Baker, could you answer a question for me? [LB640]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LB640]

SENATOR BAKER: Yes. [LB640]

SENATOR HILKEMANN: How many years have you been a superintendent of schools? [LB640]

SENATOR BAKER: I was a superintendent for 37 years. [LB640]

SENATOR HILKEMANN: Senator, one of the things that I've always appreciated about this body is the diversity of and the experience that's here on this body. I've appreciated your comments here this morning, and I would yield what remaining time I have to you, Senator Baker. [LB640]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Baker, 2:30. [LB640]

SENATOR BAKER: Thank you, Senator Hilkemann. I want to talk a little bit more about the teacher shortage we started to talk about before. This relates to the question of whether people are overpaid, underpaid, or paid by market. I attended a Education Commission of the States event last summer, and there was information that in this country in 2010 there were 750,000 students in the pipeline, in other words, students in teachers colleges and universities across this country. That was in 2010. In 2016 that number was down to 450,000. So that's the picture nationwide. I recently read a report from a Wayne State College, teachers college senior who conducted some research recently. He found that in 2003 there were 7,500 education students in the colleges and universities of Nebraska, 7,500, 2003; ten years later, 3,500. He cited one reason--the tuition and college costs keep going up and that students see it difficult to repay those student loans on a teacher's salary. He concluded it's no wonder there's a teacher shortage and a substitute... [LB640]

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PRESIDENT FOLEY: One minute. [LB640]

SENATOR BAKER: ...teacher shortage. So as we look at school district budgets, roughly 80 percent of the school district's budget is salary and salary-related, related to people, anywhere from custodians to teachers to administrators, all the people who work in the school district. The other 20 percent there's not much wiggle room. You know, you don't have a turn to negotiate your...the fuel bill for the school buses or the utilities bill. So what are you going to do if you have a lower ability? You know, we're down to 98.7 cents limit on the levy. TEEOSA is not fully funded. What are you going to do? You have to cut people. So that means you're either going to have to reduce the amount of money you're going to pay people or you're going to have to increase class size. That's the only way you're really going to get any serious money in a school district, just look at personnel. [LB640]

PRESIDENT FOLEY: Time, Senator. [LB640]

SENATOR BAKER: Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Schumacher. [LB640]

SENATOR SCHUMACHER: Thank you, Mr. President. You know this morning I stood in the back of the Chamber and I looked at the extreme left of this Chamber: Halloran, Groene, Friesen, myself, Erdman, Murante, Larson. While you ponder that, I yield the rest of my time to that leftist, Senator Groene. [LB640]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Groene, 4:40. [LB640]

SENATOR GROENE: Thank you, Senator Schumacher. Yes, I'm so left I support public education, and I want to spend all of the Property Tax Credit Fund of those income and sales taxes. I want to divert it all to public education, all \$224 million, instead of sending some to the counties and the cities and NRDs and the cemetery boards and county fairs. That's what LB640 does. It pumps money into public education. I'm going to ask Senator Baker a question if he'll answer it. [LB640]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LB640]

SENATOR BAKER: Yes, I will. [LB640]

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SENATOR GROENE: Senator Baker, Education Week, the publication sent out to all the educators, pro education, their latest numbers on 2016, Nebraska is tenth in the nation per people funding. You've asked me some philosophical question. Where do you think Nebraska should be rated, one, two, three, four, five? [LB640]

SENATOR BAKER: My idea was... [LB640]

SENATOR GROENE: Compared to our average income, family income, we're down in the 25s to 30. But we're tenth in support of our public schools, that we do support our public...where do you think we should be? [LB640]

SENATOR BAKER: Are you familiar with the "reverse J" in terms of school spending per district? Have you heard of that term? [LB640]

SENATOR GROENE: I did now. [LB640]

SENATOR BAKER: All right. So if you draw in your mind's eye a reverse J and the size of district is going across from left to right, the cost per pupil is from bottom to the top. So in that reverse J, the school districts that spend the most money are those with very low enrollment. There's a sweet spot at the bottom. That's districts who have 2,000 maybe to 5,000 students. They have the lowest cost per student of any size of district. And then when you get too large then the efficiency is lost again. So I think the nature of Nebraska, the demographics of Nebraska, the geographic characteristics of Nebraska lead us to have many school districts who are not very efficient. [LB640]

SENATOR GROENE: Thank you, Senator Baker, for answering the question. I guess you answered it. But there are a lot of states that have rural districts and urban districts. Utah, Utah is the lowest, very high educational outcomes. They're at \$6,500 or \$6,600 a student. Kansas, I think, is even higher than us or right there, even though everybody claims they're slashing. We do well, we support our schools. But LB640 doesn't take money away from the schools. It just redistributes where it comes from. Fairness, it's called fairness, that's where it comes from. As to Senator Bolz, yes, some districts like Lincoln, not the districts, the taxpayer...always remember there's a difference between a school district and individual taxpayers. School districts do fine with LB640. Their needs are still met in the formula. The shift has been away from urban to rural on property valuations. In Lincoln, they're going to get hit with a 15 percent property tax valuation increase. Will Mr. Joel lower...and that school board lower their levy below \$1.05? No, they will not. They will take all of that income from that valuations. [LB640]

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PRESIDENT FOLEY: One minute. [LB640]

SENATOR GROENE: The 6.3 percent is always there. It's again multiplied by that valuation. The Property Tax Credit Fund amount keeps going down, keeps going down because valuation, total valuations keep going up statewide, and it's divided equally across those. So, yes, there are numbers you can play with, percentages you can play with, but overall, the long run, the taxpayers of Lincoln will do better. And your administration in your school will be forced to justify where they're spending it and why they're spending it instead of just grabbing that taxpayer by the neck and shaking them for every penny they can get. There is a lot of checks and balances in LB640. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Albrecht. [LB640]

SENATOR ALBRECHT: Thank you, President Foley. I didn't think I'd get a chance. A couple things: My district has folks receiving anywhere from \$27 million down to \$26,000 and everything in between. You know when I was out on the trail, the campaign trail, we talked a lot about TEEOSA and how they were letting me know, educating me, that they felt it was broken, needed some tweaking. Obviously, in the next four years that's what I will be doing. Whether we do something today or whether we do it next year, this is something that will not go away. When the economy goes up and when it goes down and when land values go up and land values go down, when your house taxes or your commercial taxes go up and down it's based on so many different things. So I stand here today to let you know that there seems to be a growing number of groups that get together and form coalitions and my big question to them, Senator Baker, would be, how do their members feel about this, because you know when you bring coalitions together for the greater good of all it should make a huge impact on everyone. But when I see that some of the groups haven't even darkened my doors...believe me, I've heard from all of my superintendents, but I certainly haven't heard from a lot of the others in the group of 16. What I want to reach out to the public and just say, you know, not only is this something that is difficult for all of us on this floor to understand how this formula works, if we do nothing we stay as we are and things are not fair. They need to be equalized amongst all, not just a few. And we've got several bills in the next 25 days that we're going to be taking a look at, but I just really challenge every person in the state of Nebraska to take a step back and understand and look at what we're dealing with here on the floor. We have a lot of information that needs to be shared with the public. We need to let them know that the different organizations that they do belong to, make sure that you know how they're representing you, because I don't believe that this is something that all 16 different entities feel so strongly about. These amendments come for all the right reasons, to make this a better bill. So I would like to yield the rest of my time to Senator Friesen if he'd like the time. Thank you. [LB640]

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PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Friesen, 2:00. [LB640]

SENATOR FRIESEN: Thank you, Lieutenant Governor. Again, look at the amendments that are being proposed. Look on your computer. Look at the other amendments that are coming up after these: AM752, AM992, and the others that are available. In the end, they make this bill a better bill. And those organizations that are currently opposed to it, I think most of them, if they see these changes are going to support it. I will not speak for them. But we have spent a lot of time working on this bill and everybody seemed to be in favor of it up until about Friday, and then suddenly the press releases started coming out and then you knew whose side everybody was on. But it, as written, the bill is opposed by those groups. So look at the amendments. Let's get to some votes this morning. Let's see once where everybody stands on some of these issues, and let's vote green on AM992 and AM752. Thank you, Mr. Lieutenant Governor. [LB640]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Hughes. [LB640]

SENATOR HUGHES: Thank you, Mr. President. I had some questions for Senator Bolz or Senator Baker, and I don't see either of them in the room. Senator Bolz, would you yield for a question? [LB640]

PRESIDENT FOLEY: Senator Bolz, would you yield, please? [LB640]

SENATOR BOLZ: I'll share the mike with you, Dan. [LB640]

SENATOR HUGHES: Thank you, Senator Bolz. In your testimony or your discussion earlier, you talked about the amount of property tax that a property taxpayer in your district would lose should this bill pass. Could you kind of run through those numbers again briefly? [LB640]

SENATOR BOLZ: Sure. The staff from Lincoln Public Schools did an analysis of an actual homeowner who's literally one of my neighbors. And the long and short of it is that they would pay an additional \$42.51 if this legislation were to pass. [LB640]

SENATOR HUGHES: Do you have any idea what their total tax bill might have been? Any...just...you can give me a ballpark. [LB640]

SENATOR BOLZ: I do. I do have a copy of the bill from Treasurer Stebbing, so we can look at it together. So net taxes due, \$3,115.50. [LB640]

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SENATOR HUGHES: Okay. Thank you, Senator Bolz. I guess the point that I wanted to make was I looked up on Nebraska taxes on-line. You can do it and find it on your computer, and you can find a piece of ag real estate and look at what the taxes, not the valuation, the taxes have gone up. In the last five years they've more than doubled. And I don't think that asking for a little bit of that shift back from the urban homeowner is out of line. One of the things that this body does, what government's function is for me, is to create a level playing field. We shouldn't be picking winners and losers in any of our legislation, but what, in essence, what government should do is level the playing field for all of us to have equal opportunity to be successful. And unfortunately, the TEEOSA formula we have is broken. Senator Kolowski said we've had it for 27 years. The conditions that the state of Nebraska is in, that agriculture is in, that industry is in are vastly different than they were 27 years ago. Times have changed. Yes, we've tweaked that TEEOSA formula, but it is no longer valid. It is flawed. It needs to be thrown out. We need to rewrite it for the century that we're in. Asking for a minor shift back from the urban areas, to make up for the tremendous shift that has come from agriculture, from west to east, and not only in property tax but income tax as well, because there's a huge amount of income tax that's been paid by western Nebraska. And that's why we have a billion dollar shortfall is because agriculture is in the tank and those tax dollars are not coming in. Thank you, Mr. President.
[LB640]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Stinner. [LB640]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, I see we're growing a little long in the tooth, so I'm not going to speak too long. I do want to thank Senator Groene for all his work on this bill. I believe it's a discussion that all of us need to have for the state of Nebraska, for our constituents. We need to have a deep discussion on property taxes, it's something that I know that all of us hear about. It's our number one subject when we go home, that and where we stack up as far as state aid. Forty-ninth in the country probably isn't quite good enough. But my hope is that LB640 is a catalyst for further discussion and action. It's a start, and I want to emphasize it's a start. But I do want to bring up some short points, and I will try to be as quick as possible. Under the current law, the Property Tax Relief Fund states will only be funded if funds are available. So it's really a temporary situation. I've always said that we needed to add permanency to property tax relief. I believe this bill starts with that permanency. But along with that I've heard from my school, school district that I used to be on the school board with, which was Gering. They need to have a reliable source for funding. I think as I explained the law to them, they said, that's great, John, but you realize only 2 out of 15 years you guys have kept your promise. So if we pass this it goes second year as a General Fund. It has to be funded through the General Funds, so it becomes our word in order to continue to fund schools at the level that we need to fund them. They need to have some source that they can believe in that's reliable and stable, like the property tax side and property tax owners. You know, we continue to hear from the ag side, but we will soon hear from the property tax owners in the

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inner city and the urban areas as well. This is a substantial problem. It's a 700, the last I looked, \$700 million problem. It's probably going to a \$900 million problem. If we're going to do something, if we're going to right the legs on the stool, that's the kind of money that we need to have for true property tax relief. In order...and I am not for tax increase. I'm really looking at some kind of revenue neutral solution. I know Senator Schumacher had a bill that really explored incentive programs, sales tax exceptions, tax preference items. All of those could be put on a list in order to derive that revenue source that the schools can bank on, that the property tax owners can look at for permanent property tax relief. That could right the legs of the stool, and that is something I think that needs further discussion, further investigation as we move forward. Thank you, Mr. President. [LB640]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Lowe. [LB640]

SENATOR LOWE: Question. [LB640]

PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor of ceasing debate vote aye; those opposed vote nay. Record, Mr. Clerk. [LB640]

CLERK: 26 ayes, 0 nays, Mr. President, to cease debate. [LB640]

PRESIDENT FOLEY: Debate does cease. Senator Groene, you're recognized to close on AM992. [LB640]

SENATOR GROENE: Thank you, Mr. President. We haven't talked much about the amendment, but it's basically a fix amendment that was overlooked. Just in case the Property Tax Credit Fund is not funded fully, what it does, let's say you need \$224 million and we have \$200. What it would do is make sure that all districts, those equalized and unequalized, depending how they qualify for their property tax relief, the amount would be prorated to each one. It's a fairness thing. Remember what got us here in the first place is the TEEOSA isn't fair. It is not equitable. So anything in LB640 should make sure that we do it equitably and to prorate all districts. No matter where the funding comes from, through LB640, it should be prorated. It was overlooked in the first version in AM752 that it reads that only those districts that qualify for the 55 percent would be prorated and the rest would receive all of their money. But as I said earlier, the equalized districts will receive their funding even if Property Tax Credit Fund isn't funded because it goes into the TEEOSA formula, and then we can argue about that funding. But by statute it should be funded unless we change it. So anyway, I would appreciate a green vote on AM992. It makes the bill better. And then we can argue about a better bill, if we want to keep it or not. Thank you. Who calls the house? [LB640]

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PRESIDENT FOLEY: No one has. [LB640]

SENATOR GROENE: I want to call the house. [LB640]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Senator Vargas, can you check in? Senator Baker, Bostelman, and Wayne, please check in. I'm sorry. Record, Mr. Clerk. [LB640]

CLERK: 45 ayes, 0 nays, Mr. President, to place the house under call. [LB640]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence, return to the Chamber. Looking for Senator Wayne. Senator Groene, all unexcused members are present with the exception of Senator Wayne. We can wait for Senator Wayne or proceed. Your choice. Proceed. Members, you've heard the debate on AM992. The question before the body is the adoption of AM992. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB640]

CLERK: 30 ayes, 3 nays, Mr. President, to adopt Senator Groene's amendment to committee amendments. [LB640]

PRESIDENT FOLEY: AM992 is adopted. I raise the call. Mr. Clerk. [LB640]

CLERK: Mr. President, Senator Briese would move to amend with AM1036. (Legislative Journal page 1067.) [LB640]

PRESIDENT FOLEY: Senator Briese, you're recognized to open on AM1036. [LB640]

SENATOR BRIESE: Thank you, Mr. President. And good morning, colleagues. I rise to offer to you AM1036 to AM752 and LB640. I spoke upon this briefly a few minutes ago, so I'll cut this a little shorter than I intended, but AM1036 expands the sales tax base and eliminates a pair of income tax loopholes and directs all the dollars raised to be placed into the Property Tax Credit Fund. My intent is to generate new revenue for property tax relief and to replace all of the property tax credit dollars utilized by LB640. I direct your attention to the handouts we put on your desk this morning. One from the Legislative Fiscal Office describes a discrepancy between Nebraskan's property tax burden with our sales tax and income tax burdens. Nebraskans pay nearly 70 percent more in property taxes than state, local, and motor vehicle sales taxes combined, and a 50 percent more in property tax than individual and corporate income taxes

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combined. Another shows that Nebraska is 49th in the country in the percentage of K-12 education derived from state aid. It further shows that Nebraska derives roughly 49 percent of K-12 funding from property taxes, while the national average is only 29 percent. Another shows that Nebraska homeowners pay the seventh highest property taxes in the country. Another shows that Nebraska farmers and ranchers have some of the highest property taxes in the country. Nebraskans, regardless of zip code, are demanding property tax relief, and the handouts show why they deserve it. There are two ways to provide property tax relief: You can cut spending or you change how you pay for things. And I believe we must do both. But you're not going to be able to slash and burn your way to significant property tax relief. AM1036 is an effort to inject additional sources of revenue into a mechanism that will provide property tax relief for our citizens. AM1036 will first eliminate those sales tax exceptions in services that I mentioned earlier. In addition to the sales tax exemptions in services, AM1036 also targets special exclusions carved out for a small handful of high-income earners. They also are described in the handouts. One is a special capital gains exclusion for employee owners of corporate stock. This provision allows these employee owners of corporate stock to cash in without paying Nebraska taxes on the capital gains. Department of Revenue data tells us that only about one-tenth of 1 percent of all of returns claim this, and that 80 percent of those taxpayers have incomes in excess of \$1 million per year. No other state offers this, and it costs us \$20.8 million in revenue, according to the report. The other exclusion is for the special treatment of Subchapter S and LLC income derived in other states. This exclusion was put in place in 1987 and expanded in '93. Essentially, this exclusion allows Sub S corps and LLCs to avoid taxes on income earned from other states. Individuals and partnerships are taxed on such income, whereas the Sub S's and LLCs are not. Department of Revenue data shows only a small fraction of taxpayers utilize this and that 85 percent of them have incomes in excess of \$1 million per year. At the hearing on LB373, UNL associate professor of law Adam Thimmesch testified that this Subchapter S exclusion was a, "tax-induced distortion generally disfavored as a matter of tax policy." This provision is estimated to cost us \$84 million per year. When exemptions and exclusions I've referenced eliminated...they're eliminated by AM1036 appeared in other bills earlier in the session, the Fiscal Office gave estimates which together total in the neighborhood of about \$210 million. AM1036 requires the dollars raised by the elimination of these exemptions and loopholes to be placed in the Property Tax Credit Fund for distribution to all Nebraskans as a means of property tax relief. So for the extent that the LB640 mechanism utilizes the existing Property Tax Credit Fund, AM1036 should replenish it with a similar amount of revenue. Colleagues, Nebraskans are angry about the property tax issue. The overreliance on property tax is what folks are angry about. We must control spending, but, as I said, we won't be able to slash and burn our way to the property tax relief Nebraskans need unless you're willing to gut K-12 education. So finding new revenue must be part of the solution, and that's what AM1036 does-- finds new revenue. Adoption of AM1036 will demonstrate to Nebraskans that we are serious about this issue. I'd ask for your support on AM1036. Thank you. [LB640 LB373]

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PRESIDENT FOLEY: Thank you, Senator Briese. Senator Hilkemann, you're recognized. [LB640]

SENATOR HILKEMANN: Thank you, Mr. Speaker. I would yield my time to Senator Baker. [LB640]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Baker, 5:00. [LB640]

SENATOR BAKER: Thank you, Senator Hilkemann. What we have here is a situation proposed to limit...lower the levy limit to 98.7 cents from the current \$1.05, and this happening at a time when the TEEOSA is not fully funded. What we also have is basically taking away people's current property tax credits on the property they own and giving this into this relief fund goes to only select individuals, those who are, by and large, low taxing districts. So I guess that what I would say, you know, this is like a reverse Robin Hood bill. It takes away from the poor districts and gives to the more resource-rich districts. I would say, and I respect that Senator Briese...Senator Briese, would you respond to a question? [LB640]

PRESIDENT FOLEY: Senator Briese, would you yield, please? [LB640]

SENATOR BRIESE: Yes, yes. [LB640]

SENATOR BAKER: Senator Briese, did you introduce a bill much like this, this year? (Inaudible). [LB640]

SENATOR BRIESE: Yes, I did. I introduced LB312 and LB313. LB312 was an effort to expand the sales tax base. LB313 was an effort to raise the sales tax rate with all revenue generated to be directed to the Property Tax Credit Fund or a newly created fund after diverting some to low-income individuals. Yes. [LB640 LB312 LB313]

SENATOR BAKER: So did those bills go to...were they heard by Revenue Committee? [LB640]

SENATOR BRIESE: Yes, they were heard by the Revenue Committee. [LB640]

SENATOR BAKER: Was there ever a vote on those bills? [LB640]

SENATOR BRIESE: No, there was not a vote on those bills. [LB640]

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SENATOR BAKER: They never came up on the agenda? [LB640]

SENATOR BRIESE: No, not that I'm aware of. [LB640]

SENATOR BAKER: Okay. Well, that's interesting. It would have been good if they had come up on the agenda. Colleagues--thank you, Senator Briese--I would say we need to vote no on LB640 and all its amendments, and I respect what Senator Briese is trying to do. I think that it would be good for him to come back with a bill next year that can move forward, but as it is I would ask you vote no on LB640 and its amendments. That dog don't hunt. Thank you. [LB640]

PRESIDENT FOLEY: Thank you, Senator Baker. Items for the record, Mr. Clerk. [LB640]

CLERK: I do, Mr. President. Thank you. New resolution, LR103 by Senator Kolterman; that will be laid over at this time. I have an amendment to LB640 and a motion to LB640 to be printed. (Legislative Journal pages 1067-1069.) [LB640 LR103]

Mr. President, Senator Craighead would move to recess the body until 1:30 p.m.

PRESIDENT FOLEY: Members, you heard the motion to recess till this afternoon. Those in favor say aye. Those opposed say nay. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

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

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

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

CLERK: Just one. A communication from the Governor regarding an appointment. That will be referred to Reference. That's all that I have. (Legislative Journal page 1069.)

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PRESIDENT FOLEY: Thank you, Mr. Clerk. We will now proceed to the afternoon agenda. Select File appropriations bills. Mr. Clerk.

CLERK: Mr. President, LB91A, no Enrollment and Review. Senator Hilkemann would move to amend with AM1057. (Legislative Journal page 1070.) [LB91A]

PRESIDENT FOLEY: Senator Hilkemann, you're recognized to open on your amendment. [LB91A]

SENATOR HILKEMANN: Thank you, Mr. President. LB91A appropriates funds from the Health and Human Services Cash Fund for Program 33 to aid in carrying out the provisions of LB91. I appreciate everyone's support of LB91 on both General and Select File and ask for your green vote on LB91A. Thank you. [LB91A]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Debate is now open on the amendment. Seeing no members wishing to speak, Senator Hilkemann you're recognized to close on AM1057. He waives closing. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB91A]

CLERK: 34 ayes, 0 nays on adoption of Senator Hilkemann's amendment. [LB91A]

PRESIDENT FOLEY: The amendment is adopted. Mr. Clerk. [LB91A]

CLERK: Nothing further on the bill, Mr. President. [LB91A]

PRESIDENT FOLEY: Senator Hansen for a motion. [LB91A]

SENATOR HANSEN: Thank you, Mr. President. I move we advance LB91A to E&R for engrossing. [LB91A]

PRESIDENT FOLEY: Members, you've heard the motion to advance the bill to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB91A advances. Next bill, Mr. Clerk. [LB91A]

CLERK: LB225A. I have no amendments to the bill. [LB225A]

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PRESIDENT FOLEY: Senator Hansen. [LB225A]

SENATOR HANSEN: Mr. President, I move we advance LB225A to E&R for engrossing. [LB225A]

PRESIDENT FOLEY: Members, you heard the motion to advance LB225A to E&R for engrossing. Those in favor say aye. Those opposed nay. LB225A advances. Mr. Clerk. [LB225A]

CLERK: LB263A. Senator, I have no amendments to the bill. [LB263A]

PRESIDENT FOLEY: Senator Hansen. [LB263A]

SENATOR HANSEN: Mr. President, I move we advance LB263A to E&R for engrossing. [LB263A]

PRESIDENT FOLEY: Members, you heard the motion to advance LB263A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB263A advances. Proceeding now to Select File 2017, Senator priority bills. Mr. Clerk. [LB263A]

CLERK: LB427. There are Enrollment and Review amendments, Senator. (ER50, Legislative Journal page 973.) [LB427]

PRESIDENT FOLEY: Senator Hansen. [LB427]

SENATOR HANSEN: Mr. President, I move we adopt the E&R amendments to LB427. [LB427]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB427]

CLERK: Senator Scheer would move to amend with AM987. (Legislative Journal page 1002.) [LB427]

PRESIDENT FOLEY: Speaker Scheer, you're recognized to open on AM987. [LB427]

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SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. AM987 makes a few technical changes. One, the more important that we had talked about on General File was taking the "shall" out of the Department of Education providing for the framework, and just said "may" pending Senator Vargas' ability to negotiate with the department. I just felt it was important that the Department of Education had the leeway and that we should be asking for their assistance, not telling them that they had to do that. I believe this is a friendly amendment, and I believe Senator Vargas would confirm that and I would urge your support of AM987. [LB427]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Debate is now open on LB427 and the amendment. Seeing nobody wishing...oops. Seeing no members wishing to speak. Senator Vargas, you're recognized. [LB427]

SENATOR VARGAS: Thank you very much, President. Thank you very much, colleagues. I want to very quickly provide you with attention to my priority bill, LB427, and this specific amendment. This specific amendment...I'll give you a brief recap of LB427 just to jog everyone's memory. LB427 is a very simple measure that builds on existing state law by extending breastfeeding accommodations to student mothers. On General File we also adopted AM739 which directs the Nebraska Department of Education to create a written model policy for local school districts to adopt that accommodates pregnant and parenting mothers. There are two additional amendments pending on LB427 currently, so I will take a minute to provide a very brief overview on those. After concerns that were expressed on General File about directing the Nebraska Department of Education to develop a policy that supports pregnant and parenting students, I did two things. First, I reached out to the department again to get their viewpoint and feedback. The department again expressed that they were supportive of the bill. However, as a former school board member myself, I understand the concerns expressed on General File. So as a second thing, I worked with Speaker Scheer on this amendment and I would like to thank him for that friendly amendment that will remove the directive from the State Department of Education. That is AM987 that we're seeing right now and I encourage everyone to support that amendment, and I ask that you vote green on this amendment. Thank you very, very much. [LB427]

PRESIDENT FOLEY: Thank you, Senator Vargas. Speaker Scheer you're recognized to close on AM987. He waives closing. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB427]

CLERK: 38 ayes, 0 nays on adoption of Senator Scheer's amendment. [LB427]

PRESIDENT FOLEY: AM987 is adopted. Mr. Clerk. [LB427]

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CLERK: Senator Erdman would move to amend, AM968. (Legislative Journal page 1022.) [LB427]

PRESIDENT FOLEY: Senator Erdman, you're recognized to open on AM968. [LB427]

SENATOR ERDMAN: Thank you very much, Lieutenant Governor. Good afternoon. I've dropped in an amendment on this bill, LB427, after reading the bill after we had discussed it the last time. And I listened to the closing and Senator Vargas had said, we're suggesting or asking the schools to do something. And so as I reviewed that, I have come up with the following amendment, and I'll go through those things what I am asking to change. On line 8, where it says schools "have an obligation", I have struck that and put in "should strive." On line 10, it said the schools must remove and I struck "must" and put "should." And then if you move down to line 14 on page 1, it said or "allow" alternative education, I put or "accommodate" alternative education. And then under Section 2, line 19, I struck where it says each school district shall adopt a written policy and I replaced the "shall" with a "may." And then further down, line 23, I said that in a conference with a minimum...in conformance with a minimum standard set forth in "any" model policy and I struck the word "the" model policy. And then going to the second page at the top, line 1, I struck "shall" and put in "may." Education may develop and distribute a model policy. And then down in the middle of the page, line 17, oh, excuse me, line 18, I struck lines 18, 19, 20, and 21. Yeah, 18, 19, 20, 21. It is my intention by this, we should allow the schools to make a decision on how they handle these situations. The districts in the western part of the state that I visited with have the attitude that we understand these things happen and their attitude is, we take care of our own. And so they were a little concerned about some of these things that we're going to force them to do. One of the things as I said before when this bill was up, I want to reiterate that, and it is this: I introduced the bill to alleviate some of the restrictions on substitute teaching. It had no requirement for the State Board of Education or anyone to do anything to implement the bill because the training and the testing and all that was going to be done locally at the local district. I received an A bill, fiscal note of \$75,000 because the State Board would have to do something and my bill didn't require them to do anything, but they did not like my bill. This bill here they are in favor of and we were asking them to write a policy and he gets a zero fiscal note. So as I reviewed this, I thought that's kind of strange because it depends on who likes what whether you get a fiscal note or not. So what I'm asking you is to vote for this amendment and so we can allow the schools to make the decision on their own. We don't need to force them to do something. Thank you. Vote green. Thank you. [LB427]

PRESIDENT FOLEY: Thank you, Senator Erdman. Debate is now open on the bill and the amendment. Senator Vargas. [LB427]

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SENATOR VARGAS: Thank you very much, President, and thank you very much, Senator Erdman, for bringing the amendment and starting this conversation. I want to first say I am not supportive of this pending amendment from Senator Erdman, AM968. I spoke with Senator Erdman about this amendment last week and again this morning and will tell you all what I told him. There are some changes in this amendment that I actually really would support, specifically the wording changes made in Section 1. However, the changes in Section 2 and 3 remove the teeth of the legislation, and I cannot support that. Speaker Scheer's amendment, which we worked on together, did address different concerns and it still honored the intent of the bill and still allowed us to be able to have the teeth of this legislation to ensure that pregnancy and parenting students have some accommodations and support. In my very short time in the Legislature, I found that sometimes we can get...lose sight of the bigger picture, especially when it comes to "mays" and "shalls", and the word "mandates". I want to bring us back to the bigger picture now and emphasize what this is all about and why sometimes the "shalls" are necessary. Not all "shalls" are created equal. And in this case, the "shall" in LB427 is necessary because we're talking about supporting a vulnerable population of students, mothers and children. The "shall" creates the minimum standard and expectation that we support all students and all mothers and fathers regardless of their age and where they live in the state. We know that students who become parents before they finish high school face a number of barriers throughout their lives. For mothers those challenges start during pregnancy and continue after giving birth. When they're trying to balance being a parent with being a student, and for all parents the balancing act of doing homework, studying, succeeding in school while taking newborns to doctor's appointments and finding childcare can be overwhelming. LB427 is about taking steps which again don't create an additional financial burden to schools and to keep new moms and dads in school and help them complete their education. The "shall" is necessary because it is in the state's best humanitarian and economic interest to do everything we can to keep those students in school. These very young mothers and fathers who are now facing the reality of needing to provide for their families. Their earning capacity and their children's odds of succeeding improve greatly when they are also living in poverty. So to recap, colleagues, I urge you to vote yes on LB427 and to vote no on Senator Erdman's AM968. One other additional comment, I left out this letter on your desk that basically states a joint letter of support and says, Dear Honorable Senators, and then it goes on to paraphrase some of the supports as to why so many people came in support of this bill and you will see a list of many of the organizations. In addition, I'm noting again on this LB427 there was no opposition whatsoever. And there was all support in terms of testimony. And so, colleagues, I ask you to stand with me, to stand with student mothers, to stand with creating a reasonable standard for school boards and to make sure we're doing everything we possibly can to support a very vulnerable population in Nebraska so they can finish school, support their families and become contributing members of our great state. Thank you very much. Vote green. Sorry, vote red on Erdman's amendment and green on LB427. [LB427]

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PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Groene. [LB427]

SENATOR GROENE: Thank you, Mr. President. I stand in support of AM968, Senator Erdman's. We don't need to rehash the earlier debate and the history of this, actually a bill LB428 being amended into LB427. To Senator Vargas' point, the original bill was not anything...was a lot different than his amendment that came that we passed out of committee. It was cleaned up a lot, but the "shalls" and the "must" and the "allow" stayed in it which was not what we were told, that we were told it was a request, it was a recommendation to local school districts to have something in place on policies that they were already doing. Everybody in their own way accommodated for children with children. This was unnecessary. It's another mandate, another burden on local school districts. I don't know Senator Vargas' history and what size school districts he's been around his entire life, but it's a whole different world in rural areas of our state and other states. We are limited on people, limited on management, creating...we don't have somebody out in an office back in the corner creating policies. They do it on the go. And they don't have time. They take care of their own. They take care of the children that they are obliged...that we hire them to do, to educate. I think this is a good compromise for what Senator Vargas and wherever he came up with this idea and what size school district he has experience in and what rural Nebraska needs. And rural Nebraska needs "mays" and "cans" and "should strives" instead of "obligations." It does the same thing. It sets up something. Senator Scheer's amendment helps a lot because it's "may" also and now we can have a cooperative...cooperation. If anybody deems it necessary to have a policy in place, they have a framework here that they can look back at. This amendment needs to pass to keep peace between what the big city school district ideal is and what they do and what rural Nebraska does. We don't "shall" and "must". We "may" and "can" and work together. That's what we do. Every one of these little-bitty mandates add up to cost and time. We don't have people sitting around twiddling their thumbs. They work late now to come up with policies. Nobody came forward and complained out at rural Nebraska at the hearing that they were treated badly or somebody was not treated correctly in a circumstance like, of this where some young lady became a mother. Nobody came forward. Senator Vargas is right. Nobody came forward and screamed and yelled and said that we were treated badly and we need a policy. This is a policy coming right straight out of community organizing. That's what this is. Create a crisis, create a policy. It's unneeded. Not wanted. And nobody from rural Nebraska came forward and testified for it or against it. [LB427]

PRESIDENT FOLEY: One minute. [LB427]

SENATOR GROENE: They were just caught off guard that anybody thought this was necessary. So let's get along, as they say, and adopt AM968 to LB427, and until I read the amendment to LB428, I was under the impression that it was a recommendation, and I was ready to vote for it in committee until I sat down and read it and I seen "shalls" and "must" and "allow". And then I seen that in small rural Nebraska we're supposed to strive to have, where possible participate in a

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quality rating and improvement system and meet all of the quality rating criteria for at least a step, three-rating pursuant to the Step Up to Quality Child Care. It's hard enough to get somebody to open a day care the way it is in rural Nebraska in a small town. But here is something that fits the big city. Certified teachers for day care. [LB427]

PRESIDENT FOLEY: Time, Senator. [LB427]

SENATOR GROENE: We can't afford teachers now. Thank you. [LB427]

PRESIDENT FOLEY: It's time, Senator. Thank you, Senator Groene. Senator Halloran. [LB427]

SENATOR HALLORAN: Thank you, Mr. President. We've heard expressions commonly used here many times, expressions such as one size does not fit all. This is really a classic example of that. My heart does go out to any district that does not have the wherewithal or the school board with the integrity to deal with an issue like this, which is a very personal issue. But nevertheless, where we're from, not to create a city-country divide, but where we're from, we're very comfortable in dealing with these issues because as has been said many times before, we take care of our own. Not that everyone else doesn't, but that's why we engage school boards. That's why we elect school board members to make these decisions to fit our school. Believe me, if this came up for an issue in Adam Central or the Hastings High School system, it would be dealt with in a heartbeat. It would be. It does not need a mandate from the state with "musts" and "shalls", "shoulds". Local control should be local control. Pretty soon we're just going to have a state school board. I know we do have a state school board, but we're going to have a state school board that's going to be run out of this Chamber. We're just going to micromanage everything that a school should do, must do, has to do, is mandated to do. I stand fully in support of AM968, and I think we should work very hard at distinguishing what our responsibilities are and included in those responsibilities is not micromanaging our schools. Thank you, Mr. President. [LB427]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Erdman. Oh, I'm sorry, Senator Erdman, just one moment, please. Mr. Clerk, for an announcement. [LB427]

CLERK: Mr. President, Government Committee will meet at 2:00 in Room 2102. [LB427]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Erdman, you're recognized. [LB427]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. As I read this and I began to understand what it is we're trying to do here, this does not limit a school board from doing this. If a school wishes to do this, they sure can. This is not a restriction. Some schools do it now. It

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would make sense to me that if you're having this problem in your school, and we talk about local control, then attend your next school board meeting and talk to your school board and say, these people are not being treated fairly, we need to do something about this. And those local school board members will hear and understand what you're saying and research to see if you're telling the story correctly and they will make the appropriate decisions to take care of the situation. That's what school boards do. And consequently, I don't believe we need to tell these schools, you shall do this or you shall do that. That's why you go to the local school board and you speak to them with your concerns or ideas, and they listen, and then you make those decisions. It's not a difficult thing. And so as we move forward with doing things here in the Legislature, we have passed several bills this year that said people "may" do something. We don't always pass legislation that require people to do something and say "shall" or "should". And so we can pass this legislation and it can say "may" and the school boards understand they have that option to do that, and we'll move forward. Local control is what they do, and they will solve their issues if you give them a chance. So vote green on AM968 and then once AM968 passes, then you can vote for LB427. Thank you. [LB427]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Bostelman. [LB427]

SENATOR BOSTELMAN: Thank you, Mr. President. I rise in support of AM968. When this came about before, I was not here. I was excused, so I wanted to make a couple of comments for the record on this bill. I went out to several superintendents, principals of my district, e-mails, phone calls, talked with them a little bit about the bills and what their thoughts were about how this would impact their schools. Are they doing similar or these exact things within their schools with any students they may have? And all of them came back with the same...pretty much with the same response, and that response being, we agree with, we understand, we fully support the intent of the bill. We also provide these for our students who have come under these...which this would apply. We've had students within certain schools that they've been very successful with helping them, tutoring them, providing them time, providing the space, doing the things they need to do in order to accommodate the student with a policy or otherwise, that's met. Some questions came up through talking with them. Some of them were just wondering if it's really something they need to do because we're already doing it. There's some concerns with having to provide going out and find day care, proper day care providers, who they are, who should they or should they not find or provide information on the day care providers. At what point are they, I guess, becoming more involved in what they feel they should be within that student's life, and how they should provide that and what the school's obligation is to that. I'll read a little bit from one of the responses here. It says, I am 100 percent agree with attainable bills. I believe our students in this situation need the support and the accommodations which they provide. However, given the Nebraska's...quote, Nebraska schools have a legal obligation to accommodate pregnant and parenting students, end quote. I do not see the need to create additional board policy nor do I see the need for additional obligation on the part of NDE. I think that kind of

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sums up what I've heard from all the...from the districts which I contacted. They said, yes, we've had students that this would apply to, we did accommodate them, we did provide them the needed space, the needed tutoring, the needed opportunity away from class, as well as I think I checked with Senator Vargas on the requirement, one superintendent had a question as, do we need a doctor's note of kind of information on the student when they come back to class? Similar to what you would do with an athlete that if they're going to come back to a sporting event to continue practicing or be a participant in that event. My understanding is when I talked to Senator Vargas is that's true, as long as that policy is in place currently, that your student would have to have a doctor's note to come back to class. Something similar to that would apply to a student who would be coming back ensuring that their health is taken care of and ensuring that the doctor approves and ensuring that this is the right thing for the student to do. And I want to emphasize that the most is in our rural areas is every one of them had the intent...had the importance of the health of the student and the child in mind. That was paramount to them. They did not want to see anything other than that important need be met and they said, we're doing that now. That we do not need to mandated to take care of this because this is something we're already handling within our schools. And so with that, that's why I support AM968. I think it should be something that would be an opportunity for schools to do, but should not be mandated if this bill...if LB427 is to pass, I think it should be a "may", an opportunity for schools... [LB427]

PRESIDENT FOLEY: One minute. [LB427]

SENATOR BOSTELMAN: ...to bring this into their policies but not necessarily mandate for them or on NDE. Thank you, Mr. President. [LB427]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Friesen. [LB427]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Senator Baker, would you yield to a question? [LB427]

PRESIDENT FOLEY: Senator Baker, would you yield, please? [LB427]

SENATOR BAKER: Yes. [LB427]

SENATOR FRIESEN: This morning in our discussions you mentioned several times, I think, that school boards were in charge of making those local decisions and you believed really strongly in local control, is that right? [LB427]

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SENATOR BAKER: That's correct. [LB427]

SENATOR FRIESEN: And so I take it you would be in favor of AM968? [LB427]

SENATOR BAKER: Of AM958? Probably not. [LB427]

SENATOR FRIESEN: Okay. And so you don't believe in local control? [LB427]

SENATOR BAKER: Oh, I do believe in local control. [LB427]

SENATOR FRIESEN: Okay. Do school boards generally act in the best interest of their school and their students? [LB427]

SENATOR BAKER: I think they do or they don't get re-elected. [LB427]

SENATOR FRIESEN: And so do you think the state needs to tell them to take care of their students or they do that on their own? [LB427]

SENATOR BAKER: This idea of this Legislature putting rules into place is not unprecedented. We've got a ton of those. We've got a pile of them. [LB427]

SENATOR FRIESEN: That's true, but I mean you're conflicting here a little bit. School boards always act in the best interest of the student, and I would say the best interest of any student would be that they attend class and they make all the accommodations they possibly can, and so they would want to take care of those students and really the state shouldn't need to tell them to do that, should they? [LB427]

SENATOR BAKER: Well, I think in reality that Senator Vargas' bill would not create a burden on people. I mean, everyone who has faced that situation has had to deal with it. It's simply a matter of putting into writing what they currently do. [LB427]

SENATOR FRIESEN: Well now, just a minute. When you say that it doesn't create a burden, I mean in some school districts, it could. And there is no state funding that comes with this. There's no equalization aid or anything like that that comes with any of this. This is just something that the school has to do and put on property taxes, right? [LB427]

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SENATOR BAKER: Well, you'd have to deal with it. If it were a student in your school or mine, you'd have to deal with it right now. [LB427]

SENATOR FRIESEN: Right. And then they would do that. [LB427]

SENATOR BAKER: Yes. [LB427]

SENATOR FRIESEN: Even if we didn't mandate it. [LB427]

SENATOR BAKER: That's possibly true, but I don't see any harm in it. [LB427]

SENATOR FRIESEN: Thank you, Senator Baker. Again, we go back to the local control issue. If the school board and superintendents are truly looking out for the best interest of their students, they're going to find a way to accommodate these students. And I do think it's an issue that needs to be addressed. But again, I don't think it rises to a state mandate. Again, these are some of the times that we mandate down to school districts, we mandate that they do this, we do that. No, it's not always local control, but now we do this again and we say we don't do that. So I, again, I'm in support of AM968. I think school boards will take care of it and the superintendents and the teachers are always looking out in the best interest of their students and they're going to accommodate them as best they could. Thank you, Mr. Lieutenant Governor. [LB427]

PRESIDENT FOLEY: Thank you, Senators Friesen and Baker. Senator Vargas, you're recognized. [LB427]

SENATOR VARGAS: Thank you very much, President. Colleagues, I want to make sure to do a couple of different things. One is, I want to make sure to clarify some things. I think that's very important. I think sometimes we are actually in this echo chamber. We don't often think about what is the language actually telling us in the bill and making sure we are being diligent about what the statute, what this bill actually proposes. So a couple of different things. One, I just want to remind everybody, this bill had no opposition. Tremendous support from people that do represent different walks of life across the state of Nebraska, including the Nebraska Medical Association, including the Nebraska State Education Association, Voices for Children, the Latino-American Commission, ACLU of Nebraska, Community Action of Nebraska. To say that this is just the one size fits all, just catering to one part of the state, I don't believe that that is a cogent rationale by itself. There is clearly more people that are being impacted by this. The other thing I wanted to make sure to address is I would be absolutely happy to work on some of the other language, and I expressed that to Senator Erdman. There are pieces of the language I would be more than happy to work on as this moves over to Final Reading, and where we disagreed

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was specifically the piece which is why I can't support AM968. The third thing I wanted to make sure to give you a little background on myself. I know many of you know this, but I was a teacher. For the past about seven years I worked in school, public school districts all over the country. I worked in rural and urban and suburban school districts working with superintendents and school boards. I myself was a school board member. I actually really loved being a school board member because at times we would develop policies and at times we have had policies that were directed by the state...by the Legislature and this is a very, very unique policy unlike a mandate that people normally think of where you are telling a district exactly what to do and how to do it. This is a little unique. What this says is that we are...with the "shall" is that each school board shall create a policy that supports pregnant and teenage or student mothers. The policy, what they develop, is going to be tailored dependent on the local school district and the local school board. That means a school district out in western Nebraska versus eastern Nebraska or central are going to have different things in it because they decide what it is. That makes this very, very unique, so if we are mandating, we're mandating a minimum standard saying we need to have a policy in place. And there are some areas of concern we want to make sure that we have a policy in place for. The manner with which you create the procedures for that policy, what it actually looks like, the resource mechanisms is completely left up to the school board and the school district. I modeled that because as a school board member in my past life, I remember wanting to have some more of that autonomy in how I can draft a policy. And that's what this is. So I want to thank you for addressing that clarification. The other one I want to make sure is, I know that Senator Bostelman...and we had a great conversation a couple of weeks ago about this about his concerns. I want to address one of them. One of them is around day care. There is not a requirement in here that a school district or school has to sign somebody up for day care. I want to repeat that. There is no stipulation in here that anybody has to sign somebody up or create a day care or have day care individuals. That is not in the language of this bill. What is, is that the local school district has to identify what early childcare centers or childcare facilities are in the area, and that information needs to be available so if somebody asks for it, that they have it. Simply providing the information and having it is all that we are asking local school districts to do. It's, again, which is why we had a fiscal note that had no fiscal impact and why we had no opposition from any school districts to the hearing for LB427... [LB427]

PRESIDENT FOLEY: One minute. [LB427]

SENATOR VARGAS: ...and all in support. And so with that, I ask you again to vote red on AM968 and I will work diligently with Senator Erdman in between to make sure we can take a step in a direction that addresses some of the things that we have already talked about, but ultimately AM968 is something I'm not supportive of because in whole it will remove the teeth of this legislation which creates a set standard for student mothers and pregnant teenage mothers to have a higher quality of life and support in their local school districts. Thank you. Please vote red on AM968 and vote green on LB427. Thank you. [LB427]

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PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Baker. [LB427]

SENATOR BAKER: Question. [LB427]

PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB427]

CLERK: 27 ayes, 5 nays, Mr. President. [LB427]

PRESIDENT FOLEY: The motion to cease debate is adopted. Senator Erdman, you're recognized to close on AM968. [LB427]

SENATOR ERDMAN: Thank you, Lieutenant Governor. I appreciate the discussion this afternoon, and I believe that it was fairly stated by several what the impact this has or lack thereof on the school districts that we represent. And I want to bring to your attention in the last part of those lines that was stricken, it talked about finding an approved day care and it goes on to say a rating pursuant to the Step Up Quality Child Care Act and which collaborates with the school. So we are, according to this amendment, making people do things and it is a "shall" or a "must". And I think that it has been heard loud and clear that one size does not fit all. The schools can do this now. The school boards can make the decision to take care of their own, which is what they do. We need to trust those people that they have the best interest of those students at heart, and I would encourage you to vote green on AM968. Thank you. [LB427]

PRESIDENT FOLEY: Thank you, Senator Erdman. Members, you heard the debate and the closing on AM968. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB427]

CLERK: 36 ayes, 3 nays, Mr. President, to place the house under call. [LB427]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Walz, Wishart, Harr, and Larson, please return to the Chamber and check in. Senators Larson and Wishart. Senator, at this point all unexcused members are present with the exception of Senator Wishart. We can proceed or wait. We'll proceed. How did you wish to proceed, Senator? Roll

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call vote has been requested. The question before the body is the adoption of AM968. Mr. Clerk. [LB427]

CLERK: (Roll call vote taken, Legislative Journal pages 1070-1071.) 21 ayes, 18 nays, Mr. President, on the amendment. [LB427]

PRESIDENT FOLEY: AM968 is not adopted. I raise the call. (Visitors introduced.) Mr. Clerk. [LB427]

CLERK: I have nothing further pending on LB427, Mr. President. [LB427]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB427]

SENATOR WISHART: Mr. President, I move the advancement of the E&R amendments. [LB427]

CLERK: No, no amendments, Senator. Advancement of the bill. [LB427]

SENATOR WISHART: Advancement of the bill. Thank you. [LB427]

PRESIDENT FOLEY: Members, you heard the motion to advance LB427 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB427 advances. Next bill, Mr. Clerk. [LB427]

CLERK: Mr. President, LB44, no Enrollment and Review. Senator Watermeier would move to amend with AM1074. (Legislative Journal pages 1071-1073.) [LB44]

PRESIDENT FOLEY: Senator Watermeier, you're recognized to open on AM1074. [LB44]

SENATOR WATERMEIER: Thank you, Mr. President. Good afternoon, Nebraskans, and I appreciate you being here today on an important bill. I am offering AM1074 to LB44. As you may know, an Attorney General Opinion was requested on LB44. The Opinion stated that because the notice and reporting requirements were not severable from the unconstitutional collection obligation, that LB44 was unconstitutional. The Opinion gave three options to remedy his constitutional concerns. One option listed was to amend the notice and reporting requirement to provide that remote seller who voluntarily agrees to collect and remit sales tax is excused from all such requirements as it does not attempt to mandate collection in the contravention of Quill.

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This was my intent. I have publicly stated that LB44 allows remote sellers to make a choice, either collect the sales tax or follow the reporting requirements. Therefore, AM1074 clarifies the intent of this legislation. AM1074 is the white copy amendment but I will outline the changes. Instead of a "shall", the amendment states that remote sellers may voluntarily choose to collect and remit the sales tax. Point number two, instead of refuses, the amendment states that if a remote seller does not voluntarily choose to comply with their collection provisions, they must comply with the reporting provisions. The third point is the definition of a remote seller now includes the threshold language referring to \$100,000 in gross revenue or 200 separate transactions. These thresholds will apply to both the collection and the reporting provisions. The fourth is it adds the severability clause. I appreciate the timeliness of the Attorney General's Opinion. It allowed me to make a good bill even better by clarifying the bill's intention. This amendment addresses the constitutional concerns of LB44, and therefore, I appreciate your green vote on AM1074. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Debate is now open on LB44 and the related amendment. Senator Chambers. [LB44]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I hadn't said anything on this bill, didn't intend to say anything, but I was drawn into it and I won't tell you how. This bill is so unreasonable in its attempt to use a bludgeon to compel people to, quote, voluntarily, unquote, comply that I cannot stomach it. I'm going to read some of this language that is being required of this seller. Send notification to all Nebraska purchasers by January 31st of each year showing the total amount paid by the purchaser for Nebraska purchases made from the remote seller in the previous calendar year, and such other information as the department shall require by rule and regulation. First of all, you're not letting people know what it is that they've got to comply with. Anytime in the future more rules and regulations can be put in place to create additional pressure. Continuing. Such notification shall include if available the dates of purchases, the amounts of each purchase, and the category of the purchase including, if known by the remote seller, whether the purchase is exempt or not exempt from taxation. The notification shall state that the state of Nebraska requires a sales or use tax return to be filed and sales or use tax to be paid on certain Nebraska purchases made by the purchaser from the remote seller. The notification shall be sent separately to all Nebraska purchasers by first-class mail and shall not be included with any other shipments. The notification shall include the words, quote, important tax document, unquote,...important tax document enclosed, unquote, on the exterior of the mailing. The notification shall include the name of the remote seller. Failure to send the notification required in this subdivision shall subject the remote seller to a penalty of \$10 for each such failure unless the remote seller shows reasonable cause for such failure. I would like to ask Senator Watermeier a question, if he would answer. [LB44]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB44]

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SENATOR WATERMEIER: Yes. [LB44]

SENATOR CHAMBERS: Senator Watermeier, how do you propose to enforce this penalty on a remote seller? [LB44]

SENATOR WATERMEIER: The enforcement part I hadn't addressed but this bill, the collection part...excuse me, the reporting part of this bill is what you are talking about having to send out three different reports is exactly like what's in the Colorado bill. [LB44]

SENATOR CHAMBERS: Well, they got fools in Colorado. I'm not going to go for that. [LB44]

SENATOR WATERMEIER: And the enforcement part of it is the fines that you will read, the \$5 fines on every individual report they miss and a \$10 fine on an annual report if they miss. [LB44]

SENATOR CHAMBERS: I'm in the Nebraska Legislature, not the Colorado Legislature. Are you in favor of cannabis being legal because they have legalized it in Colorado? [LB44]

SENATOR WATERMEIER: Not today, I'm not. [LB44]

SENATOR CHAMBERS: Okay, so you don't go for everything that happens in Colorado, just that which comports with what you want to get done. [LB44]

SENATOR WATERMEIER: No, just what is constitutional. [LB44]

SENATOR CHAMBERS: Brothers and sisters, friends, enemies, and neutrals, not everything that's constitutional is sensible. It's constitutional to ride a motorcycle without a helmet. It's constitutional to ride a motorcycle without shoes. It's constitutional to ride a motorcycle without leathers. There are many things that are constitutional, meaning they're not prohibited. That doesn't mean they're sensible or rational and this is, I think, unreasonable. Why do you have to put on the envelope, important tax document enclosed? [LB44]

SENATOR WATERMEIER: The idea was behind it, it wouldn't get mixed in with an account balance and trash mail or like junk mail. [LB44]

SENATOR CHAMBERS: How is it going to be a tax document when no taxes have been paid and no taxes are to be collected? [LB44]

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SENATOR WATERMEIER: It would be similar to like a 1099 which I receive a lot of and they're not a tax that says you owe this amount, but it's a reporting mechanism. It's very similar to a 1099. It would be something in which you're being reported... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR WATERMEIER: ...by your employer that you owe this amount. [LB44]

SENATOR CHAMBERS: Suppose this were stricken, how would that hurt what you are trying to do? [LB44]

SENATOR WATERMEIER: Well, I believe it... [LB44]

SENATOR CHAMBERS: Isn't this for the...oh, excuse me. [LB44]

SENATOR WATERMEIER: I believe it would hurt the...not the enforceability part of what you're talking about, but I believe it would hurt the reporting mechanism. As I stated in LB44 all along, is that we're trying to put two pieces of the puzzle together...I mean by using two pieces. A collecting mechanism and a reporting mechanism. [LB44]

SENATOR CHAMBERS: Senator, have you heard of Crazy Glue or Super Glue? [LB44]

SENATOR WATERMEIER: Yes. [LB44]

SENATOR CHAMBERS: They usually tell you, make sure both surfaces are clean and dry. Have you read directions to that effect? [LB44]

SENATOR WATERMEIER: No, I never read any directions. [LB44]

SENATOR CHAMBERS: Okay, he doesn't read directions, but he reads what Colorado said he ought to do and he wants everybody here to do it and you all will do it, but you're going to do it over my objection. [LB44]

PRESIDENT FOLEY: Time, Senator. [LB44]

SENATOR CHAMBERS: Oh, time, thank you. [LB44]

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PRESIDENT FOLEY: Thank you, Senator Chambers and Senator Watermeier. Senator McCollister. [LB44]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. I rise in support of AM1074 and LB44. I had a very similar bill in the docket, the Main Street Fairness Act. And it would help those retailers that have to compete with Internet sellers. They have a tough time because with the sales tax that we have in Nebraska, no matter where you live it's at least 5.5 percent, in some cases 7.5 percent. They can't compete on a good basis. So I support this bill. I support the amendment as a necessary change to get this bill enacted. We'll minimize the legal liability that we have and I think we'll speed the bill toward success. Please support AM1074 and LB44. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Bostelman. [LB44]

SENATOR BOSTELMAN: Thank you, Mr. President. Would Senator Watermeier yield to a question? [LB44]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB44]

SENATOR WATERMEIER: Yes. [LB44]

SENATOR BOSTELMAN: I have a question of clarification for myself. I want to make sure I understand. If LB44 is passed, we have right now in the state of Nebraska is, shall we call it, a sovereign, in that we don't tax outside of the state so other states can't tax us. My question is, is now if we have Internet sales tax and other states, now other states are going to be able to now tax us for what they could not currently? Do you understand the question? [LB44]

SENATOR WATERMEIER: No, I didn't. The first part what you mentioned, other states, I didn't get that reciprocal part. [LB44]

SENATOR BOSTELMAN: The question I have is, my understanding is that as long as we're not on Internet sales tax, that other states on Internet sales cannot tax Nebraskans. But as soon as we step into the role and Internet sales tax or we go to other states, those states can now come to residents of the state of Nebraska and tax them accordingly from their state. [LB44]

SENATOR WATERMEIER: Senator Bostelman, when you say those states, do you mean like a retailer outside of our state? [LB44]

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SENATOR BOSTELMAN: Correct. [LB44]

SENATOR WATERMEIER: Okay. [LB44]

SENATOR BOSTELMAN: If that state has Internet sales tax that is allowed, now those retailers outside of that...if I go to state X, and they have Internet sales tax, now prior to this, my understanding is prior to us having Internet sales tax, I would not be taxed. Is that...? [LB44]

SENATOR WATERMEIER: I can't quite get there. The first...this bill doesn't really have anything to do with what other states are or aren't doing. This would just require if an on-line retailer outside of the state of Nebraska who does not have a presence or a nexus in Nebraska would now be required to either (a) collect the sales tax on something that they sell into Nebraska, and if they chose not to do that, then they could do the reporting requirements. [LB44]

SENATOR BOSTELMAN: Now if we turn that...understand. [LB44]

SENATOR WATERMEIER: Okay. [LB44]

SENATOR BOSTELMAN: Now, if we turn that around and we're the state that is collecting the taxes outside of the state that I'm going to buy at. [LB44]

SENATOR WATERMEIER: If our state of Nebraska is trying to collect on something that is outside of the state? [LB44]

SENATOR BOSTELMAN: If say, in California they have Internet sales tax...I don't know if they do or not, okay, and there's a company out there and I go to California to buy a widget. Now currently, can I...my understanding is since we don't have Internet sales, they don't tax that, but once we enter the Internet sales opportunity, then they can. [LB44]

SENATOR WATERMEIER: They would be required to with this bill, yeah. If they don't have a presence in Nebraska today, if they're just strictly in Colorado, excuse me, California and someone from Nebraska orders something on-line or even just a call...a phone catalog, they would not be required to remit, collect and remit that sales tax the way it is today. But with LB44 is going to change that. [LB44]

SENATOR BOSTELMAN: So that then would increase...potential increase sales tax for people in the state as well. [LB44]

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SENATOR WATERMEIER: It wouldn't really increase the sales tax at all. They just would be required to collect it. They owe it today. It's called a use tax. When they remit it themselves on their own tax form, they owe it today. It is not changing that. They already owe the tax. But today it's called a use tax and they have to turn it in voluntarily. We would be saying that the on-line retailer would collect it and/or at least report it. [LB44]

SENATOR BOSTELMAN: Okay. I think I'll talk with you off the mike a couple of minutes and just clarify. [LB44]

SENATOR WATERMEIER: Okay. All right. [LB44]

SENATOR BOSTELMAN: Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senators Bostelman and Watermeier. Senator Chambers. [LB44]

SENATOR CHAMBERS: Mr. President, members of the Legislature. I heard all that yackety-yakking about government mandates. Show how hypocritical it is. This mandate doesn't even make sense. I'm going to ask Senator Watermeier a question if he will be so kind as to respond. [LB44]

PRESIDENT FOLEY: Senator Watermeier, will you yield, please? [LB44]

SENATOR WATERMEIER: Yes. [LB44]

SENATOR CHAMBERS: Senator Watermeier, you stated that you haven't dealt with the issue of how these penalties will be collected, is that true? [LB44]

SENATOR WATERMEIER: They're going to be obligated to pay a fine if they don't remit the three reports, \$5 on the individual, \$5 on the yearly and then the \$10 on an annual report. [LB44]

SENATOR CHAMBERS: It doesn't say fine and I think you should be careful of that because that verges on the criminal. It says a penalty. [LB44]

SENATOR WATERMEIER: Okay. [LB44]

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SENATOR CHAMBERS: Okay. I read the bill probably better than people who support it. What methodology is in this bill for collecting these penalties? [LB44]

SENATOR WATERMEIER: I can't answer that, Senator. I just know what I originally said was that the intention of the bill is, you have two ways for the state to get their collection of the sales tax. And we recognize that in other states that have done this, that when they have a reporting mechanism, or the threat of a reporting mechanism, they voluntarily begin to collect it because it's easier to do that than it is to go through...and I see I've got you smiling now, so I must have hit a vein. [LB44]

SENATOR CHAMBERS: I'm trying to restrain my... [LB44]

SENATOR WATERMEIER: Well, let it go. [LB44]

SENATOR CHAMBERS: Okay. When I began to ask questions, there are senators who have an idea of the direction that I'm going and they can't answer the questions because they haven't read their bill. They carry a bill that somebody gave them. So they ask, what am I to do? And they don't get an answer because they've got to answer my questions or simply say they won't answer the questions. So, if they ask him, how do you feel about what Chambers is going to do to you, he probably falls back on Johnny Cash, (singing) "I don't like it but I guess things happen that way." And that's the way it is. I'm going to get some of this stuff cut out of this bill. I would like to ask Senator Watermeier this question. Senator Watermeier, isn't all of this talk of reporting for the purpose of putting pressure on these people to see if you can get them to voluntarily collect and remit these taxes? Isn't it like a hammer? [LB44]

SENATOR WATERMEIER: You could probably describe in it that way but we just feel like it is going to be more burdensome for them to report it than it is to collect it because we have seen that from other on-line retailers around the country. Amazon began to voluntarily collect in October of last fall and they were looking at all the other states and decided it was just going to be easier to voluntarily collect it. [LB44]

SENATOR CHAMBERS: Senator Watermeier, Nebraska is benefiting from the dirty work done by other states. Some of these large sellers may feel that eventually something may be in the law that might work so rather than go through that, they will voluntarily remit. Are they voluntarily remitting to Nebraska? [LB44]

SENATOR WATERMEIER: Yes, they are. [LB44]

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SENATOR CHAMBERS: You ought to leave well-enough alone. Here is what I'm getting at. As long as I'm a member of this Legislature I'm not going to agree to let bad legislation go that would make me look like a fool for not having done something to at least try to stop it. I could ask any number of people who will support this legislation the questions I'm asking of Senator Watermeier and they would not have even read the bill. But I'm going to read some more into the record because I have some amendments that I'm going to propose of my own. If Senator Watermeier has a messenger service... [LB44]

PRESIDENT FOLEY: One minute [LB44]

SENATOR CHAMBERS: ...who will shuttle between him and the lobby, the message that they should shuttle into Senator Watermeier is, drop Section 5 and probably 6. Then you don't need 7. We can streamline this bill. And it deals only with those who are voluntarily remitting and should certain eventualities occur in the future, they will be exempt from all of those types of things. I would hate to be in the role of Senator Watermeier except that if I agreed to take a bill like this and I knew somebody like Chambers was there, I would make sure I read the bill. And I would make sure that it makes sense. What good...there are lawyers in here. There are people with common sense in here who pretend they have common sense. [LB44]

PRESIDENT FOLEY: Time, Senator. [LB44]

SENATOR CHAMBERS: Why...you said time? [LB44]

PRESIDENT FOLEY: Yes, sir. [LB44]

SENATOR CHAMBERS: Okay. [LB44]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Schumacher. [LB44]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Would Senator Watermeier yield to a couple questions. [LB44]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB44]

SENATOR WATERMEIER: Yes. [LB44]

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SENATOR SCHUMACHER: Senator Watermeier, suppose the seller only sells stuff on which we do not impose a sales tax. For example, food where they send out vegetables or something every week and you sign up for those things or sell coins. We don't impose a sales tax on coins. Is there anything in this new amendment that says if you're selling stuff and only stuff, on which we do not impose a sales tax, you've got to go through this notification process? [LB44]

SENATOR WATERMEIER: Not on the amendment but that's already in the Revenue Department. I can't quote to where it's at in statute but the Revenue Department has made it very clear when someone sells a certain item like food item, it's category blank. And when...on the reporting mechanism earlier, you don't really have a report coming back that says you bought four t-shirts and this and that and the other thing. You're given a category of what you bought and the categories determine whether they're sales tax exempt or they're sales tax obligated. There's nothing in my amendment would change that. They already know that. That's through the... [LB44]

SENATOR SCHUMACHER: But statute ranks over rules and regulations and procedures and this says that if a remote seller does not voluntarily choose, then the seller shall go through this whole notification process and when they notify you, indicate whether your purchases were exempt or not exempt from taxation. [LB44]

SENATOR WATERMEIER: You would not get a notice if you bought something that was tax exempt. You bought all food. [LB44]

SENATOR SCHUMACHER: No, you obviously will because the law on the amendment on page 3, line 11, says that one of the things included...shall be included in the notification is whether or not the purchases is exempt or not exempt from taxation so the law...the language obviously contemplates that things on this list, or maybe everything on this list that you get in the envelope with the important tax document enclosed on it, maybe will not have to be taxed at all that will be exempt and we're just making a mountain worth of paperwork unless this is amended somehow to say, hey, this only applies to stuff that is taxable in Nebraska. If your stuff that you're selling is not taxable, don't bother with it. What do you say to the coin dealer who sells coins to Nebraska and who...those coins are tax exempt. I don't see any language in here which trumps anything the Department of Revenue might have told you that says you don't have to fool with this notification and you aren't subject to this \$10 per purchase fine which may be \$10 per coin, \$10 per order of coins, \$10 per six months' worth of coins on a coin-a-day program. Where is it that you see an exemption, Senator? [LB44]

SENATOR WATERMEIER: Well, I can understand why you would think that and the category of the purchaser including, if known, by the remote seller. I'm assuming what that means is, for

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some reason the category, the classification is unknown to them and it should not have been, it should have been exempt and they charged...or they claimed that it was a nonexempt issue, that may be...I really don't understand that part of the mechanism but the...clearly the categories are all known about what's exempt and what's not exempt. [LB44]

SENATOR SCHUMACHER: But this doesn't say that if... [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR SCHUMACHER: ...if I'm a remote seller and I'm selling coins that I can blow this off because all I'm selling is coins. This says if I sell more than so much monies worth of stuff in Nebraska, I've got to do this silly report and send out these letters and notices and if not, the state of Nebraska is going to send somebody out after me to get ten bucks a thing. And that's my problem. I don't...I think this amendment does not...it makes a whole lot of work in some cases and it needs a lot of work in order to clarify that if it's not taxable you can blow this off. Thank you. [LB44]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Chambers, you're recognized. This is your third opportunity. [LB44]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I would like to call Senator Watermeier's attention to something in the bill if he will respond. Senator Watermeier, will you turn to page 3 and I'm working from the amendment. [LB44]

PRESIDENT FOLEY: Senator Watermeier, will you yield, please? [LB44]

SENATOR WATERMEIER: Yes. [LB44]

SENATOR CHAMBERS: Page 3, line 12, but we'll go up to line 11. Whether the purchase is exempt or not exempt, how does the seller know whether it's exempt or not exempt under the laws of Nebraska? [LB44]

SENATOR WATERMEIER: That's when I said certain categories fall into exempt or nonexempt and those are listed on the Web site. The computer programs all automatically do that and that's exactly what Senator Schumacher was talking about in that regard. How are they going to know, but that is a mechanical piece, a physical piece in the software of the program. [LB44]

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SENATOR CHAMBERS: All right. Now, let's go to line 4 where it says unless the remote seller shows reasonable cause for such failure, then we can drop down to line 22, well, line 21, such failure, unless the remote seller shows reasonable cause for such failure. Suppose the sellers say I didn't understand that. I didn't read it, so I didn't know that it was taxable. Is that reasonable cause not to do this reporting? [LB44]

SENATOR WATERMEIER: I cannot answer that Senator, but I know the Department of Revenue has that process they go through with a lot of different things and I cannot answer that. [LB44]

SENATOR CHAMBERS: Your answer reminds me of what used to happen during the times of segregation and these reporters from the north would go down to the hill regions and ask these people, what was segregation all about, and they said, I don't know but there would be those people at the county and they know. So there is somebody somewhere who you are sure knows what reasonable cause is. But while we're dealing with this bill, we're not able to state what reasonable cause is, are we? [LB44]

SENATOR WATERMEIER: I couldn't answer your question in that regard, no. [LB44]

SENATOR WATERMEIER: So if we're going to impose a penalty on somebody, we should alert that person to what conduct is going to make him or her subject to the penalty. And if there is a defense, the defense should be clearly stated so the person can make use of it. That is not present in this bill, so I'm going to offer some amendments and I'm going to take time and some of these test votes will show if there are 33 people here who are willing to support this bill as this amendment reads. And I'm going to read into the record the kinds of things which come out of a nutty Legislature like Colorado. And they're asking me, they know about the rest of you, they know you all will go for it. The Attorney General knows you will go for it because I also read the Opinion he gave to Senator Watermeier, but I've read their Opinions before. You all will accept what he told you, you ought to accept because it went before a court in Colorado, in a case involving Colorado. Well, the court doesn't determine whether you're a fool or not, but reading the language would make me feel like a fool if I supported something like this and I don't even know what it means. You all talk about your constituents out in the rural areas. I heard rural, I don't know how many times when I was listening to you all earlier today on any number of bills. Rural, rural, rural. I don't believe the rural people understand this. I don't believe the city folk understand it. The introducer does not understand it. I don't know what they're trying to say. I know what they are trying to get at. They're trying to exert pressure. Senator Watermeier under questioning acknowledged that they want to create more pressure if you don't voluntarily comply... [LB44]

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PRESIDENT FOLEY: One minute [LB44]

SENATOR CHAMBERS: ...than would be involved in your complying. The state can exert coercive power. The Legislature can put anything into a law that it chooses. The Legislature can write into a law, up is down and down is up, and around is square and square is oblong and they can put that in a law. And maybe a court wouldn't even waste its time on it. Says makes no sense, doesn't help anybody, doesn't hurt anybody, doesn't cost anything, doesn't do anything. It just shows what kind of lunkheads you have in that Legislature and the public should be warned, so we'll let it ride. But I think I might have an amendment up there so I'll just stop now at this point. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Chambers. Mr. Clerk. [LB44]

CLERK: Senator Chambers would move to amend with AM...or excuse me, FA64. (Legislative Journal page 1073.) [LB44]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on FA64. [LB44]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, that amendment would strike Section 5. I'm leaving alone Sections 1 through 4 even though there are problems there. But these are the critical ones that I see. And I'm going to read Section 5 beginning on page 2, line 27. But first, I'd like to ask Senator Watermeier another question. [LB44]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB44]

SENATOR WATERMEIER: Yes. [LB44]

SENATOR CHAMBERS: Senator Watermeier, you define remote seller, but you don't define person. Are we talking about a natural person? Are we talking about a corporation? Are we talking about a partnership? If you don't define it, then it's taken to have its popular meaning of a natural person. So if this remote seller is a corporation, this doesn't apply, does it? This applies to a person. [LB44]

SENATOR WATERMEIER: I can't answer that. [LB44]

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SENATOR CHAMBERS: Well, you ought to tell me, well, a corporation is a person under the Fourteenth Amendment. [LB44]

SENATOR WATERMEIER: Well, I would say that, but I couldn't do it with "assurity." [LB44]

SENATOR CHAMBERS: But then my rejoinder would be, but when we're writing legislation, and we can define a word and we choose not to define it, then when person stands undefined, then it refers to a natural human being. All right? That's all I'm going to bother you with on that. Brothers and sisters, friends, enemies and neutrals, aren't we having fun? When I say we, me, myself and I. I am a trinity. You ought to be ashamed of yourselves, but you won't be. You know why I'm talking like this because I'm going to make you vote against your own interests and against your own intelligence. I have to teach lessons at this point before we get to some very important legislation related to taxation. I'm going to show how easy it is to control this Legislature and make them so upset that they behave in a way that's foolish. I could make them walk into fire to spite me, they think. But I'm not going to feel the pain. But let me go on. If this remote seller is a person, then you're talking about a natural person, not a corporation, not a partnership, not one of those limited liability outfits. I'm going by the language of your statute. But here's what it says in Section 5. If a remote seller does not voluntarily choose to comply with subdivision (1), (a), (b) and (c), of Section 4 of this act, such remote seller shall: (1) notify Nebraska purchasers that sales or use tax is due on certain purchases made from the remote seller and that the state of Nebraska requires the purchaser to file a sales or use tax return. Failure to provide the notice required in this subdivision shall subject the remote seller to a penalty of \$5 for each such failure unless the remote seller shows reasonable cause for such failure. A penalty. I would like to ask Senator Watermeier a question, if he would respond. [LB44]

PRESIDENT FOLEY: Senator Watermeier, would you yield please, further? [LB44]

SENATOR CHAMBERS: Senator Watermeier, I'm going to take it step by step. Where does this penalty go, where does this \$5 go? If somebody would decide to pay it, where does the \$5 go? [LB44]

SENATOR WATERMEIER: It would go to the General Fund. [LB44]

SENATOR CHAMBERS: I don't think so. [LB44]

SENATOR WATERMEIER: Where does it go? [LB44]

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SENATOR CHAMBERS: I think there is a part of provision in the constitution that says all fines and penalties shall go to support the public schools. [LB44]

SENATOR WATERMEIER: That's right. [LB44]

SENATOR CHAMBERS: I know it's right. I'm not being tricky. My name is Ernie, not Groene. That's all I'll ask you on that provision. Let's go a little further. Number two, send notification to all Nebraska purchasers by January 31st of each year showing the total amount paid by the purchaser for Nebraska purchases made from the remote seller in the previous calendar year and such other information as the department shall require by rule and regulation. You don't even know what you're going to have to do in order to pay this fine. But how...I would like to ask Senator Watermeier a question. Senator Watermeier, how are you going to know if I give a list, that the list is complete and I haven't left anybody off, how are you going to know? [LB44]

SENATOR WATERMEIER: I don't know that personally, I just know that the fiscal note in this bill has five different...five additional revenue employees that are going to be on this bill as far as the collection part of the bill. [LB44]

SENATOR CHAMBERS: Well, if I have made 500 sales and I list 300, how do they know that I left 200 off? They don't have a list of them. [LB44]

SENATOR WATERMEIER: They don't [LB44]

SENATOR CHAMBERS: Or they wouldn't require me to do it. [LB44]

SENATOR WATERMEIER: They don't until the on-line retailer or the remote seller tells them. [LB44]

SENATOR CHAMBERS: So I don't have to list it and there is no way they can really fine me because they don't know how many I've failed to report, isn't that true? [LB44]

SENATOR WATERMEIER: That's correct. [LB44]

SENATOR CHAMBERS: Okay. Thank you. Members of the Legislature, this is silly. You are legislating. You all are not lobbyists. This lobbyist told you, put a penalty of \$5, but don't put any way to collect it. Suppose somebody said if there are trees in the parking, you pay a fine if you saw it down and I saw it down. And there is no means to collect the fine, and the only threat they

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have over my head is the fine. What sense does that make? But I know you all aren't listening to me but other people are. And I think they're enjoying it because the debates are very boring when I don't participate. And I'm just reading what is in this bill. I'll continue. Anything that is adopted by rule and regulation by this department can be tacked on, added on. You didn't even have to have notice of it by reading this bill. It doesn't tell you anything. Let me find my place. I'm just having so much fun. Such notification shall include, if available, the dates of purchases. Why would this information not be available? If the remote seller doesn't have the date, how can the remote seller give it? But they're saying, if you know it. But if the remote seller doesn't know it, how can this department in Nebraska know it? And how many people in Nebraska do you think are going to take the time to go snooping around to find out how many \$5 penalties they can collect? If it cost more to collect than what your going to collect, should you do it? On whom are you putting the pressure? You're not pressuring this seller. You're pressuring employees, if they try, to carry out what is being mandated here for them to do and you all want to talk to me about government mandates. And look what's being mandated to be done in this. Preposterous. Continuing. That information, if available, the dates of the purchases, the amounts of each purchase, and the category of the purchase including, if known by the remote seller, whether the purchase is exempt or not exempt. So it must not be possible for the remote seller to know these things, because it says if it is not known by the remote seller. And I'd ask Senator Watermeier if the remote seller simply says, I didn't know. I didn't see that. Is that enough? Well, based on this statute, it is enough if known by the remote seller. When the word known is there, that means actual knowledge. [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR CHAMBERS: It doesn't say knows or should know or could know. It means actual knowledge and if you cannot prove that the seller had that knowledge, you can't collect your \$5. I think Donna Summers' song, "She Works Hard For the Money"...these people work hard for their money trying to carry out this bill. But I don't think they would do anything. Who would even know? The director of the department would say you know how those chuckleheads are over there are in that Legislature. Forget it. How do they know. Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue. [LB44]

SENATOR CHAMBERS: I'm going to be like senior man river. Just keep rolling along. When Trump with his silly self had that big bomb dropped in Afghanistan, he thought it was great but they were testing it on nonwhite people in a nonwhite country. When they sent that barrage of missiles into Syria, same thing. They had good intelligence we were told, but their intelligence is like the intelligence that sometimes is lacking on the floor of this Legislature. The airfield they

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attacked with all those missiles, had airplanes taking off from that same field, so to salvage himself as a liar will do, he says, we didn't want to...we didn't want to hit any runways because they're too easy to fix. No, their so-called intelligence did not measure up to that word. They dropped the big bomb and now they're saying they were trying to send a message to the head of North Vietnam. Nobody even raised a hair, turned a hair. North Korea, it's North Korea, not north Vietnam. And you have somebody in north Vietnam who can hit back. You can send an aircraft carrier and all these things that are impressive to Americans who watch John Wayne movies, but what you need to keep in mind, you don't need to because you're going to go wherever Trump leads you. Not only does North Korea have nuclear weapons, they have missiles and they have conventional weapons also. There are 120-something thousand troops within range of North Korea's weapons. South Korea borders North Korea. North Koreans can stand on their side of the border and throw rocks if they want to. And Japan is just across that sea, well within range of missiles that North Korea has. Will North Korea bother China? There's no need, because China and North Korea are thicker than Americans realize. You hear all of this big loud boisterous talking by Trump who knows nothing about the military, he's got some crack brain generals who didn't do that well on the battlefield who have been given toys to play with, but it's a dangerous game that they're playing and it's not Syria, it's not Afghanistan, it's a country that is well-armed. And we will just see how that plays out, won't we? So, Trump was sending a message. I'm sending a message to my colleagues to let you know when we get to really the big stuff what you can be expecting. Continuing. Whether the purchase is exempt or not exempt from taxation, Senator Watermeier touched on that. But you're putting all this pressure, you're trying to, to make one of these sellers agree to collect and remit taxes to Nebraska. I would like to ask Senator Watermeier a question. [LB44]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB44]

SENATOR WATERMEIER: Yes. [LB44]

SENATOR CHAMBERS: Senator Watermeier, if I take out a magazine subscription, by way of mail, they don't send me a notification that I got to pay use tax in Nebraska. [LB44]

PRESIDENT FOLEY: One minute. [LB44]

SENATOR CHAMBERS: So are they violating Nebraska law? [LB44]

SENATOR WATERMEIER: No, they're not because in the state we don't...it's still according to the Quill count case, out-of-state on-line retailer. Any retailer that's out state are not required to submit that sales tax. [LB44]

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SENATOR CHAMBERS: I'm not talking about this bill. I'm talking... [LB44]

SENATOR WATERMEIER: But if it's a magazine from outside of our state, they're not. Magazines may fall into the tax exempt, I'm not sure. [LB44]

SENATOR CHAMBERS: Similarly situated people should be treated in a similar fashion. If I'm purchasing, you could just say, well, I'm not purchasing that amount. But in this case the amount is not the issue, it's the principle. If a person is to pay a use tax when any purchase is made and no sales tax is collected, you should make every person who sells anything to anybody in Nebraska give this notice right now. [LB44]

PRESIDENT FOLEY: Time, Senators. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. [LB44]

PRESIDENT FOLEY: Thank you, Senator Chambers and Senator Watermeier. Members, pursuant to the agenda, we're now going to move to the three o'clock item on the agenda. I'll ask the pages to please clear the speaking queue as we move to a different bill. We're going to move to Select File, 2017 committee priority bill. Mr. Clerk.

CLERK: Mr. President, LB512. Senator Hansen, I have Enrollment and Review amendments, first of all. (ER49, Legislative Journal page 936.) [LB512]

PRESIDENT FOLEY: Senator Hansen for a motion. [LB512]

SENATOR HANSEN: Thank you, Mr. President. I move we adopt the E&R amendments to LB512. [LB512]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments to LB512. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Continuing debate, Senator Chambers. One moment, Senator Chambers. Mr. Clerk. [LB512]

CLERK: I'm sorry, Mr. President. The first amendment to the bill, Senator Morfeld, AM862. (Legislative Journal page 934.) [LB512]

PRESIDENT FOLEY: Senator Morfeld, you're recognized to open on AM862. [LB512]

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SENATOR MORFELD: Thank you, Mr. President. AM862 is a clarifying amendment. LB175 the Online Student Protection Act, if all of you will recall, this makes it so that third parties cannot share student data in school programs or electronic school programs that are used in the schools so these third-party companies cannot share that student data for commercial purposes. So if you have an educational software system that you're using in the school, the educational software company can't then turn around and use that student data to sell them insurance or target them for other for-profit purposes. What AM862 does is it simply clarifies that community colleges and state university systems are not a third-party vendor for the purposes of this bill so they can still go out and try to recruit students and do those types of things. There was a little bit of ambiguity in there and this amendment clears that up. And there didn't seem to be any opposition from anybody in support of the bill. So it's a clarifying amendment. I would certainly appreciate your green vote on AM862 and I would be happy to answer any questions. [LB512 LB175]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Debate is now open on LB512 and the amendment. Senator Chambers. [LB512]

SENATOR CHAMBERS: Mr. President, the only reason I said I had my light on, I didn't know there were amendments. All I heard you say, all those in favor say and that would have run the bill on over so I'm going to turn my light off. [LB512]

PRESIDENT FOLEY: Thank you, Senator Chambers. That was the E&R amendments we adopted earlier. Senator Groene. [LB512]

SENATOR GROENE: Thank you, Mr. President. As Chairman and this being a committee bill, this is...was accepted it's just a clarification as Senator Morfeld said to his original bill which we amended into LB512. Community colleges brought it to my office and also to Senator Morfeld and since it was his original bill it was best that he brought it. I urge a green vote on AM862. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Groene. Seeing no other debates on the amendment, Senator Morfeld you're recognized to close. He waives closing. The question before the body is the adoption of AM862. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB512]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Morfeld's amendment. [LB512]

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PRESIDENT FOLEY: AM862 is adopted. Mr. Clerk. [LB512]

CLERK: Senator Briese would move to amend AM970. (Legislative Journal page 986.) [LB512]

PRESIDENT FOLEY: Senator Briese, you're recognized to open on AM970. [LB512]

SENATOR BRIESE: Thank you, Mr. President, and good afternoon, colleagues. I rise today to present to you AM970 to LB512. AM970 is an amendment to the language of my LB457. LB457 is found in Sections 6, 11 and 14 of AM724. By way of background, LB457 is a common sense effort intended to provide more control and accountability in expenditure of property tax dollars. We spent this morning talking about property tax relief. As I said then, I believe there's two ways to get property tax relief. One is to cut spending and the other is to raise revenue, and personally I believe that we have to do both. This morning I spoke of the need to raise revenue. With AM970, we're talking about controlling spending. LB457, as modified by AM970, addresses the issue of voluntary termination agreements...excuse me, separation agreements which are agreements between a school district and an employee in which the employee is provided additional reimbursement upon retiring from the district. Under Nebraska Revised Statutes 77-3442, school districts are limited to a maximum levy of \$1.05 per \$100 of valuation. Statutes also place limitations on a school's budget authority. These limitations are in place to provide some element of protection to our property taxpayers. However, paragraph (2)(d) of 77-3442 and Nebraska Revised Statute 79-1028.01 take amounts spent on voluntary termination...excuse me, separation agreements outside of those limits. LB457 would put those expenditures back within the levy and budget limits in statute. Why were these items placed outside of the levy lids and budget limits in the first place? First, because of the perception that these outlays are necessary to encourage voluntary terminations and the savings that might be...occur because of them. And second, because of the perception that these expenditures actually do encourage and incentivize terminations. And why should these items be placed back within the lids and limits? Several reasons. First as a school board member we use these types of agreements and I often suspected that they were not effective and actually causing an employee to retire and hence saving the district money. However, that ultimately is a decision for a board or superintendent to make. But second, if a board or a superintendent makes a determination that these are justifiable use of tax dollars, then I believe they should be subject to the levy lid, just like almost all other district expenses, and subject to the budget limits. And that's what LB457 does, it puts those items back within the levy lid and the budget limits. And let's be clear. It does not restrict the use of these items as long as they are within the levy lid and budget limits. But there are a few districts that could be affected by this bill and again, they can still utilize this program if they decide it sound policy to do so, but they will have to prioritize spending and look for alternative ways to fund such expenditures or they'll have to go to the voters for an override vote. But there was some pushback on my original bill from a few districts that were flirting with the levy lid and the budget limits. AM970 is an effort to alleviate some of the concerns expressed

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by those districts that this bill would have affected in that manner. AM970 provides a process whereby districts using these agreements but using them outside of the levy lid and budget limits can work their way into compliance with the intent of this bill by getting those agreements back within the lid and limits over the course of a few years. AM970 provides that amounts levied or paid pursuant to agreements that occurred prior to September 1, 2017, can still be outside of the levy lid or budget restrictions, but instead of providing that all future such agreements be within the levy lid or budget restriction, a percentage of the new agreements that occur after September 1, 2017, can be outside of the lid or budget limit. So for fiscal year 2018-19, 75 percent of the amounts levied to fund these new agreements can be outside of the levy lid and 75 percent of the funds necessary to pay for these new agreements can be outside of the district's budget authority. For fiscal year '19-20 it's 50 percent. And for 2021 it's 25 percent. After that, all agreements must be within the levy lid and budget restriction expenditures. Personally, I liked LB457 as originally drafted. However, AM970 is an effort to alleviate the concerns of those districts already exceeding the lid and/or the limit. The concept was initially presented to us by Millard School districts in a slightly different version. It's my understanding that they are in agreement with AM970 in its current form. I ask for your green vote on AM970. I believe it is a reasonable compromise that will allow us on behalf of the property taxpayers to eventually put these expenditures back within the levy lid and the budget limitations where they belong, but at the same time work with districts who are adversely impacted by the original language of LB457. Thank you, Mr. President. [LB512 LB457]

PRESIDENT FOLEY: Thank you, Senator Briese. Debate is now open on the amendment. Senator Groene. [LB512]

SENATOR GROENE: Thank you, Mr. President. I worked with, and so did Senator Briese, with Superintendent Sutfin of Millard who they have put this into their union contract and...which was never the intent and they understand that, but they were going to hit a brick wall because the commitments were made so we worked an agreement out that we would step it down for those. Remember you have a handout there, there's 44 districts that use voluntary retirement and if you look on the bottom only 18 used exception to the levy limits. But it's big dollars, it's very big dollars. So we agreed that the...this year, because the bill won't go into effect I don't believe until September 1, 90 days after the session, that any agreements made in '17 could go outside the lid and then the very next year in '18-19, 75 percent of their agreements would be outside the lid within that pool of money that they fund with the extra, I think it's 3.333 cent, which is quite a bit of money on a couple hundred thousand dollar house in Millard taxes. And then the second year they would go to 50 percent and then the third year 25 percent, and the fourth year it would disappear. It would disappear in '21...'21-22. This is a reasonable compromise for all those districts that have gotten themselves in a situation where it has become an employee benefit and not a management tool. We need to pull back and look at the original intent and say, no, this should be a management tool. If it saves you money, you should not have to go outside the lid. If

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you are at \$1.05 and this program saves you money, it should pull you back in past...under \$1.05 and give you room to work. There should be no reason to be putting it outside the lid, unless it has become an emergency process of trying to get a union to agree to a lower percentage of raise so that a few of the older teachers doing the negotiation can get an early retirement. Basically, that's what is happening and that shouldn't be. And then you've also seen instances...I passed out another school district's one which were very honest with us. It's open to show you what's happening, some very big numbers in certain districts. This never was the intent of this program. And remember, 201 districts out of 245 don't use it. Of those 44, only 18 are doing it outside the levy limit. We need to rein it in for good fiscal management for the state and to not get school districts...I'll tell you this, there are at least three superintendents that walked into programs where their predecessor had this, they had a mess. And I could name you three--I'd rather not do it on the mike--who have asked us to get rid of this because they don't want to have to be pressured to continue a program that they don't see as fiscal good management. So I thank you and I would appreciate for our committee bill of LB512 to make it better and to help the people ease into it, to vote green on Senator Briese's AM970. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Harr. [LB512]

SENATOR HARR: Thank you Mr. President. I want to thank Senator Briese for bringing this bill and Senator Groene for making a deal with Millard on AM970. It shows you what compromise can do. I'm coming with an amendment after this that is a further compromise. I heard what Senator Groene said. A lot of that was anecdotal at best. I heard, or they are doing this, but there is no, hey, this school district did that, that school district did this, it is just anecdotal. Hey, I hear they're doing this. Folks, we do have a problem. There have been some administrators who have taken advantage of the voluntary separation. I can't deny that. If you want me to say their names on the mike, I'll say it. I don't want to, but I will. I understand that. And I think they brought up a good point. A million dollars is too much. But there are honest, hard-working teachers out there and this bill as currently...or the amendment is too broad. Let's stand up for our teachers. Administrators, I know some of the administrators. I don't think they're greedy unlike others. A million dollars is probably greedy, \$450 (thousand) on the way out the door, probably greedy. I'm coming with an amendment after this that says, hey, teachers, we're going to limit you to \$40,000. And we were going to say no administrators can get it. AM970 phases out over three years, and then we will lower it to \$40,000, teachers only, no administrators, to avoid the situation that Senator Briese, Senator Groene talked about. So, Senator Briese, would you yield to a question? [LB512]

PRESIDENT FOLEY: Senator Briese, would you yield, please? [LB512]

SENATOR BRIESE: Certainly. [LB512]

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SENATOR HARR: And I apologize, I didn't get a chance to talk to you before. But let me ask you on the mike, if I support AM970 will you support my amendment to limit it to teachers only and to \$40,000? [LB512]

SENATOR BRIESE: Well, I appreciate the offer, but unfortunately, no. I think your amendment would effectively gut the intent of what I'm trying to do here. We need to get these expenditures back within the... [LB512]

SENATOR HARR: Okay, you answered my question. [LB512]

SENATOR BRIESE: Okay. [LB512]

SENATOR HARR: That's too bad. I was hoping we could work a compromise out. I'll be honest with you, I'm still going to support AM970, but I'm coming with an amendment after that and I'm going to ask for your support to support our teachers, not our administrators. Teachers. The ones who are in the classroom every day with our kids, teaching them. I stand with them. I believe they're good people. I understand, though, that there are some that may need to retire early. There are others we want to say, it's time for you to retire. We are going to give you some money so that you'll retire and start a second career. So, I support AM970. I'm asking your support on AM970 and the following amendment even though Senator Briese has chosen not to reciprocate. Thank you. [LB512]

PRESIDENT FOLEY: Thanks, Senator Harr. Senator Kolterman. [LB512]

SENATOR KOLTERMAN: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM970 and LB512. I really appreciate Senator Briese and Senator Groene bringing this amendment. We spent the better half of the last year, actually, studying these early retirement systems, these early retirement buyout programs, just early retirement as a whole. And we're spending a lot of money there. And when you bring it back inside the lid and we're giving them the time to do that, you're really helping the retirement plans as a whole. That hasn't even been talked about yet today, but we're going to talk about that in the next few weeks and my goal is to make sure these plans stay solid and financially strong so that we don't have to start talking about something else. And when you have people starting to retire early and you're buying them out, that weakens the plans in many regards and I will explain that in a lot more detail. But in the meantime, this amendment is an olive branch to say, hey, we are willing to listen to you, we are willing to give you the time to get back inside the levy lids and we appreciate that. And as Senator Briese has said, this is supported by Millard Public Schools and they have been the biggest utilizers of this program, them and in Omaha Public Schools. The other thing I would be cautious about is making a difference, a differentiation between teachers

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and administrators because they're all in the same plan. And we have a multiplan system here that I'm not sure that will hold the muster as we start looking at discrimination. So, I just caution you to be concerned about that. I understand what you're coming from, Senator Harr, but at the same time, let's get this done and then let's see what it looks like and then let's talk about that. Let's support AM970. It's good legislation. It's compromise legislation and it's accomplishing what we are trying to do here without throwing them under the bus. Thank you. [LB512]

PRESIDENT FOLEY: Thanks, Senator Kolterman. Senator Harr. [LB512]

SENATOR HARR: Thank you. Make no mistake about this, folks. Senator Kolterman calls it a compromise. A compromise is when you negotiate with two sides. I led the charge against this last time. Nobody spoke to me. So don't call it a compromise. All right? Don't call it a comeback. This is something Senator Briese came up with, Senator Groene in a conversation with one superintendent, a superintendent I respect, but with one superintendent and one superintendent only. There are 17 other school districts. It's easy for Senator Briese to say this is a problem because his schools are not at their levy limit. Senator Groene, schools are not at their levy limit. My school districts that I represent are at their levy limit. And this is a tool they use to help get rid of more expensive educators who have been there for 20-plus years and replace them with younger ones. Senator Kolterman says this makes the plan less viable. Guess what, folks? They already qualify for the plan. They have paid their dues. We're not doing anything that didn't already owed them. What we're doing is giving them an incentive to save our school districts money. So, let's be careful with the facts. And it is easy for those to say, hey, just raise your levy. Well, we are already at your levy limit and you got to find a way to cut your expenses and 80 percent of your expenses is the cost of human resources. You can't cut it. There is nowhere else, so what do you do? You cut services. You want your kid do learn Spanish, too bad. You want your kids to learn a foreign language, not happening. What about doing some extraordinary programming to help your kids. Nope. Extracurriculars, gone. That's the reality of this when you're at your levy limit. And by the way, almost all of our school districts in urban areas are, if not all of them. We had a bill up earlier today where I heard local control, local control, local control. We need to give that school board the ability to make that decision. And now those people that were saying that this morning are turning around and saying, we got to make that decision. We can't give that flexibility to our school boards. And it is the school boards, elected officials closer to the people than we are who make that decision. So, I am going to support AM970, but it's not an either/or. Senator Briese is making it an either/or. I am not. I'm giving you an, and. So I'm going to ask that you support AM970 and my amendment which is coming up. Thank you. [LB512]

PRESIDENT FOLEY: Thanks, Senator Harr. Senator Morfeld. [LB512]

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SENATOR MORFELD: Thank you, Mr. President. I rise in support of AM970, but I stand with Senator Harr in supporting his amendment as well. And if it is isn't adopted I'm not quite sure I will support LB512 even though one of my bills is on LB512. I had voted against Senator Briese's amendment to the bill in the first place in committee. I do believe that it did need this program or the system, I should say, needed reform. I do think that that reform is needed. And I think that it's reform that we can do without taking away all the tools and options available to our public school system and for our teachers. In response to Senator Kolterman's discussion about whether or not we are discriminating against teachers and administrators would pass legal muster, I would be interested in the protected class that he is looking at. In order for there to be discrimination there has to be a protected class. I know a few things about that with my LGBT nondiscrimination bill, but we can make distinctions between who has access to certain benefits and who doesn't. So I don't think that there's any legal claim or any legal liability there in that sense. In fact, I think he may have a bill that makes it so that teachers cannot...you know, get another pension after they've already received one pension or the other. So I don't...I don't fully understand what line of reasoning or what legal theory he is going down. With that distinction, we can make that distinction this is not a protected class. And I would urge your adoption of AM970. That being said, I think that Senator Harr's amendment, when filed, when we get to it, is reasonable. I think it addresses the problems and some of the abuses that Senator Briese and other folks are concerned about. And I think it's the right path forward. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thanks, Senator Morfeld. Senator Kolowski. [LB512]

SENATOR KOLOWSKI: Thank you, Mr. President, and I also would stand in support of both the bill and the amendment that are before us and also when Senator Harr has a chance to talk about his amendment, in support of that as well. I think we have an excellent compromise that is taking place here. It's workable, feasible, fair and equitable to all involved and when you have had the 20 or 30 or 38 years that I had in a school district, that's a long time. You put a lot of your life and a lot of your blood into making something very good over time and the results do show when you've had an opportunity to excel in that particular way. I hope everyone will give great consideration to and a very positive consideration to both these amendments as they come up, as the next one comes up and also to the original bill. I think we're on the right track with this and I thank all those who have spoken to this issue and for the compromises that have been met. Thank you very much. [LB512]

PRESIDENT FOLEY: Thanks, Senator Kolowski. Senator Kolterman. [LB512]

SENATOR KOLTERMAN: Thank you, Mr. President. I just wanted to address what I was talking about when I was talking about highly-compensated employees. That's really the class

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that I was talking about versus rank and file. And there is a difference. Unfortunately, some of the people that are in the rank and file are making as much as a highly compensated in many regards. We just have to walk a fine line there. And Senator Morfeld is correct in that. But my point is, these voluntary agreements are a tool. These agreements were put into place for a specific reason. And it shouldn't matter if you can save money inside the lid, you can save money inside the lid. So you're still saving money but what has happened over the years is, they've been used as part of an employee benefit package and negotiated. And that's when you start getting into the weeds on this stuff. So now to turn it around and start moving ourselves out, that's what Millard has agreed to, and I just compliment them on that. Right now you got to remember, there are 200 districts that are doing this inside the lid, probably more than that. They're doing it right. I happen to have two of them in my legislative district that are operating inside the lid. You know last week when I saw those statistics, I called those two superintendents and thanked them for that because they're using it the way it was intended to be used. So now we're giving them 3 years to work themselves out of this. Let's give them the time and then let's come back and work on the retirement package which we're going to see in a couple weeks. So again I just wanted to clarify. I understand exactly where Senator Morfeld is coming from, but we're walking a fine line here when we start looking at highly compensated versus rank and file and then when you throw it into a negotiated agreement that's another whole can of worms. The bottom line to me is when we incent people to retire early we're hurting our retirement plans because they go into a retirement plan and they stay there for the rest of their life because the plan pays them for the rest of their life. So if they leave early, we're on the hook for the rest of their life. And if they take one of these voluntary agreements and we pay them for that, now all of a sudden we've turn that into two retirements. Maybe it's temporary but it's still a second retirement. So you're going to see a lot of verbiage come out where we're going to try and reel all of that in and protect the dollars that are going out and abusing the retirement system. So again, vote AM970, and I haven't had a chance to look at Senator Harr's. I'll take a look at that and listen to the debate but this is good legislation. Let's advance it. Thank you. [LB512]

PRESIDENT FOLEY: Thanks, Senator Kolterman. Senator Briese, you're recognized to close on AM970. [LB512]

SENATOR BRIESE: Thank you, Mr. President. Contrary to what someone suggested, I believe that AM970 is a good compromise. The original language of LB457 prohibited the use of this tool outside of the lid and limit immediately. One senator was even disappointed that I did back away from this and agree to this step-down provision to do this over the course of three years. So I do think it is a good compromise and I believe that AM970 to AM724 and LB512 is simply a commonsense way to provide more control and accountability in local spending. And we need to remember that districts are still free to use voluntary separation agreements. AM927 simply puts this spending back within the levy lids and budget limits where they belong. The new language found in AM970 allows the limited use of new voluntary separation agreements for three

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additional years. I believe that this change sufficiently addresses the concerns of the districts adversely affected by the original language and I believe that we as a body owe it to Nebraskans to stand with them on the issue of property taxes and I believe that AM970 sends the messages that we do stand with them. I would ask for your green light on AM970. Thank you. [LB512 LB457]

PRESIDENT FOLEY: Thanks, Senator Briese. Members, you heard the debate on AM970. The question before the body is the adoption of the amendment. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB512]

CLERK: 33 ayes, 0 nays on adoption of Senator Briese's amendment. [LB512]

PRESIDENT FOLEY: AM970 is adopted. Items for the record, Mr. Clerk. [LB512]

CLERK: Thank you, Mr. President. Enrollment and Review reports LB68 to Select File with E&R amendments. Government Committee reports LB25 to General File. An amendment to be printed by Senator Lowe to LB346; motion from Senator Lindstrom to LB257 and the Transportation Committee reports LB351 to General File with amendments. Mr. President the next amendment I have to LB512, Senator Harr, AM1008. (Legislative Journal pages 1074-1077.) [LB512 LB68 LB25 LB346 LB257 LB351]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on AM1008. [LB512]

SENATOR HARR: Thank you, Mr. President, and members of the body. Well, here it is, just what I promised. I'm going to repeat myself. The last amendment was a deal worked out with one of the 18 school districts. The School Board Association, the Teachers Union, this is the compromise we worked out. This gives those school districts the flexibility they need to make sure that our kids get the education they deserve. This allows teachers to take voluntary retirement. I heard what Senator Kolterman said. These teachers already qualify for retirement. The retirement program has taken on their liability. Senator Kolterman and the Retirement Committee understand this. The actuaries understand this. The voluntary separation is limited to \$40,000. All right. So no more a million dollars and this is to teachers only. Now there may be some rank and file who get mixed up and confused with the administrators who make as much as the administrators. I'm not sure if that is true, but I will take him at his word. However, this bill says you are limited to \$40,000. So even if they are mixed up, it limits to \$40,000. This allows young people to get into the work force. This allows school districts to manage their work force so you don't have hypothetically 70 percent of your school district with three years or less experience. Think about that. Who would be crazy enough to do that. This allows for experienced teachers to teach young ones and when they're done, to leave. If we get rid of all,

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have everyone leave all at once, we're going to have a bunch of young teachers who may or may not know what they're doing, who don't have an older hand to lean on. Now it's convenient to say, well, they should do it under the lid, and they should take these buyouts, under the lid. We are at our limit. There is no room. This frees that up. It allows them to do a one-time so that we can have more money for our teachers, so we can have more teachers and so we can have more programs. When you're not at your levy lid and you're unequalized, it's easier to raise your levy limit, but when you're at your levy limit there is nowhere to go. You're at the mercy of the state. This is a fail safe. This is a release valve. It should not be abused. It should not be a part of their contracts, and if it does become part of the contract, well, then you know what, Senator Groene, I will come back and I will...I will come back in the lobby and support what you're doing. It's funny where it was done in a contract is where they negotiated with. Those who didn't do it in a contract, they're not negotiating with. Let's do the right thing. Let's pass AM1008. We put limits on it. It's more than what was existing. There are more limits than there were if this bill did not pass. You heard Senator Morfeld say, hey, if this doesn't get amended onto it, perhaps there will be a filibuster. And then what happens? Those controls that Senator Briese, Senator Groene wanted would disappear. Pigs get fat, hogs get slaughtered. This is a compromise worked out with the parties that are involved between labor and management. Both sides agree to this. I think we should, too. Let's give our local school boards the control they're asking for. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thanks, Senator Harr. Senator Groene. [LB512]

SENATOR GROENE: Thank you, Mr. President. If Senator Harr brought this bill and he said it was inside the levy, it would be a good bill, good amendment, but he's doing it outside the levy. We have one of the...anybody when you talk about teachers, in a small town or anywhere, and their pay and everything, one thing shines out, they have an unbelievable retirement plan, a defined benefit plan. If they retire at 55 after 30 years, they get 60 percent of their pay, their highest pay. Every year after that, it's 2 percent a year. They are well compensated for retirement. In my world, I don't even dream, I'm 61...I wouldn't even dream about retirement at 55 or even 61. If we wish to keep our best teachers and our experienced teachers, then keep them on your staff. Don't send them away with a pat on the back and a check. Voluntary retirement has nothing to do with employee benefits or how hard somebody worked and how they deserve a pat on the back. Voluntary retirement existed, was created as a management tool to be used by management. Senator Harr says he has everybody agreeing to this. Nobody came to me and talked as Education Chair that they thought we ought to go outside of the lid. Even the districts that are using it now, the step-down, I negotiated with one district, the other one said nothing. In fact, they never said anything about getting rid of the thing completely outside the lid. This has nothing to do with good management practices, this has nothing to do with very...best uses of our hard-earned property taxes. This has to do with a union benefit. And I do not blame them for trying to grab every benefit they can, but this is very, very similar to what has bankrupt and had

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caused grief for taxing entities across the nation where you let them retire early and basically you're putting them on their health insurance plan. You're giving them enough money, there's a reason Senator Harr has the term "until they are available for Medicare." This is an attempt to let them retire early and have enough money to buy health insurance. What's the difference? This is nothing, absolutely nothing to do with best practices of management, it has nothing to do with controlling the budget. If it did, it would be inside the levy. And I remind Senator Kolterman misspoke a little bit, but he was trying to make a good point. Two hundred and one districts don't even use this and can't believe anybody does, because they use their money wisely in the classroom, not outside the classroom. Of the 44 districts that are using it...well, 18 of them are using it outside the levy. Those citizens who live in that districts do not deserve an extra tax of 3 cents, 3.5 cents being levied on them and they don't even know it's happening because of a vote of the school board when they thought their max levy was \$1.05. No gain whatsoever in the classroom. Now, if Senator Harr brought an amendment down the road or a bill that said cities' schools might be able to levy outside the levy, and the reason was that they could give bonuses to science teachers, biology teachers, to stay and to teach, I would consider that because that's inside the classroom. That's good use of tax dollars. This is not. [LB512]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR GROENE: This is not good use. Senator Harr talks about children and programs and what does that have to do with somebody going at 55 going home and going fishing? If you got a great teacher and you want to keep them around, work a bonus for them, but you can't do that. Union won't allow you that because it's not in the contract. That's fine. But our duty here is to make sure that when people pay property taxes and we confiscate their money for education or whatever purpose, it is used for that purpose and that's inside the classroom. I ran for Education Chair because I worry about what's inside the classroom and the money should be spent there, not as some kind of frivolous giveaway and a handshake and a friendship and here is some money for you to go away. Thank you, Senator...I mean, President, and I encourage you to vote red on AM1008. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Linehan. [LB512]

SENATOR LINEHAN: Thank you, Mr. President. I like...I can assume most of us have been getting e-mails all weekend on this subject and I understand there's kind of a thought process evidently that you get to 55, 30, you get to retire. As these e-mails have been coming in over the last month I've been confused because I hardly know of anybody who thinks they can afford to retire at 55. I mean, at one time 55 seemed like a reasonable retirement age. People are living longer. It's not something we can afford anymore. And I do have some questions about the retirement plan. Would Senator Kolterman yield to some questions? [LB512]

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PRESIDENT FOLEY: Senator Kolterman, would you yield, please? [LB512]

SENATOR KOLTERMAN: Yes, I would. [LB512]

SENATOR LINEHAN: There has been much conversation how this saves the districts' money which I'm still not quite convinced of, but it doesn't...doesn't the state have to make sure right now according to our law, aren't we on the hook, the Legislature to make sure the retirement is funded? [LB512]

SENATOR KOLTERMAN: Yes, we are. [LB512]

SENATOR LINEHAN: So how much per year are we paying into the teachers retirement on an average? [LB512]

SENATOR KOLTERMAN: This year we're looking at for the state teachers retirement, we are looking at about \$38 million and Omaha Public Schools we're looking at about \$7 million, so it's about \$45 million. We put 2 percent of payroll as a state into teacher retirement. That was negotiated back in 2009 with the Teachers Union and the administrators. They were...and then they in turn put...at that time back in 2009 they were putting 7.28 percent in. They increased their voluntary contribution by 2.5 percent. That took them up to 9.78 and then...and then we matched that at 101 percent. So 9.88 I think was what we're putting in, the school district is putting in. There's a lot of money going into these retirement plans. This year... [LB512]

SENATOR LINEHAN: But it's not just school districts and the teachers, but the state taxpayers. [LB512]

SENATOR KOLTERMAN: The state puts in an additional \$45 million. [LB512]

SENATOR LINEHAN: So some of our income taxes that we pay today will go to teachers retirement? [LB512]

SENATOR KOLTERMAN: Yes. [LB512]

SENATOR LINEHAN: So, when a teacher retires early, isn't that cost the retirement fund more money? Isn't it more expensive for the state if teachers retire at 55 than it is, say, 60? [LB512]

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SENATOR KOLTERMAN: Well, we're actually doing an actuarial study on that at the present time because we have some legislation coming forward. But, our goal is to move that up to age 60 going forward. One of the reasons for that was when we got this year's actuarial study of the plans we discovered that we reduced our assumed rate, the 7.5 percent which should have caused an increase and it did. But the biggest thing came in the actuarial studies that the mortality tables, people are living longer, so we're paying out longer, and were actually going to...we're waiting to see now what's going to happen again, and that's the challenge that we face. But what's happened is, where these funds were expected, the teachers retirement was expected to be fully funded by the year 2020. That isn't going to happen like we thought it would. So yes, it's costing us more money. But I'm not a proponent of changing that. I think we need to keep it sound fiscally. [LB512]

SENATOR LINEHAN: We do. That...everybody would be for that. There's no problem. [LB512]

SENATOR KOLTERMAN: But every chance we get to take it outside the lid or tax it more, it just...it hurts the plans. [LB512]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR LINEHAN: Thank you, Senator Kolterman. Senator Wayne, could you yield to some questions. [LB512]

PRESIDENT FOLEY: Senator Wayne, would you yield, please? [LB512]

SENATOR LINEHAN: So, Senator Wayne, you served on the school board at Omaha Public Schools, right? [LB512]

SENATOR WAYNE: Yes. [LB512]

SENATOR LINEHAN: I heard just anecdotally, so I want to know if you...if this tends to be true. A family friend retired, age 60, from OPS, and now is going back and works as a contractor 20 hours a week. Has that happened very often in OPS? [LB512]

SENATOR WAYNE: I don't know about often, but it happens probably more than it should. There are some positions in OPS being a large district with diverse needs, that sometimes we can't fill those positions right away, and they come back as consultants. But it is an issue that we dealt with when I was president of the school board to reduce some of that, but it still does go on. [LB512]

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SENATOR LINEHAN: Also... [LB512]

PRESIDENT FOLEY: Time, Senators. [LB512]

SENATOR LINEHAN: Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Linehan and Senator Wayne. Senator Erdman. [LB512]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. I was going to speak on the amendment before, but I chose not to. We have negotiated something that I probably wasn't in favor of. I don't understand all the e-mails that I have been getting about voluntary separation. Please don't take that away. I don't know where they got that information that we were going to remove that. The only thing that we discussed here was not paying for it outside the levy lid. It's still available to anybody who wanted to use it. And almost all the e-mails said it's a cost saving approach for the district. And I made this comment earlier today, Senator Kolowski came by and told me that I made a mistake. And the comment that I made was what they do is they pay for early retirement and those people go away and they're making \$75,000 or \$80,000, and they hire a \$40,000 teacher, and so they have some money left over that they can spend in some other way. There's no savings at all. They never once, lowered the mill levy. They never changed what they spent. They just spend it on something else. I made that comment earlier. I'll make it again so Senator Kolowski can get it. It is a fact they never have made a savings to anybody by using early retirement. Okay? I would like to ask Senator Harr a question, if he would yield. [LB512]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB512]

SENATOR HARR: Yes, I would yield. [LB512]

SENATOR ERDMAN: Senator Harr, are you of that opinion that voluntary early retirement saves districts money? [LB512]

SENATOR HARR: What is your definition of saves money? [LB512]

SENATOR ERDMAN: They charge less, they collect less taxes. [LB512]

SENATOR HARR: It could, yes. [LB512]

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SENATOR ERDMAN: Do you know of any that have? [LB512]

SENATOR HARR: What's that? [LB512]

SENATOR ERDMAN: Do you know of any district that has? [LB512]

SENATOR HARR: Yes. [LB512]

SENATOR ERDMAN: They've collected less money because they had voluntary retirement? [LB512]

SENATOR HARR: Yes. [LB512]

SENATOR ERDMAN: Wow. Can you share that with me after we get off the mike? [LB512]

SENATOR HARR: Yeah. So what happens is... [LB512]

SENATOR ERDMAN: Okay. Here's my next question. So if I'm going to buy a widget, that costs \$100 and I wait a couple weeks and the widget goes on sale for \$80, and I buy the widget for \$80, how much did I save? [LB512]

SENATOR HARR: You spent \$80. [LB512]

SENATOR ERDMAN: It was \$100 and then I bought it for \$80, how much did I save? [LB512]

SENATOR HARR: You spent \$80. [LB512]

SENATOR ERDMAN: That is the correct answer. [LB512]

SENATOR HARR: I know. [LB512]

SENATOR ERDMAN: Most people do not answer that way. They say, I saved \$20. No, you didn't, you spent \$80. So that's the same (inaudible) they use in school. They say, okay, we had a teacher at \$80,000 and we're going to replace that teacher with \$40,000 and we saved \$40,000 but they go spend that \$40,000 on something else. All right? So I'm not in favor of this amendment being outside the levy lid. If you want to put this inside the levy lid, I'm all over this

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one. Forty thousand dollars would be a great number if you want to use it that way, I would be in favor. But the way it's written to be outside the lid, I'm not in favor of it. Okay? If they want to use voluntary retirement, let them use it. Just make sure it's inside the levy lid. So I'm going to vote red. I know that might shock some of you, but I'm going to use the red button. Haven't used it today. AM1008, I'm voting red and I ask you to vote with me, red. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Briese. [LB512]

SENATOR BRIESE: Thank you, Mr. President. I rise here to make a couple of comments regarding the discussion in regarding AM1008. Someone suggested that AM1008 is a compromise. I think the real compromise was found in AM970 that we adopted. Folks have questioned whether this takes away local control. It doesn't take away local control. Local officials can still use this tool, they just have to do it in a way that's respectful of the taxpayers. If they deem this a prudent use of taxpayer dollars, they will have to budget and plan accordingly, or they can take it to the vote of the people. Folks have suggested that LB457 is an unnecessary reaction to abuses of the program or that capping the amounts, like Senator Harr's amendment would suggest, takes care of the issue. I disagree. Although I've heard some...although a myth that some of the amounts that we've heard about seem a little outrageous, it's not the amounts that drive me. Whether it is \$40,000, \$20,000, or 20 bucks, it's the principle. I believe that regardless of the amounts we are talking about, it's the principle. We owe it to the taxpayers to put these amounts, regardless of size, back within the levy lid and limits. And to the extent that we feel this program has been abused, we need to remember that we're the ones allowing it to happen, at least to the extent these amounts are outside of the levy lid and the budget limit. And some suggest these agreements are necessary to save taxpayer dollars, but to make that conclusion one has to assume that the expenditures in question actually caused an employee to retire sooner than they otherwise would have. As I said before, I've always questioned that assumption, but LB457 as set forth in LB512 still preserves the ability of schools to use this tool. And it's still up to local officials to determine if it's a sound use of taxpayer dollars. And if they decide that question in the affirmative, voluntary separation agreements can be used. But to exempt an expenditure from the levy and lid requirements any time someone claims that it can save money, would open up a whole host of programs to the same treatment and would gut the taxpayer protections embodied in the lid and budget limits. This entire debate is about responsible use of taxpayer dollars and I'd ask for your support in opposing AM1008 and supporting putting these expenditures back within the levy lid and the budget authority limits. Thank you, Mr. President. [LB512 LB457]

PRESIDENT FOLEY: Thanks, Senator Briese. Senator Morfeld. [LB512]

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SENATOR MORFELD: Thank you, Mr. President. First off, again, I rise in support of AM1008 and I will see if this amendment fails, what our options are next in terms of LB512. I do believe that AM1008 provides the right balance in preserving the ability of the school district to take advantage of this while still instituting some of the reforms that I think are necessary to the way that the system works. That being said, I want to respond to a few of the comments that I think are a little bit off the mark in terms of what this bill does and what it does not do. Senator Groene said that he wants to simply just invest in what's going on in the classroom. Well, if you want to invest with what's going on in the classroom and make sure that we have high-quality education, you're going to invest in the people that are in the classroom. And, quite frankly, being a teacher is not an easy job. I have worked a lot of different jobs in my young life, everything from full-time before I went to college to you name it, and I have also taught in a classroom on a college level and that's tough enough and that's only two or three hours a week. So, these are tough jobs. It takes a lot of work, a lot of dedication to work that kind of job for over 30 years. In terms of Senator Linehan's comments about working for the district or maybe even a different district after somebody has retired, so what? My father worked in the...was a Marine, an enlisted Marine for 26 years. He didn't do too bad, but he didn't make it rich and after he did 26 years, he decided he wanted to spend more time with his girls and hopefully his son and he decided to go and work for the Department of the Navy. Just basically the functional equivalent of getting out of the Marine Corps, just like you get out of a district and then going to work for a different division of the district. And he's still serving his country just in a different way for the Department of the Navy. Who cares? He put in his 26 years, he's getting a pension and now he has a little bit more life that he can work and be able to have a second job and still serve his country just as some of our teachers decide to serve their community, maybe it's in a 20-hour a week contract position, maybe it's not. So who cares? That's their choice. We live in a free market where we can go around and decide to work for somebody after we retire or we can decide to go off into the sunset. Either way, these are individuals who are continuing to work and continuing to provide taxes and revenue for the state to provide for other programs or schools or whatever the case may be. They're being productive citizens. Who cares? The other thing, too, is that a lot of times teachers are rehiring some of these folks because they can't find other people to fill the positions that are qualified. So they're fulfilling a need that they otherwise wouldn't be fulfilling if they couldn't fill the position. I think those things...those two things were brought up. That being said, I think that they are a little bit off topic in terms of AM1008 and LB512. But I think that they required a response, too. The \$40,000 limit strikes the right balance. Strikes the right balance. And with the adoption of this amendment, we can also all go off into the sunset and support LB512. And I urge you to adopt AM1008. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thanks, Senator Morfeld. Senator Harr. [LB512]

SENATOR HARR: Thank you, Mr. President. You know, again, I want to reemphasize and I apologize for beating a dead horse but I keep hearing, oh, we know this was negotiated, was

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negotiated, was negotiated. No, it wasn't. This was of the 18 school districts that qualified for this, one school district, one. So it doesn't qualify as negotiation when that happens. So let's be very clear on the record. Also, this only applies to those school districts that are at their full levy limit, \$1.05. So I understand why some would want to bring this when they have no schools at the full levy limit, but it's what the Speaker talked about. It's what Senator Smith talked about earlier about being statesmen and looking what's best for all our students. After all, they're all our kids. And when they graduate, guess what, they're all our taxpayers. And we want these kids to be able to reach their full potential. And we can decide, do we want to have one and one-third teachers in a classroom teaching more kids with smaller class sizes and more types of classes, or do we want to have older ones who are paid more and have larger class...or who take up more of that dollar. Sure, we're going to go above a limit but we get more teachers in the classroom. No one denies that. I have yet to hear anyone refute that and it's because it's true. Now, I'm going to address the actuarial problem that Senator Kolterman talked about. Folks, think about it. These people already qualify. That actuary will tell you when they do their actuarial study, they assume the person will take their retirement the first year they're eligible. They're fully vested in the system. Nothing in this bill changes that...lowers it. As a matter of fact, Senator Kolterman is coming up with a bill to raise when you can vest. You know what an actuary will tell you is, what's important is how much you make your last three years because that's what they base your pension on. So, you can retire at 55, your last three years are going to be lower than if you retire at 60. You're going to make more money. That is an actuarial truth, cannot be refuted. This does not affect the retirement plan in the way that we have heard. This will not bankrupt our retirement plan. What this does is put more teachers in the classrooms. What this does is to provide more money to be spent on young teachers and it allows for a better flow of the work force. Senator...well, earlier one of the senators said, well, people retire and when they retire, they come back and work for the district. Maybe that does happen. It was anecdotal, one story. But folks, nothing in this bill or this amendment or Senator Briese's amendment would prevent that from happening, nor would it encourage it to happen. I sometimes wonder why we even talk about local control, whether it's... [LB512]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR HARR: ...Airbnb, we want a preemption, we say local control now. Our school districts we say, no, we know what's best. Again, I'm starting to wonder, maybe I'm the only true conservative in this body because I seem to be the one that's standing up before the body, the vote closest to the people. I'm the one that trusts our school boards that are elected. Many of us got our starts there. I was not one of them, but they do serve a purpose and I trust our school boards. Thank you. [LB512]

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PRESIDENT FOLEY: Thank you, Senator Harr. Senator Kolowski. I do not see Senator Kolowski at the moment. Yes, I do. Senator Kolowski, you're recognized. He waives the opportunity. Senator Baker. [LB512]

SENATOR BAKER: Thank you, Mr. President. I'm not going to go off point here just a little bit, but you know I get the impression that sometimes people think that early retirement, age 55 does really bad things to the solvency of the NPERS program. I would point out this illustration. If a person retired at age 55, say they had 33 years with the system and they averaged, say it was a principal, they averaged the high years were \$100,000 a year. So they would get 56 percent. They get \$66,000. If instead they waited ten years, worked ten more years and received some modest pay increases every year, say 3.5 percent, then their high three years might be something like \$118,000 to \$120,000 per year, and then their retirement benefit would be \$102,000 or so. So, while in that ten-year period the person would have drawn \$660,000. In that period of time things catch up. You know, the difference in \$102,000 verses \$66,000, you divide that into the \$660,000, you break even at about age 83, and I think that's somewhere close to the actuarial data how long people age 55 or 65 are expected to live. I didn't do that. I mean, I couldn't have retired at age 55 under the rule of 85 because I had some years in Iowa, but I could have retired at age 58. I chose not to. I worked until I was 65. But my point is, this works a little bit like Social Security. You know, if you take early Social Security, it's a lesser amount. If you wait until your full retirement age at 66, it's the full amount. And if you delay it until age 70, it actually increases so the payments are higher, but that all works out so that you end up if you live a normal life, end up about the same point no matter which plan you chose, and that's the case with teacher retirement. That said, I would support AM1008. Thank you. [LB512]

SENATOR HUGHES PRESIDING

SENATOR HUGHES: Thank you, Senator Baker. Senator Groene, you're recognized. [LB512]

SENATOR GROENE: Thank you, Mr. President. I want to make it clear I am firmly against AM1008. Firmly against it. I had some friends walk up to me and saying some on the opposite side of this have been saying that I lean towards it. I'm firmly a red vote on AM1008. Senator Kolterman might straighten me out, but I am on the Retirement Committee also. We had the actuaries come in and talk about mortality rate. When the age of 55 retirement was first introduced mortality rate, actuary said it worked out about even. If you retired at 55 verses 65 or 60, the cost to the retirement plan was about the same. That is not the case now. Individuals who retire at 55 over their life span collect more from retirement than those who wait until 65 or 60. That is why Senator Kolterman is looking at raising those retirement ages to match mortality rates. In no instance does having somebody retire at 55 help the instance. Representative of OPS, Omaha Public Schools is firmly against this, for getting rid of outside the levy limit because it

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hurts. When they get people retiring earlier, it hurts their retirement plan. Remember OPS has their own retirement plan. It draws it down quicker than what they would like. They have come to the point that they are against it. They are the ones with a past administrator that gave somebody a million dollars. They got burned. They would like to see it go. They don't want the pressure. This has nothing to do with the classroom. This has to do with a negotiation of a union benefit, and I am not against unions, I'm for them, I admire them, go for it. But this is an employee benefit that they are pursuing outside the levy so they can start working to get it into every union contract across the state. We cannot afford that, folks. We cannot afford it. We treat them well. They're paid well. They have negotiation rights. This is a benefit. If a school district wants to do it, can do it under the levy of \$1.05. Nobody is taking that away from them. School districts, the good management use it. When a teacher is just burned out, worked hard, 18-hour days, the good one, and just needs to go away and retire early, they can do this inside the levy. They can do it. Student enrollment drops. They need one less English department teacher. The management can go to one and say, will you retire early? We need to cut staff. We will give you a bonus. You can do that inside the levy. That is a management tool. That was the original intent of voluntary retirement. It has been warped, twisted into an employee benefit. Never was intended to do that. Never was intended to do that. We need to put the taxpayers on the same playing field at \$1.05. If they want to have a super majority vote of the...I mean, if they want to take it to the people and take the levy outside of \$1.05, they can do that. And then they can explain to the taxpayers and the voters why they need to do that. It needs to go away. I am a firm red on AM1008. You want to do it, do it in the levy, under the levy. By the way, there's two groups of individuals. We added four districts. If you look at that handout there's some districts in the second column in five year, they're blank. It's because there's two ways you can qualify for that. One is... [LB512]

SENATOR HUGHES: One minute. [LB512]

SENATOR GROENE: ...you're up against the spending limit, and one you're up against the levy limit. There are, I think, four more schools that were...the first 40...39, excuse me, 40 were affected by...only included districts using the spending authority side of the exclusion. Four more districts used the levy side of their spending. In other words, they have spending authority but they can't reach it because of their levy limit. But by keeping it inside their levy they gain a little bit of spending, so it works for both of them, but you can do it inside the levy. This needs to go away. AM1008 is a good, valiant try of Senator Harr and the union to add an employee management tool into an employee benefit, but we can't afford that. [LB512]

SENATOR HUGHES: Time, Senator. [LB512]

SENATOR GROENE: Thank you. [LB512]

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SENATOR HUGHES: Thank you, Senator Groene. Senator Crawford, you are recognized.
[LB512]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of AM1008 and appreciate Senator Harr's eloquent explanation of why it's so critical, and I appreciate the debate we're having on the floor because we are really talking about what the role this tool should have and why it's so important. I want to add two things to that debate that I don't think we have talked about so far. First, I want to remind everyone in the room that this voluntary separation tool is a tool that schools apply for to use, and part of that application process is demonstrating that there will be cost savings, and so this is not something that is just used if teachers demand it. It's something where the school has to have a plan to show how they're going to use this tool in a way that saves money, and so it's very important to keep that in mind because, again, it's not just considered an entitlement or benefit, and we're going to do it if enough teachers or administrators ask for it. It is something that has to be a part of a plan that shows it will save the district money. And a second thing that I want to point out for my colleagues is to help you see what this looks like in a growing school district. So when I was looking at the list of the schools that use it, many of them are in areas that are rapidly growing, and I happen to represent Sarpy County, which is a part of our state that's rapidly growing. So the population is growing very quickly, and so this poses...this puts an additional stress on the educational systems in those areas because, again, their population is growing rapidly and the school needs to find ways to adapt to that and make sure we're providing a quality education while the population is growing quickly. And that...and this tool is really important in those areas where the population is growing because as Senator Harr noted this is a tool that allows them to have one higher-paid teacher retire early, and then it gives the district an opportunity to hire more teachers, which is really critical because studies show again and again a critical variable in having quality education in that classroom is keeping the teacher to student ratios lower. And, colleagues, this is a really important tool for those districts in areas where the population is growing rapidly to be able to do that for their students, to try to hire more teachers while being fiscally responsible. And so it's important to see what this looks like in those growing districts, and, again, those are districts in the school districts in my legislative district and other parts of the state where you have a lot of population coming into the district and the schools are struggling to respond and, again, struggling to keep those teacher-student ratios low, which is really critical to make sure that our teachers can teach and make sure that we have quality education in that classroom. So those are two important factors to consider as we think about this tool and whether we want to allow the tool to be used. Finally, as Senator Harr provides in this amendment, we really are pairing it down to just making sure we're taking care of people's healthcare needs. So it is an important gap in our current healthcare policy in our state and in our country that people who are in that range between 50 and 65 have a very difficult time taking care of their healthcare needs, and that's all that this bill...I mean, now as amended, that's really what we're targeting is trying to make it...
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SENATOR HUGHES: One minute. [LB512]

SENATOR CRAWFORD: Thank you, Mr. President...trying to make it possible for the teachers to take care of their healthcare needs should they choose to retire early. And, again, it is only if it saves the school money, and it's a very important tool in our rapidly-growing districts to make sure we can keep those student-teacher ratios lower. Thank you, Mr. President. [LB512]

SENATOR HUGHES: Thank you, Senator Crawford. Senator Kolowski, you're recognized. Those in the queue are Briese, Walz, McDonnell, Linehan and others. [LB512]

SENATOR KOLOWSKI: Thank you, Mr. President. Just a reminder on processes. Many have served in the school boards in their past years outside of the Legislature, and that's a very valuable experience that they bring to where we are on this floor. Senator Erdman and I had a discussion, as he said, earlier today and not to split hairs with him on the gains as far as dollars within the district, but keep in mind that a school board will set its budget, usually in the summer before the upcoming school year, and that money is there for their use in that district throughout that year with their students and their teachers and running that particular district. That's correct. And if you're having some early retirements taking place rather than using the term, savings, because it doesn't lessen the bond issue or, excuse me, the levy, that was taken care of last summer as senators nodding it, and that does take place at that time. And you have allocations when you have early retirements and you're hiring a younger teacher for less cost, you'll have some gains within your district budget that you're able to use in other locations. That's a shift of money internally and greatly helps you when you're trying to do some safety issues in your district or add technology to your students' usage or getting some additional materials for your library or anything of that nature. So you have a gain that takes place. The larger your district, the larger that gain is because you have the difference between the more expensive teacher that's retiring and the younger one that's coming in. That's a great opportunity for a district to be able to make some very specific gains and make some improvements in their district that they are looking for and trying to place within their particular district. That being said, we have the opportunity with this bill to continue to do that and to make those gains more available to more districts as they have the possibility of early retirement taking place with younger...with the older teachers and hiring younger teachers to replace them. I hope we keep that in mind as we're moving into our...continuing our discussion on this particular topic. It makes a difference as to the functioning of the district and keep in mind that that's their money. That's what's been allocated by their levy and by their school board as the difference with the local control taking place with that six-, seven-, eight-member school board, whatever it might be, and making that decision to make that difference in their own community. It's not our money. It's important that we keep that in mind. Yes, they get TEEOSA. Yes, we pass that on to them. Yes, there's state aid for many of the districts, but how they handle that internally is truly their decisionmaking as they make that set of decisions within their realm to make a difference in their particular district. I

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hope as we continue on we'll keep that in mind and respect the territory that they have and the difference they're making in their individual district to improve where they are and where they hope to be. Again, I stand... [LB512]

SENATOR HUGHES: One minute. [LB512]

SENATOR KOLOWSKI: ...in support of this AM1008, and I think it's important to tack on to the previous amendment that we have already okayed and it makes a difference as far as where we are with overall possibilities with the early retirement systems. Thank you. [LB512]

SENATOR HUGHES: Thank you, Senator Kolowski. Senator Briese, you're recognized. [LB512]

SENATOR BRIESE: Thank you, Mr. President. I rise again in opposition to AM1008. I'd like to say that nothing we do is more important than how we educate our children, but I don't believe I've heard any evidence requiring these amounts to be within the lid and limit will have an adverse impact on our education system. Things may have to be prioritized a little bit, but I don't believe it negatively impacts education. With some of the highest residential and ag land property taxes in the country, Nebraskans are demanding property tax relief, and they deserve property tax relief. When we talked about property tax relief this morning and we'll talk about it next week and the week after and maybe the rest of the session, but we're also talking about property tax relief this afternoon. LB457 is an opportunity to tell our taxpayers that we're serious about property tax relief. AM1008 guts LB457 by saying, oh, it's okay to utilize these items outside of the restrictions because they're only talking about \$40,000 here. Either these amounts should be within the levy lid and budget limits or they shouldn't, and I don't care what amount we're talking about, they should be within the lid and limits. We owe it to the property taxpayers to vote no on AM1008. Thank you. [LB512]

SENATOR HUGHES: Thank you, Senator Briese. Senator Walz, you're recognized. [LB512]

SENATOR WALZ: Thank you, Mr. President. I stand in favor of LB...or excuse me, AM1008. Without it we would eliminate the extension for school districts to use expenditures for voluntary separation agreements, and I do want to make a comment to something Senator Briese said. I feel that, you know, if we are not going to be able to give our schools the tools that they need to budget, we are going to be losing some very important programs that our kids are or should receive, specialty programs such as Spanish and other language arts. So I think it's very important that we allow our schools to use this tool to hire teachers that are less expensive and be able to continue to provide the education that our kids deserve. Thank you. [LB512]

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SENATOR HUGHES: Thank you, Senator Walz. Senator McDonnell, you're recognized. [LB512]

SENATOR McDONNELL: Thank you, Mr. President. I rise in support of AM1008. I appreciate the work Senator Harr has done on the amendment, and I'll yield the remainder of my time to Senator Harr. [LB512]

SENATOR HUGHES: Senator Harr, you're yielded 4:45. [LB512]

SENATOR HARR: Thank you, Senator McDonnell. Members of the Legislature, going to talk to you about a little thing called RIF. Would Senator Groene yield to a question? [LB512]

SENATOR HUGHES: Senator Groene, will you yield? [LB512]

SENATOR GROENE: Yes. [LB512]

SENATOR HARR: Senator Groene, are you familiar with the term, RIF? [LB512]

SENATOR GROENE: Yes. [LB512]

SENATOR HARR: And what does it mean? [LB512]

SENATOR GROENE: It means you, usually on the low end of the scale, you RIF some employees so that you can meet your budget. [LB512]

SENATOR HARR: Thank you. And I apologize for putting you on the spot. RIF is Reduction In Force, folks, and Senator Groene is exactly right. So when there is a budget problem, much like there probably will be for a lot of school districts this year because of the contracts and the way they're done, the person most likely to lose their job are the youngest and the ones who started most recently. That's no way to...and that's by agreement. It's collective bargaining. I understand that. So you eliminate your cheaper teachers at the bottom end, the young ones, and we say go get another profession because you don't get paid to sit the bench. So what we do is we have older teachers keep their jobs. They make more money, and the younger ones who pay into the system who are further from retirement leave and you get a top heavy. And that's a problem. It's not a good way to manage your work force. We run a lot of young people out of the business, which by the way we're pretty good at already by putting a lot of these rules and regs in there and new requirements on our teachers. Some of them good, some of them maybe we overtest. I

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think testing is good, but sometimes there's a limit. So what we do is we push these young people out and we don't have anyone to replace them, and because the older teachers cost more they take on more students because we got to get the cost down, and we've eliminated teachers. So your kiddos in those classrooms are in larger classes or you keep the classrooms the same size and you eliminate specials. And specials are programs like I stated earlier, those are your foreign language programs, your arts. Last year Westside contemplated elimination of band. They'd never get rid of swing choir, too popular, but these are what enhance our children's education. It's not all reading, writing, arithmetic. While those are important, there are other aspects. There's the school newspaper. I think we're learning now more than ever how important journalism is, honest journalism. Where do you think they learn it, whether they like it or not? It's in the schools. It's in their high schools. I did a high school newspaper. I wasn't very good at it, so I learned, and I saved myself a lot of headache because I thought I wanted to be a columnist. Didn't work out. So this helps with RIFfing. [LB512]

SENATOR HUGHES: One minute. [LB512]

SENATOR HARR: As I state, we are near the time of the year where schools are looking at their budgets and they're deciding how many teachers they can keep, and if they have to eliminate teachers they're eliminating the young ones and they're eliminating the ones that are cheaper. Whereas the better way would probably be to go to those teachers that already qualify for their retirement and say, why don't you go ahead and leave a little early. We can get two teachers for the price of one, and we continue to have the right sizes in our classroom and we can continue to have our specials. Thank you, Mr. President. [LB512]

SENATOR HUGHES: Thank you, Senator Harr, Senator McDonnell, and Senator Groene. Senator Linehan, you're recognized. [LB512]

SENATOR LINEHAN: Thank you, Mr. President. I rise to voice my strong opposition to AM1008. I'm very confused, as Senator Briese said, if this saves money then why does it have to be outside the limit? It doesn't make any sense. Seems if it saves you money then you'd want it inside the limit so you could save money. So I'm very...Senator Harr, would you yield for a question? [LB512]

SENATOR HUGHES: Senator Harr, will you yield? [LB512]

SENATOR HARR: Yes. [LB512]

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SENATOR LINEHAN: How does it...if they save money by doing this, the school districts, why does it need to be outside the levy limit? [LB512]

SENATOR HARR: I think the savings comes from elimination of those higher-wage teachers. It's what I stated earlier, so that... [LB512]

SENATOR LINEHAN: I understand why...I understand that. It comes from... [LB512]

SENATOR HARR: Okay. [LB512]

SENATOR LINEHAN: Okay, but how come it has to be outside the limit then if it saves money? [LB512]

SENATOR HARR: It saves money because you eliminate the high-paying teachers. [LB512]

SENATOR LINEHAN: I got that. I got that. [LB512]

SENATOR HARR: Okay. [LB512]

SENATOR LINEHAN: You eliminate the teacher making \$80,000 and you hire somebody for \$36,000. So that would save you... [LB512]

SENATOR HARR: \$44,000. [LB512]

SENATOR LINEHAN: Sum of money, \$40,000. So why does it have to be outside the limit if it saves you money? [LB512]

SENATOR HARR: Because you have to make that initial payment to get that teacher to take the voluntary retirement so that... [LB512]

SENATOR LINEHAN: Or is it...thank you, Senator Harr. [LB512]

SENATOR HARR: Well, you won't let me answer. [LB512]

SENATOR LINEHAN: Okay, go ahead. I'm sorry. No, go ahead. [LB512]

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SENATOR HARR: What it does, and I apologize. What it does is that first year it's \$126,000, right? But the next year you're down to \$44,000. So they're not using it every year, nor should they use it every year, and if it becomes part of collective bargaining, then as I said earlier, we do have a problem and we should come back. But when they're at their levy limits like this year where we're cutting budgets, we're cutting TEEOSA and we're only allowing 2.7 percent growth in TEEOSA, but at the same time healthcare costs go higher than that, we have to eliminate. Thank you. [LB512]

SENATOR LINEHAN: Thank you. Okay, so we're not cutting TEEOSA. I think we're increasing it 2.7 percent. That's been, not 4.5 percent, but it's more than inflation, so we're not cutting funding for TEEOSA. The other thing I don't understand if you're going to give them \$40,000 so they can retire at 55, to get to 65 for Medicare, where do you get health insurance for \$4,000 a year for a 55-year-old person? Because that's not what I'm paying for health insurance. So Senator Crawford, I think you mentioned that...could you yield for a question? [LB512]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Senator Crawford, could you yield, please? [LB512]

SENATOR CRAWFORD: Yes. [LB512]

SENATOR LINEHAN: So did I understand you right, it was \$10,000 or the \$40,000 was to help cover health insurance costs between 55 and 65? [LB512]

SENATOR CRAWFORD: That's my understanding, yes. [LB512]

SENATOR LINEHAN: So that would be about \$10,000 a year. No, it would be...I figured this out, I'm sorry...\$4,000 a year. [LB512]

SENATOR CRAWFORD: It's my understanding is that that's what they would be able to pay to stay on insurance. [LB512]

SENATOR LINEHAN: Oh, they get to stay on the school's health insurance plan? [LB512]

SENATOR CRAWFORD: That's my guess. [LB512]

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SENATOR LINEHAN: Okay. I would be interested if somebody knows that's the situation. It seems to me if you retire early and you get to stay on the health insurance plan that's a pretty good benefit, period. I know when I came down here for orientation I talked to some of my colleagues who are self-employed and I think they said that their health insurance for themselves and their wives was more like \$2,000 a month. Senator Lowe, can you yield for a question? [LB512]

PRESIDENT FOLEY: Senator Lowe, would you yield, please? [LB512]

SENATOR LOWE: Yes, I will. [LB512]

SENATOR LINEHAN: So if I'm...I think maybe it was Senator Erdman, but I know this is personal, so you don't have to...but would you think if you could buy health insurance for \$333 a month that would be a pretty good deal? [LB512]

SENATOR LOWE: I would love to be able to do that. [LB512]

SENATOR LINEHAN: Thank you, Senator Lowe. Senator Erdman. [LB512]

PRESIDENT FOLEY: Senator Erdman, would you yield, please? [LB512]

SENATOR LINEHAN: I'll ask Senator Schumacher. [LB512]

PRESIDENT FOLEY: Senator Schumacher, would you yield, please? [LB512]

SENATOR LINEHAN: Senator, if you could buy health insurance for... [LB512]

PRESIDENT FOLEY: Time, Senators. [LB512]

SENATOR LINEHAN: Thank you very much. [LB512]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Hansen. [LB512]

SENATOR HANSEN: Thank you, Mr. President. I'd yield my time to Senator Baker. [LB512]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Baker, 5:00. [LB512]

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SENATOR BAKER: Thank you, Mr. President. I'm just going to talk a little bit about my experience with early retirement incentive programs. When I went to Norris I inherited an early retirement incentive program. It was based on age. If you're a certain age you get this amount if you retired early. Well, it wasn't long until those types of plans were declared illegal because the discrimination based on age. So then we changed the early incentive for retirement incentive program and keyed it off a window of time keyed to the date which the person would be first eligible for NPERS retirement. I think it was something like five years before it, two years after. So then that worked to a certain extent. Inside the lid, outside lid wasn't an issue because we were always below the levy cap anyhow. Eventually we did eliminate the program altogether for a number of reasons. It wasn't saving us any money. It was in a growing school district so there was never a need to have a reduction in force, and we were always going after...hiring the very best people we could, and we granted all the years experience gained in other systems. Outsiders were coming into our district because we wanted the very best people. As an example, we hired a teacher from Norfolk with a master's plus 30 degrees...30 hours and 15 or more years of experience. So that person eventually became one of the first reading coaches for us, one of the first reading coaches in the state of Nebraska. Then after I retired, I did get asked to come out of retirement to serve as interim superintendent at Beatrice. This was four years ago at Beatrice. While I had been there I discovered they had a budget imbalance where the budget of expenditures exceeded estimated revenues by seven or eight hundred thousand dollars. So I figured it was my duty to try to help them find a way to get out of that mess. Beatrice's situation where their enrollment was declining slightly over years, and they probably hadn't kept pace with reducing the number of staff members. And that generally is where districts get into trouble budgetwise if they have more staff than they need. So what we did, we...I put a proposition to the board which they agreed to that we would put on a one-time early retirement incentive to try to reduce the teaching staff by ten teachers. And that was, you know, after a study, find out where do we have more people than we need, and where we want to target this early-retirement program. And we did then attract the people we were looking for, by giving each a \$25,000 stipend. And that's kind of the pattern in a lot of districts now where they have...they'll use the voluntary separation agreements to put them on and take them off, particularly in districts that are declining in enrollment and have budget woes. The question was asked about what happens with health insurance, can you stay on the plan? [LB512]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR BAKER: What happens is the NSCA offers a retirement plan for people who have taken retirement from the district and they're not yet 65, not eligible for Medicare yet, and I did use that. My wife's a little bit younger than me and so we purchased health insurance for her after I was already on Medicare until such time as she became eligible for Medicare. So you...you know, it's not cheap, so certainly what Senator Harr's amendment is offering will not pay the full cost, but remember the person drawing some early retirement is going to start

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drawing his NPERS, so they're going to be able to afford some. This will be just something to take some of the sting out of the cost of insurance. So, you know, to me the whole matter of... [LB512]

PRESIDENT FOLEY: Time, Senator. [LB512]

SENATOR BAKER: Did you say time? [LB512]

PRESIDENT FOLEY: It's time, Senator. [LB512]

SENATOR BAKER: Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Bolz. [LB512]

SENATOR BOLZ: Question. [LB512]

PRESIDENT FOLEY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Record, Mr. Clerk. [LB512]

CLERK: 26 ayes, 0 nays, Mr. President, to cease debate. [LB512]

PRESIDENT FOLEY: Debate does cease. Senator Harr, you're recognized to close on AM1008. [LB512]

SENATOR HARR: Thank you, Mr. President. Appreciate the time, the debate on this. It has been an interesting debate. There's been a lot of misconceptions about this bill, so I'm going to be very clear about what this bill does and does not do. This bill is for those districts that are at a \$1.05. If you do not have a district at...or school at \$1.05, does not affect you. You have room to grow. If you are \$1.05 and on TEEOSA and while we are growing TEEOSA at 2.7 percent this year, make no mistake, if LB409 doesn't pass tomorrow, TEEOSA grows at over 6 percent. So we've got to pass LB409 tomorrow. But a 2.47 percent growth in TEEOSA does not even keep up with the cost of healthcare. Doesn't. So I know of teachers and administrators who next year their take-home pay will actually decrease because they have not gotten that raise in their salary and their health insurance is more than that. Fact. Reality. Now, some school districts, that's still not enough. They're \$1.05, TEEOSA grows at 2.5 percent. Maybe property tax have increased 3 percent. They're originally 6, now they're down to 3 in Douglas County. They don't have enough

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to make up so they have to RIF, which is a reduction in force. We have two options. We can incentivize those schools to incentivize, allow their boards to say, hey, we have a teacher at \$85,000 a year. Let's encourage him or her who are already vested in their retirement plan to take that plan. Or we can lay off two younger people who are the same cost as that older teacher. And what happens? What's the long-term implication of that? Well, what happens is we now have a work force that's lopsided. We have more seniors than we do young people. The young people pay in and, by the way, they're also cheaper for insurance so your group plan could go up, and that affects everyone across the state because teachers and administrators, minus two or three school districts, are all on the same insurance plan. So, yes, it could have an affect on you. I apologize. Two, you have less teachers, and because you have less teachers you have to decide. Last year Westside School district in the heart of Omaha had to decide what they were going to do. They eliminated Spanish. They talked about eliminating band. That's a problem. These specials will disappear. Specials are those classes...those instruction time outside of the core reading, writing, and arithmetic. We will lose those. We will lose our liberal arts background, a diversity that makes a person whole. That's a fact. So, yes, there is an up-front cost to this program, and we're not...we're eliminating administrators, okay. They're gone. The days of an administrator getting a million bucks to leave, gone, out the door. The days of an administrator getting \$50,000, gone. The days of an administrator getting \$40,000, gone. What's left? Teachers. [LB512 LB409]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR HARR: And the days of teachers getting \$50,000 to leave are gone. We limit it at \$40,000. We put a cap on it. This is more than they have...this is more of a limit than you have today. AM1008 doesn't pass and guess what happens, we're facing a filibuster, folks. You have to decide, what is in LB512? Do you have the votes? Do you want an omnibus bill from the Education Department to pass or Committee to pass or not? This bill is a...amendment is a good amendment. It is a fair amendment. It is an amendment between labor and management. NAS, the School Board Association and the Teachers Union both want this and agree to it. This is not as Senator Briese's was... [LB512]

PRESIDENT FOLEY: Time, Senator. [LB512]

SENATOR HARR: Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Members, you've heard the debate on AM1008. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Senator Harr. [LB512]

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SENATOR HARR: I rise to request a call of the house. [LB512]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB512]

CLERK: 33 ayes, 7 nays to place the house under call. [LB512]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Hilgers, please return to the Chamber. All unexcused members are now present. Senator Harr, will you accept call-in votes, or how did you want to proceed? [LB512]

SENATOR HARR: I would request a roll call in reverse order, please, Mr. President. [LB512]

PRESIDENT FOLEY: Mr. Clerk. [LB512]

CLERK: (Roll call vote taken, Legislative Journal page 1078.) 20...Senator Harr. [LB512]

SENATOR HARR: I would like to change my vote to not voting. [LB512]

CLERK: Senator Harr, changing from yes to not voting. 20 ayes...I'm sorry, 19 ayes, 18 nays, Mr. President. [LB512]

PRESIDENT FOLEY: AM1008 is not adopted. I raise the call. Mr. Clerk. [LB512]

CLERK: Mr. President, if I might, items very quickly. Senator Kolterman new resolution, LR104; that will be laid over. Enrollment and Review reports LB253 to Select File and LB91A, LB225A, LB263A are reported as correctly engrossed. Mr. President, Senator Harr would move to reconsider the vote just taken. (Legislative Journal pages 1078-1079.) [LR104 LB253 LB91A LB225A LB263A LB512]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on your reconsideration motion. [LB512]

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SENATOR HARR: Thank you, Mr. President, members of the body. Simple one, maybe some people are checked out. I notice a lot of people weren't on the floor, so I filed a motion to reconsider to talk about this a little bit more, and to see what we should or shouldn't be doing. You know, folks, I pretty much said what I thought on my close, but I notice that I had a lot of people who had their lights on who didn't get a chance to speak, and while I said what I think was the right thing, I noticed others didn't. And so, I'm going to ask for a motion to reconsider because I did ask some people to turn off their lights and they didn't get to say what they wanted to and I remember when that happened to me and I didn't like it, so I'm going to go ahead and ask for a motion to reconsider and if someone wants to get up and speak, I would appreciate it. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Pansing Brooks. [LB512]

SENATOR PANSING BROOKS: Yes, I'm supporting AM1008. I didn't get a chance to speak on it, and I hope that you will reconsider this vote because it's really important for the teachers and to be able to go forward. So with that, I will give the rest of my time to Senator Harr. [LB512]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Harr, 4:30. [LB512]

SENATOR HARR: Thank you. I appreciate it. So here's where we are, folks. We have a question. How much do we like LB512? Read it, look it over. There are a lot of bills within LB512. It is the Education Committee's committee bill for the year. And so what we have to decide is, what is more important to you and to the body is, do we want AM1008 or do we want to take this to a cloture vote? It's a simple question. AM1008 is something for the working-class people. I constantly hear, hey, I'm for the working class. Hey, I want to make sure our kids get a good education. To me the most important thing we do in this state is invest in our children to provide education for our children. Now, I do not have the distinct privilege of living in a district that is property rich, population poor. I feel for those people because they do pay a large portion of property taxes, a very large sum. Some pay more in taxes...property taxes than even Warren Buffett, and I understand that. But the fact is we don't have any way to grow, and we don't have a way of controlling our work force. And we have a management issue. And it's easy for us to sit here in the Legislature and say, hey, control your districts. Control your teachers. Control your spending. Well, when 70-plus...close to 80 percent of your budget is human resources, there's only one way you can control cost when you're at your limit from property taxes. You can either come down to the Legislature and ask for more money or you can reduce your work force. And when you reduce your work force, because of collective bargaining, the ones you're going to reduce are the youngest, and the ones you're going to keep are the ones that are more expensive. What we're trying to do with this bill is to incentivize those who are eligible to retire to go ahead and take that...to retire. And think about what that does, your last three years is the basis of your

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retirement. So these people are making a sacrifice, because if they were to work until they were older, their last three years would be higher and they'd take home more money when they're 68, 69, 70. So it's a trade-off. So you have to say, if you're going to do this, how do we incentivize you to do that, and it's quite simple. We give them a payoff. In this case no more than 40. Doesn't have to be 40. And should not be a part of the collective bargaining unit. This is an important legislation for us to control our work force, to allow our school districts local control to determine how they control their human resources. They can't force those higher teachers who make more money out of the work force, but they can incentivize them. [LB512]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR HARR: They can lead them in that direction. So decide if that is more important to you or a cloture vote on LB512. It's that simple. I look forward to some more debate on this and a conversation. We have only about an hour, so we can decide if we want to do this or if we want to go ahead. If we pass AM1008 we can go ahead, pass that and we can go home early. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Morfeld. [LB512]

SENATOR MORFELD: Thank you, Mr. President. I urge us to, number one, support the motion for reconsideration and again, please reconsider if you did not vote to support AM1008, there's a lot of important bills, including mine, that are attached to this that I think are fairly noncontroversial. As I stated before, I think for me, my opposition to Senator Briese's bill overall is principled and it has been consistent. I've been opposed to it from the beginning. That being said, I would support this legislation and a cloture motion if we adopt AM1008. And I hope that we do so. I think it strikes the right balance. I think it allows for us to go outside the levy limit in a reasonable way while curbing some of the extravagances, as some people have said, with maybe some of the administrators' compensation packages. So, colleagues, I really do, for those that were not voting this last time, I urge you to reconsider your not voting stance and I urge you to adopt AM1008. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Crawford. [LB512]

SENATOR CRAWFORD: Thank you, Mr. President. I also support the reconsideration motion. I do think there was some confusion, and I think we were answering some very good questions right at the very end, and I appreciate Senator Linehan asking some of those questions. And I don't know that enough people heard the answers to those questions, and she asked me a question that I didn't know how to answer correctly, but Senator Baker answered correctly later. So, I just wanted to make sure that people understood that. So one key question and it is, I think,

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a confusing part of the argument is, how does it save money if then you have to go outside of your levy limit? And that is because this is a one-time cost, and so you are spending more in one year to give them this benefit, and then they are not paying for them for that next five, ten years, whatever. So that's important to understand, and as Senator Harr noted this is something you do when you need to do that reduction, and so it's important to think about what that means. That's why it costs more in this year but why you're saving money over a period of years. And as Senator Baker noted that this is...the amount that we're talking about in this amendment is not an amount that would probably cover all of their healthcare costs, but it's helping to cover those healthcare costs. And he also noted that it is something they're purchasing themselves, not something they're...and so it's an opportunity that they have through their association to purchase something, a professional association they belong to to purchase something that helps tide them over in this period. So it's not something that we are necessarily subsidizing as someone might think given the incorrect answer that I gave to that question earlier. So I just wanted to clarify on those two points again. It goes outside of the levy limit on one year because it's a program that's saving money in future years, and it's not necessarily covering all of their healthcare costs. But it is helping them pay for those healthcare costs that they then would be purchasing through their professional association and that's part of what they do in terms of paying dues and belonging to that professional association is to have the opportunity to buy insurance at a lower rate. And that's something that different groups and associations do is provide insurance to members at a lower rate, and so that's something that they have access to. But, again, we're just helping them with that cost with the provision in Senator Harr's amendment. And so I urge you to reconsider the vote and I urge you to support this provision in terms of making sure that we're helping those schools that are at the levy lid--and again, if you're not at the levy lid it's not impacting your property taxpayers at all--that are at the levy lid, especially in these growing districts and, that's what Sarpy County is, is one of these areas with growing population and busting at the seams and needing new teachers. This is important in terms of addressing that specific program that some of our school districts face, and I know not all school districts face it. But again, this is part of thinking about looking at the picture of the whole state and asking what those needs are and concerns are in parts of the state. And this is an issue that is of a concern in those areas of the state that are growing rapidly and that are at their levy limit. And if that's not the situation in your school district, I hope you will...are listening and trying to understand why this matters, or why it's important in those areas where it is. And, again, it doesn't pose any risk to property taxpayers in your district if you're not at the levy limit and because it's not applying to those schools. So I urge you to think about that and again I wanted to make sure on the record we were clarifying those questions that were being raised at the very end of this debate while we have maybe more people in the room to understand those two concerns that I think were really important questions that were part of the debate. How does it save money? [LB512]

PRESIDENT FOLEY: One minute. [LB512]

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SENATOR CRAWFORD: Thank you, Mr. President. How does it save money if you have to go above the levy limit because you do it temporarily to save money in the future. And second, this is something where they're able...it helps them pay that health insurance cost, not entirely but just helps them do that through their professional association, which is a part of what they've decided to join and pay into, probably in part for that benefit. So, again, I urge your reconsideration and I urge your support of AM1008. LB512 is a very important bill. It has a lot of components. I just want to make sure we make it effective for all our school districts. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Hansen. [LB512]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon, colleagues. Mr. President, I'll yield my time to Senator Harr. [LB512]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Harr, 5:00. [LB512]

SENATOR HARR: Thank you, Senator Hansen. Folks, I've been working with Senator Groene. I think we have an agreement, but like all things in life, easy to agree. The verbiage is very important. It is up...we sent it up to Bill Drafters, so I think we have two choices here and I'm going to talk to the Speaker, but what the agreement is, and I'm going to ask Senator Groene if this is our agreement and if it is, we can have a choice and we can either stand at ease or we can jabber until we get the amendment back. But Senator Groene, it's my understanding that AM1008 puts a cap at \$40,000 for teachers only. What the compromise is, we would put the cap at \$35,000, but...and this is very important, and this is something I agree wholeheartedly with and I think is very important. And this is what's going to take the time is that that voluntary separation cannot, and I repeat that, cannot be a part of collective bargaining because there is some problem with that. And some school districts are doing that, so it would be...it cannot be a part of any new collective bargaining agreement. Unfortunately, it's already contained in some and I understand the concern. I think Senator Groene understands that. Would Senator Groene yield to a question? [LB512]

PRESIDENT FOLEY: Senator Groene, would you yield, please? [LB512]

SENATOR GROENE: Yes. [LB512]

SENATOR HARR: Senator Groene, you heard how I described our agreement. Is that accurate? [LB512]

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SENATOR GROENE: I would vote for that. I don't know about my colleagues, but I would vote for that because the reality is we don't have enough people here to hold a filibuster and then a committee amendment dies, committee bill dies. [LB512]

SENATOR HARR: Okay. Thank you. Is Senator Briese available? [LB512]

PRESIDENT FOLEY: Senator Briese, would you yield, please? [LB512]

SENATOR BRIESE: Yes. [LB512]

SENATOR HARR: Thank you, Senator Briese. And I got to apologize. I didn't get a chance to talk to you before I went on the mike. You've heard what the proposed compromise is. Have you heard it? [LB512]

SENATOR BRIESE: Yes, I have. [LB512]

SENATOR HARR: Okay. Would you be willing to support that compromise? [LB512]

SENATOR BRIESE: I'm not very fond of it. My thought right now is no. [LB512]

SENATOR HARR: Okay. Folks, that's the sign of a good compromise, because guess what, I'm not a big fan of it either. I had to give up something. You heard what Senator Groene said. He does not have the votes right now to sustain a filibuster. So we can sit here and we can debate for the next hour, maybe he has the votes, maybe he doesn't, or we can put on our big boy pants as I like to say, I think that was Senator Hadley's...Speaker Hadley's line, and we can work a compromise. I don't get everything I want, the \$40,000. Senator Briese doesn't get everything he wants. Senator Groene has shown leadership and the willingness to compromise to find common ground so that we can achieve the greater good of passing LB512. So with that in mind, Senator Briese, have you had a chance to reconsider? [LB512]

SENATOR BRIESE: Yes, I have. [LB512]

SENATOR HARR: Would you be willing to support Senator Groene's amendment? [LB512]

SENATOR BRIESE: Not at this point. [LB512]

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SENATOR HARR: Still a no. All right. Well, folks, here's what we can do. It's upstairs being drafted. I think maybe we should have debate about it now. We can talk about it and I apologize we don't have the specific language. I know we all want to read the bill specifically before we agree to it and that's fair, but I think we should have a conversation about it because if the votes aren't there... [LB512]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR HARR: ...we can go ahead and take this to a filibuster. So don't just think about what that amendment does. Read the underlying bill, LB512, and decide if you want that bill to pass or not because that's what we have. Those are the choices you face. So, thank you Mr. President. [LB512]

PRESIDENT FOLEY: Mr. Speaker. [LB512]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. While the processing of the amendment is being done to try to best utilize the time that we have available, and because I have you here, what we will do rather than recess, until that gets down I will skip over LB512 until the amendment comes back down. When it gets here we will return to it to try to finalize that agreement. And by the way, Senator Harr, if indeed Senator Groene is willing to agree to that I would as well so that may make a difference for you. And having said that, we will move forward on the discussion. We will move to LB223 and on the agenda until we are...returned with the paperwork on LB512. Thank you, Mr. Lieutenant Governor. [LB512]

PRESIDENT FOLEY: Thank you, Mr. Speaker. We are going to make a note of those who were in the queue and then we're going to clear the queue as we move to another bill. General File, 2017 Senator priority bill. Mr. Clerk. [LB512]

CLERK: Mr. Speaker, can I...Mr. Speaker, I'm sorry. Where do you want to go? I'm sorry. What bill?

SPEAKER SCHEER: We are going to move to LB223, LB578, and if we are really, really lucky we're going to finish up with LB259 as well. [LB223 LB578 LB259]

CLERK: Mr. President. LB223, introduced by Senator Kuehn. (Read title.) Introduced on January 10, refer to the Health Committee, advanced to General File. There are Health Committee amendments pending. (AM950, Legislative Journal page 964.) [LB223]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Kuehn, you're recognized to open on LB223. [LB223]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. Good evening and I'm here today to introduce LB223. Before I begin I would like to thank Senator Sara Howard for making this her personal priority bill as well as for all of her continued enthusiasm for the major undertaking which has been the prescription drug monitoring program in the state of Nebraska over the past several years. LB223 makes a few technical and procedural changes to the statutory language of LB471, which was passed last year in 2016 which established Nebraska's Comprehensive Prescription Drug Monitoring Program. I would like to thank throughout the process of this year a number of stakeholders, including healthcare professional organizations, NeHII, the Nebraska Health Information Exchange (sic--Nebraska Health Information Initiative) and the Department of Health and Human Services for working together to develop language that will ensure continued successful implementation of the prescription drug monitoring program in Nebraska. As we move forward there is a committee amendment, which is a white copy amendment, which takes a look at all of the additional work that has been put in since its original introduction to address a number of the language concerns as well as the reporting of controlled substances by veterinarians. I'm going to walk through for simplicity, since we are running here on the fly, what is contained also in the white copy amendment and what is happening here with LB223. First, in Section 2, the new language ensures the information submitted to the prescription drug monitoring program is protected by the HIPAA protections for privacy. The data entered into the PDMP is available through NeHII, avoiding the need for healthcare practitioners to go to multiple sites to access prescription information but is considered protected health information. Additionally, the opt-out provision of the health information exchange ensures privacy of prescription information via the NeHII portal. Next, the language inserts the term "confidential privileged" into Section (5)(a), protecting the privacy of health information and inserts Sections (5)(b) and (5)(c). Sections (5)(b) and (5)(c) allow data only to the health information exchange and to the prescribers and dispensers. (Section) (5)(c) further clarifies legal responsibilities for the use of any aggregated health data in the system and according with existing statutes. Third, Section (6) establishes a training requirement for an individual and who can access the system. This ensures that all users are educated in the proper use of the system as well as the legal responsibilities for privacy associated with its use. According to the language, NeHII which administer that training. The amendment includes language that will ensure that current compliant users will not require retraining and their current training certification meets the requirements. Fourth, a newly ordered Section (7) defines the term "designee" to a designee of the prescriber and dispenser to access the PDMP, reflecting the reality of modern healthcare practice and the team approach. Fifth, amendment language Section (4) clarifies specific fields for veterinary submission and extends their operative date for mandatory reporting until July 1 of 2018 to accommodate technical needs of the system. You will recall that earlier in the session there was a discussion involving a bill introduced by Senator

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Krist and myself in which his bill was withdrawn and that requirements of that bill were included as an amendment to LB223. Finally, in order to address stakeholder concerns and provide clarity, Section (7)(c) clearly defines the terms "participant" and "health information exchange" and ensures compliance of that terminology with HIPAA. Finally, LB223 has an E clause so that the designee language can be implemented to ensure successful operation and continued implementation of the PDMP as soon as it is passed. With that, I would like to again thank Senator Howard for her tireless work in this issue. I would like that thank the Health and Human Services Committee for their attentiveness in working on this issue over a period of several years, as well as the coordination of Chairman Riepe and his staff with all of the stakeholders to ensure that we have a bill which represents a number of people working together to ensure continued implementation of this major undertaking to ensure patient health and safety. Thank you, and I encourage your support of LB223. [LB223]

PRESIDENT FOLEY: Thank you, Senator Kuehn. As the Clerk indicated, there are amendments from the Health and Human Services Committee. Senator Riepe you are recognized to open on the committee amendments. [LB223]

SENATOR RIEPE: Thank you, Mr. President and colleagues. AM950 is a white copy amendment. Thank you, Senator Kuehn, for introducing the white copy committee amendment. I appreciate all the cooperation of all stakeholders for LB223. I appreciate the work put into this session and over the interim to get the veterinarians to embrace with the PDMP. AM950 and LB223 offer important changes for training requirements to use the PDMP. The bill also includes designee language. I'd also note that I note I'm sure that the vast majority of you here are big Fox News fans and for those of you who are, the Tucker Carlson has run a series on opioids recently and I think it's been very informative to the listening audience. With that, I would say LB223 is a good bill and please vote, yes, on AM950 and LB223. Thank you, Mr. President. [LB223]

PRESIDENT FOLEY: Thank you Senator Riepe. Debate is now open on LB223 and the committee amendment. Senator Howard. [LB223]

SENATOR HOWARD: Thank you, Mr. President. I was just told by the Speaker to not love this bill to death, and so I'm going to be very, very brief. But I will tell you that every single person in this body will have one bill that really matters to them, that when their constituents ask them, what are you most proud of that you did here in the Legislature, and for me last year it was LB471, which fixed our prescription drug monitoring program. My mother first passed our prescription drug monitoring program in 2011 two years after my sister passed away from an opioid overdose. And it was the one thing that she felt like she could do to stop other families from experiencing what we had experienced. And so it wasn't a perfect system in 2011, I think you'll all learn that you're still going to be building on the statutes of your predecessors, but right

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now we have one of the best prescription drug monitoring programs in the country. We have it free for all prescribers and pharmacists in the state with the help of a grant from the federal government. We have no opt-out provision so drug seekers aren't able to say, no, I don't want my information in that. And we also collect all of...we offer a full medication history which means that pharmacists and the doctor can talk to you about how your drugs interact, which is critical when your dealing with drug seekers. With that, I don't want to love this bill to death, but LB223 is a cleanup from LB471. It really strengthens what's an already strong prescription drug monitoring statute and it keeps Nebraska light years ahead of our peers in other states in dealing with opioid addiction. And so with that, I would urge the adoption of AM950 and LB223. Thank you, Mr. President. [LB223]

PRESIDENT HOWARD: Thank you, Senator Howard. Senator Morfeld? [LB223]

SENATOR MORFELD: Thank you, Mr. President. I rise also in strong support of AM950 and LB223. I commend the efforts of Senator Howard last year and also Senator Kuehn this year. This is...this bill and the reason why we're...one of the reasons why I introduced LB487 this year is because we've tightened up our prescription drug monitoring system and that's a good thing. But what's going to happen is, people with the opioid addictions are now going to go to more dangerous street drugs. And we need to make sure they are comfortable getting medical attention when they know that they need that, when their family members know that they need that without fear of criminal prosecution. And I appreciate the Attorney General coming out for that legislation as well. But I think that this is a good bill. I think it is a good followup bill to the good work that was done last year and I am strongly in support of it. Thank you. [LB223]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Riepe, you're recognized to close on committee amendments. He waives closing. The question before the body is the adoption of AM950, the committee amendments. All those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB223]

CLERK: 40 ayes, 0 nays, on adoption of committee amendments. [LB223]

PRESIDENT FOLEY: The Committee amendments are adopted. Returning to debate on LB223. Senator Kuehn, you're recognized to close on LB223. [LB223]

SENATOR KUEHN: Thank you, colleagues. I appreciate the support and all the collaboration in this project and I appreciate your green vote on LB223. [LB223]

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PRESIDENT FOLEY: Thank you, Senator Kuehn. Members you have heard the debate on LB223. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB223]

CLERK: 38 ayes, 0 nays on the advancement of LB223, Mr. President. [LB223]

PRESIDENT FOLEY: LB223 advances. Next bill, Mr. Clerk. [LB223]

CLERK: Mr. President. LB578, introduced by Senator McDonnell. (Read title.) Introduced January 18, referred to the Health and Human Services Committee, advance to General File. There are committee amendments, Mr. President. (AM917, Legislative Journal page 967.) [LB578]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator McDonnell, you're recognized to open on LB578. [LB578]

SENATOR McDONNELL: Thank you, Mr. President. This bill was brought to me by the first responders, by volunteer firefighters, the Nebraska Professional Fire Fighters, League of Municipalities, Fire Chiefs Association, and what they are asking us for is help. They respond to over 350 calls on a daily average, east, west, north, south in our state. They are there to help anyone that calls them. They will never turn down a 911 call. What they need is also the idea of after that call, how do you replace the equipment? How do you train the people that make that call? How do you pay for fuel? How do you continue to improve the services which are great in the state of Nebraska, how do you do that? It costs money. What we're talking about with LB578 is a state amendment. It's a ground emergency medical transportation. It's an opportunity for those first responders to actually recoup some of the costs. This has been done by 11 states, 9 other states are currently pending. I'm going to give you an example: There's a cardiac call at \$1,400, and we're talking about only Medicaid patients. That Medicaid patient, hopefully with the response, early response, the treatment they received in the field, the definitive care, will have a positive outcome. They will spend less time in the hospital, they will recover quicker, it will cost less money in the long run. That definitive care makes a huge difference. So right now we're looking at a \$1,400 call. Afterwards with that patient for a Medicaid patient there is \$170 collected by that department. With the ground medical transportation, there will be a supplemental plan based on...they could collect up to half of that call, \$700. This is a voluntary program for any agency in the state of Nebraska that's got to be a nonprofit, not-for-profit company. It can't be...it's got to be a government agency, local, state, federal, that are applying for this. There will be no costs that comes out of the state budget. There will be no costs come out of the General Fund. I want to thank Senator Riepe, I want...based on the idea that the committee, it was a 6-0 to 1 vote. It was Health and Human Services, but the staff worked

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incredibly hard with us and our staff to try to make sure that we had the best possible bill on the floor for you to consider. With their work, it's an opportunity for the federal, the state, and the local governments to work together. Again, not mandating to those local agencies that are making those 350-plus calls every day in the state of Nebraska, but we're giving them an option. We are also giving them the option while we are working on this plan amendment for the state, we're also telling them that they're going to have a seat at the table. That we are going to be before January 1 of 2018, if we pass this for the Department of Health and Human Services, we're going to give those local agencies input. Based on what we have done with the other 11 states, which has been done by 11 other states, and our opportunity now to learn from them and the other 9 pending, it's still an opportunity for our local agencies to say, you're right. There is no cost to the state, but overall there could be--based on a conservative estimate--there could be \$15 million being brought into the state for those local agencies. Well, because the state would be administering the plan, they would be able to pick up 20 percent. That potentially could be \$3 million dollars for HHS, for the state. With that, with the idea of working closely with the department or the Department of Health and Human Services getting a number of ideas from them, also with Senator Riepe and the...all the members of the committee in having their support, I would yield to any questions and ask you for a please support LB578. I believe sometimes government needs to plow the way and then I think sometimes government needs to get out of the way. If we plow the way on this, we are telling those local agencies, here's another opportunity, here's another tool in your tool box. We know at times you have to look at sales tax. We know you have to look at property tax. But here is an opportunity to look at a supplemental fund that other states have taken advantage of to give you an opportunity to continue, not to pay for all your costs but to continue to have that training, that equipment, that the citizens need when they dial 911 and depend on you. So I ask for your consideration to please vote green on LB578. Thank you. [LB578]

PRESIDENT FOLEY: Thank you, Senator McDonnell. As the Clerk indicated, there are amendments from the Health Committee. Senator Riepe, you are recognized to open on AM917. [LB578]

SENATOR RIEPE: Mr. President and colleagues, thank you very much. AM917 its now the underlying bill and I would yield the balance of my time on this to Senator McDonnell, if would he like to add to that. Senator. [LB578]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator McDonnell, you're recognized. [LB578]

SENATOR McDONNELL: As I mentioned, based on the white copy now and the work that Senator Riepe and all the staff and the time they put into this, we appreciate it. It's more defined,

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it's more clear. The bill has been improved based on their work and I thank them for all the time they put in. [LB578]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Crawford. [LB578]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of AM917 and LB578 and I thank Senator McDonnell for bringing this important bill and I thank Senator Riepe for his leadership as committee Chair. And working on a bill that's not one of his favorite bills, but recognizing his role as Chair and trying to make sure that all the bills that come out of other committee are as strong as they can be. And so I thank him and his staff for their hard work on this bill as well. And, colleagues, it's important to see that LB578 with the committee amendments, this gives those local fire and rescue and EMS departments the ability, if they should choose so, to step up and participate in this program. And again, it's their choice, so we are allowing local control. They can decide if this is something that they want to do. But they can only choose to do that and participate in this program if we, as a state, provide that opportunity through LB578. So this is really providing an opportunity for those local entities, should they choose to do so, to participate in this program. And this program improves their reimbursement in several ways. And Senator McDonnell noted the importance of that in terms of equipment and gas and things that often are not part of what would be standard Medicaid reimbursement. This provides an opportunity for those rescue squads to get the nonprofits and rescue squads to get reimbursement for some of those things that typically aren't reimbursed. And many of you are from communities where you have the small rescue squads and I hope you see how important this would be for them to consider if it's something that makes sense for them to do. And we had many who came to testify about why it would be important to them and how it would work for their communities. I want to just highlight one that I think is particularly important and innovative in LB578. And that is that it would allow the EMS to be reimbursed for a dry run. So a dry run is when the ambulance shows up at a house, and the EMS folks show up at the house and they are able to stabilize someone and then they can stay in their home. And, colleagues, imagine this...how important this is. This is not only better for that individual who gets their situation stabilized and is able to stay in the home, but it allows us to save money in the long run because we are encouraging and incentivizing these EMS services to stabilize people in their own home whenever possible, because currently, colleagues, although EMS staff do excellent work in people's homes or where they find people in crisis they really get reimbursed for transporting them. So LB578 is part of an important step to rethink how we reimburse EMS services to recognize that those services that are given to stabilize someone and not have to transport them, are very valuable and deserve to be reimbursed and LB578 would allow those communities that choose to participate to get reimbursement for those dry runs, to get reimbursement when you show up and help stabilize someone in their home, saving the transport and saving the load on the emergency room at the other end. You don't have to transport them to get reimbursed. But you could have the...get the reimbursement because you are providing

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important medical care to stabilize that person in their home. So that's just one of the enhanced reimbursement opportunities that exist in LB578. And I urge your support for LB578. I urge you to look at the committee statement, see the different EMS, fire and rescue squads that were coming... [LB578]

PRESIDENT FOLEY: One minute. [LB578]

SENATOR CRAWFORD: ...to support this bill and talk about how they could use it and why it was so important for them to continue to support those services in their community. It's critical services that we all need in our communities and this is one tool that communities could choose to use to make sure they're adequately supporting those services and allowing those services to be used in the best way possible for those citizens who are in health crisis in their community. Thank you, Mr. President. [LB578]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Howard. [LB578]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of AM917 and LB578. It allows for parity for ground transportation when a ground transport is not affiliated with a hospital. With that being said, I did have one lingering question for Senator McDonnell, if he would yield. [LB578]

PRESIDENT FOLEY: Senator McDonnell, would you yield, please? [LB578]

SENATOR McDONNELL: Yes. [LB578]

SENATOR HOWARD: Thank you. I had spoken with your legislative aide about this and so maybe we can start to build some legislative record around it. But the bill...the AM917 doesn't define capitation payments. And so I was hoping maybe you could tell me a little bit about what you intend that definition to be and then we can work on that on Select. [LB578]

SENATOR McDONNELL: Based on the state of Nebraska, with the capitation payments there is not a clear definition, but we believe with the Department of Health and Human Services working with CMS, they will develop that during the process as we move forward with those two agencies working together. [LB578]

SENATOR HOWARD: So my concern about not having a definition for a capitation payment here is that we have capitation payments in other areas of law or implied law and in our regulations. And so it would be great to have that clarified in AM917, at least on Select File so

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that we know exactly what we mean by capitation payments to the managed care companies. [LB578]

SENATOR McDONNELL: And I'll definitely work with you on that on the next round. Thank you. [LB578]

SENATOR HOWARD: Great. Thank you so much. Thank you, Mr. President. [LB578]

PRESIDENT FOLEY: Thank you, Senator Howard and Senator McDonnell. Senator Brewer. [LB578]

SENATOR BREWER: Thank you, Mr. President. I want to rise in support of LB578 and AM917. Real quick, the challenges that we have, especially in the very remote areas is that, for example, my district. It's bigger than the state of Connecticut, but in that we only have 15 fire departments and they cover huge areas. And so when this came up when I researched the fact that it was supported by both small communities and the large, that it provided resources that may or may not be available--and again, this is optional for them--and of course even the League of Nebraska Municipalities support it also. So I called out and talked to the fire department, talked to them and they said, well, you know, our challenge is that we only have four EMTs and that we've had 79 calls in the last year so. Anything that we can do to help the small departments is a shot in the arm. And so with that, I'd just like to say that this is an opportunity for both readiness and training and so I support LB578 and AM917. Thank you, Mr. President. [LB578]

PRESIDENT FOLEY: Thank you, Senator Brewer. Senator Harr? [LB578]

SENATOR HARR: Thank you, Mr. President. I support AM917 and LB578, but I wanted to let everyone know as I walked around the room and asked, do you support this amendment on LB512--I am highjacking this for a second, I apologize--AM1083 has been filed on LB512, so if people want to read that so they know what we're voting on shortly, it's there. I want to thank Senator McDonnell for his continued hard work to make sure that we do live in a better state. Thank you. [LB578]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Riepe. [LB578]

SENATOR RIEPE: Mr. President and colleagues, I just...I did vote present and not voting in the Execing out of the HHS Committee on LB578 and I wanted to give some clarity to that. I will not be...I will be voting as not present because a question does exist whether CMS will allow for reimbursement and I will need additional information between now and Select. And I may come

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back at that time with some additional information or for clarification of concerns. So that's where I'm at right now, I just have to get information from CMS. Thank you, sir. [LB578]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Riepe, you're recognized to close on AM917. He waives close. The question before the body is the adoption of the committee amendments, AM917. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB578]

CLERK: 34 ayes, 0 nays on adoption of committee amendments. [LB578]

PRESIDENT FOLEY: AM917 committee amendment is adopted. Senator McDonnell, seeing no one in the queue you're recognized to close on LB578. He waives close. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB578]

CLERK: 36 ayes, 0 nays, Mr. President on the advancement of LB578. [LB578]

PRESIDENT FOLEY: LB578 advances. Members, we are now going to move back to LB512. [LB578 LB512]

CLERK: Senator Harr, your motion to reconsider is pending. Senator Harr. [LB512]

SENATOR HARR: Thank you, Mr. President. At this time I would ask to withdraw my motion to reconsider and I'd also ask to...do I have to pull AM1008 as well or did that lose? [LB512]

CLERK: That lost. [LB512]

SENATOR HARR: Son of a gun. Thank you. [LB512]

CLERK: Mr. President, the next amendment... [LB512]

PRESIDENT FOLEY: Excuse me. Is there any objection to the withdrawal of the reconsideration motion? Seeing none, the motion is withdrawn. [LB512]

CLERK: Mr. President, the next amendment I have...Senator Harr, I have AM1083 in front of me. [LB512]

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PRESIDENT FOLEY: Senator Harr, you're recognized to open on AM1083. [LB512]

SENATOR HARR: Thank you, Mr. President and members of the body. This is the compromise that I worked out with Senator Groene. It puts a lid instead of 40, it puts it at 35 and it says--and I believe this is the important part and quite frankly I wish I'd thought of it earlier--a good part of it, that says it cannot be a part of the collective bargaining agreement. I want to thank the Chairman for helping strike this deal and I want to thank the Speaker for his assistance on this. And all those who have worked hard. I'm not sure if I have Senator Briese along, but this is a compromise. It is not exactly what I would like. I know it is not something would he like. But I would ask for the body's support on this compromise. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Before we interrupted the debate on this bill we had Senator McCollister, Chambers, Erdman, and Schumacher and Hansen in the queue. If those senators want to continue to speak they need to repress their light. Senator Chambers, you're recognized. [LB512]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I thought I was going to see hardball but instead I see whiffle ball. That last vote was a rural vote. I'm watching, sending subtle messages, not dropping the mother of all bombs, because I don't do that. People who are cowards do that. They drop big bombs in places and on people who cannot defend themselves. The ugly American will test a bomb on nonwhite people. That's the way they do. And Americans don't notice it and they don't think other people notice it. I notice when I was talking about what Spicer said, there was absolute silence in the Legislature, not much said by it in the country. But when you have a man speaking for the President, and in order to demonize Assad he sanitizes Hitler, something is wrong. Spicer shouldn't have his job. There is no sensitivity or decency in this country. That doesn't mean no people are decent. I'm talking about the policies of this country. I don't often get disappointed because I don't have high hopes for people, but on that issue where this man to demonize one man, sanitized a man universally recognized as one of the worst human beings who ever lived. I know he was still a human being; it shows the depth to which a human being can fall. So he sanitized Hitler to demonize Assad, he trivialized the holocaust, and he scandalized all those millions of victims and their descendants. And if, in fact, all human beings belong to the same family and we're all made of and from one blood how could there be total silence in this Legislature then so much yapping about insignificant things. But I'm going to let that go for now. That last vote was a rural vote. Then a rural person will stand up and say, there's no rural-urban split. We "ruralies" want to do what we want to do to stop things like they did, the legal counsel for juveniles, because the rurals take care of theirs, they say. They ought to talk to some of these young rural people who talk to me about how bad it is where they live and how they can't wait to get to the university and they'll never go back. I listen to some of the people on this floor and I hate to think that those children out there are subjected to and must rely on the tender mercies of the people who stand on this floor and talk about how they take

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care of their children. Yeah, they take care of them in the same way that the rackets take care of somebody. Messages need to be sent. And I'm going to see if Senator Groene speaks for all of the "ruralies." Senator Harr talks about collective bargaining, but did he not collectively bargain when he reached this...he called it a compromise. Senator Briese is breezing along with the breeze. He didn't even count. Senator Briese, would you like to make a wager? [LB512]

SENATOR BRIESE: The answer would be, no. [LB512]

SENATOR CHAMBERS: Well, this is one he would have won, but he doesn't know that until he makes it. [LB512]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR CHAMBERS: I'm going to watch what happens. We have 24 days left. And if I decide to play hardball, I'm not going to talk to anybody, I'm not going to negotiate with anybody, I'm not going to be negotiated with, because I'm going to take you at your word. Not the ones that come out of your mouth. I see that when you're up there praying in the morning. I'm going to look at your actions. And how children in the rural areas are treated. The state takes the place of parents because they are backward, hardhearted reactionary people who don't do the thing that's right for children so the state steps in. Hungry children, and the "ruralies" said, no, we're not going to make it possible for them to get additional nutrition. No. And it was a, no, and the bill went down in flames. I'm watching. There are some bills I haven't said anything on at all, but I'm watching, I'm paying attention,... [LB512]

PRESIDENT FOLEY: Time Senator. [LB512]

SENATOR CHAMBERS: ...and I'm listening. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Briese. [LB512]

SENATOR BRIESE: Thank you, Mr. President. I rise to make a couple comments about the latest amendment here. We spent close to five hours on this bill and for what? To leave \$35,000 per employee in voluntary separation agreements outside of the lid. Like I said earlier, it is a principle here. I don't care if it is \$40,000, \$35,000 or 500 bucks, those amounts should be within the lid. I backed away from the original language of LB457. I compromised on that and I thought it was a good compromise. I thought that's all we should...all we needed to do. But we talk about quality of our education system. Senator Kolowski could you yield for a question. [LB512 LB457]

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PRESIDENT FOLEY: Senator Kolowski, would you yield, please? [LB512]

SENATOR KOLOWSKI: Yes, sir. [LB512]

SENATOR BRIESE: Under our current statutes, what expenditures are outside of the \$1.05 levy limit? [LB512]

SENATOR KOLOWSKI: I'm sorry. Would you repeat that? You mean within a school district or what's the context? [LB512]

SENATOR BRIESE: Yes. Under our current statutes, what types of expenditures can be funded with funds raised outside of the levy lid? And to help you there, is it fair to say special building funds, sinking funds, health and safety modifications? [LB512]

SENATOR KOLOWSKI: If you are talking about bond issue-type issues, that would be separate from the levy and the general funding for a school year, yes. That would be something that either the district had permission through the public vote that they would be looking at a bond issue over x number of projects over x number of years. Yes, that would be outside of it. [LB512]

SENATOR BRIESE: Okay. But to sum it up there is very few expenditures that gain that special status outside of the levy lid, would that be fair to say? [LB512]

SENATOR KOLOWSKI: As the building principal I had to take care of one facility among 40 buildings in the district. And you'd have to go to a central office person who would be dealing with budget to get more elaboration on any of the other issues that might lie outside the levy. [LB512]

SENATOR BRIESE: Okay. But let's take an example here. If your third graders just couldn't read and you need to implement a special reading class for your third graders but you were up against a levy lid, could you find funds to do that outside of the levy lid? [LB512]

SENATOR KOLOWSKI: That would be difficult if you didn't have the permission or a bond issue. [LB512]

SENATOR BRIESE: Thank you. Thank you. And so we can go outside of the lid to fund employee retirements, but we can't go outside of the lid to make needed changes in the classroom. And, colleagues, what's wrong with that picture? I'd be more inclined to go back and

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vote for my original language in LB457 to accept this amendment. So when the vote comes here I'll be voting red. But, in the interest of moving LB512 along and getting the ball rolling here and keeping things going, I would encourage you to vote green on AM1083 and let's keep things moving. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Groene. [LB512]

SENATOR GROENE: Thank you, Mr. President. Did we want to comprise? No. People don't show up for work. I do. When I counted my votes I didn't have 33. We're expected to show up for 90 days and stay here. We don't. Folks, if you want to change this thing we got to have five people on the Rules Committee in two years. That's the way we do it. But right now we don't have 33 votes and a good bill is going to die over union pressure. That's life. Look at the bright side. If we accept AM1083, one of the big wins is that it's not going to be...they can put it in a union contract but they can't do it outside and pay for it outside the levy. They were doing that. That's gone. That's not going to put pressure on your school district when somebody in your array does that, and then pretty soon in the array and the union negotiations all of a sudden they would say well that school is doing it, you have to. We took that away. Most school districts will not use this, and when they do it will be \$35,000, five years. And Senator Harr put in there at Medicaid (sic) they can't draw anymore. At least most of them will probably wait until 60 now, because they want enough money to buy their insurance. But at least it is not keeping them on the insurance plan. I passed out two handouts where you've seen \$150,000, \$150,000 you've seen administrators, the last one at \$208,000. That, to me, is graft and corruption and cronyism. We put an end to that with AM1083. I'm going to support it reluctantly. But I don't think we can go back and fight that battle next year and get it in a bill. We fixed a lot of it. It needs to be accepted. It needs to go down the road and I admire Senator Briese for standing his ground. He understands the problem. But folks, we don't have 33 votes. I'm very frustrated that we're to the point where we are filibustering committee omnibus bills over special interest concerns--over special interest concerns. That's what happened here. I would never do that, but then I'm I and not them. But we didn't have 33 votes. So what did we do? Make sure people show up? Get the votes in advance? Hopefully, AM1083 passes. I won't tell you to go red or green, but it's up for a vote. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator McCollister. [LB512]

SENATOR GROENE: Get going on this, folks. We're running out of time. [LB512]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator McCollister. [LB512]

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SENATOR McCOLLISTER: Thank you, Mr. Lieutenant Governor. I was on the queue before we ended the discussion on LB512. There's the saying, learn the wisdom of compromise where it's better to bend a little than to break. And I think that saying probably applies here. It would also apply I think on LB640. We need to revisit that issue because the concerns of our rural brethren are valid. So at some point, we need to better deal with that issue. In the interest of time, I would encourage you to vote for AM1083 and LB512. Thank you, Mr. President. [LB512 LB640]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Chambers. [LB512]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I love to see the collegiality break out. There's a card in the deck called the joker. And the joker can be made a trump card. It will be of higher value than any card in the deck. I was not asked anything about this. Senator Groene should not have told me. Let's say that I'm Kim Jong-un and he's Donald Trump. You all have done the work on this bill. There's not much time before a cloture vote has to be taken. You think I cannot take six hours on a bill myself? Nobody asked me. It's quiet here all of a sudden and people are listening only because something is at stake that means something to them. But if it was the last, the least, and the lost, you wouldn't be here or you'd be in conferences. I'm thinking of all the bad bills that have moved and the essential bills that helped people that I'm concerned about, did not. You're taking care of the ones you all are concerned about. There are more of you concerned about those people than there are concerned about the people I care about. So you might say it's very arrogant of me to put my one person's concern above everybody else's. Right, I'm arrogant. Call me anything that you want to. And you can't make me shut up and you can't make me sit down. But I'll say like Trump would say, because he is a carnival barker, "tell ya what I'm gonna do." I'm going to let you all move this bill. You know I say why I'm going to let you? Because I can stop you. And you did all the work for me. It would be very easy for me. I don't know how close we are to six hours on this bill, but I could take the whole six hours myself. And I've been just thinking, thinking, thinking. I've been brooding, I've been stewing, I've been in this Legislature 43 years and there's nothing that can happen which I haven't seen before. I told you all in the early days of this session that we'd get down toward the end you'll have delivered the session into my hands. You gave me 30 days at the beginning of the session. You didn't pay attention to what I said. Didn't mean anything to you. And when all the children were playing in the sandbox, I every now and then threw a little bit into it to keep them going because time, time, time was what had to be consumed. There are 24 days left. The budget is still in the on-deck circle and I could make some amendments for the budget. And there are some provisions in that budget that will hurt people that I care about. But I said I was going to tell you what I'm going to do, and I've got my light on so if I don't get to it this time I will speak one more time on this bill perhaps. It's wonderful to be in a position like this. You can be outnumbered and all of those numbers fade away and mean nothing. There's a bill coming up tomorrow that does away with government transparency on an issue that does mean something to me. [LB512]

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PRESIDENT FOLEY: One minute. [LB512]

SENATOR CHAMBERS: If that bill moves tomorrow--it's LB661--call it what you...if that bill moves tomorrow I will stay on this bill and make us go to a cloture vote. We will go to a cloture vote on this bill. That's what I'm putting in the game now and if you think I won't do it, try me. There's nothing you all have that I want. I mean, nothing. But there are people who mean more to me than even a seat in this Legislature. And the time for me to show what I'm made of is when I'm at risk and my fate is in you all's hands and that means nothing to me. What means something to me is what guides my conduct. I've watched you all stand and speak for bills that meant something to you. [LB512]

PRESIDENT FOLEY: Time Senator, but you may continue for another five minutes. [LB512]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Briese, he's going to capitulate. He was smart not to make my wager, because he would have lost it. I would have won. I tell you, I watch you all. I study you. And I'm going to see what happens tomorrow. Maybe I'll change my mind. That's the prerogative of somebody who holds all the cards. You can observe, you can let a day go by. You can observe again. But they don't know and then don't have control at this point. I can hear voices of the people in this Chamber as they spoke against improvements in that nutrition program. I listened to the appeals being made on the floor. People talked about young single mothers with children to take care of. And the hardhearted people from the rural areas who know how to take care of their own killed the bill. There are children who go to court. Adults go to court and they are nervous, they are uncomfortable because court is not a friendly place. And the rural people said, we take care of our kids. They don't need legal counsel. The prosecutors and the judges...you're going to let the prosecutor determine that somebody couldn't need a lawyer? All that a lawyer does is makes the prosecutor's work harder, because the lazy prosecutor has to work. So you all talk to the judge and you talk to the prosecutor and they convince you that these children don't need what everybody in here would want if he or she had to go to court for anything. So you are going to have your way. Senator Briese is going to capitulate. Other "ruralies" will fall in behind. Senator Groene...and he said he's never heard a committee bill attacked. You all decide to Christmas tree the bills. I didn't say you should do that. I even said that you can put a bill on a bill and the bad bill will bring down what you consider is a good bill, but you don't listen to me. But I bet you will listen at times like these. Mr. President, in the interest of being collegial, I'm going to stop talking now. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Harr, you're recognized to close on AM1083. [LB512]

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SENATOR HARR: Thank you, Mr. President. Members of the body, I'm going to let you in on a little secret. Compromise isn't bad. It is difficult and it does require swallowing some pride. We can blame others, but the fact of the matter is everyone got a little bit something, nobody got everything they wanted. Were there 33 votes? I don't know. Were there 30 votes? I don't know. Were there 27 votes? I don't know. I saw those who voted for and against AM1008. I didn't see 33 voting against it. I didn't see 30 voting against it. I didn't even see 27 voting against it. So, you can blame the rules, you can blame the institution, but the fact of the matter is, folks, we worked a compromise. We came together as a body. Did I get a chance to talk to everybody before the deal was made? No. It was done on the fly. I want to thank those who will follow the agreement Senator Groene and I worked out together. I want to thank Senator Briese for asking those to follow on the amendment. This is a compromise. Folks, if we want to get something done the rest of this session--and I think we do--we're going to have to learn to work together. This was the first time. I hope it isn't the only time. AM1083 says, if you are a school district and you are at your levy limit of \$1.05 and you face a budget problem you may use this override, not to pay the million dollars that was paid in the past for the half million dollars, \$35,000. And this isn't automatic. This cannot be part of a collective bargaining agreement. This is a good compromise. It's probably not what I would have wanted if I were writing it. And by the way, I worked with labor, I'm not embarrassed to say that. But I also worked with management. And they both signed off on this. So if labor and management are special interests, so be it. But it was an agreement done across the board and everyone agreed to it, so I'm going to ask for your support on AM1083. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Members, you heard the debate on AM1083. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. [LB512]

SENATOR CHAMBERS: Roll call vote. [LB512]

PRESIDENT FOLEY: A roll call vote has been requested. Mr. Clerk. [LB512]

CLERK: (Roll call vote taken.) Senator, I can't take the vote, we're not under call. I'm sorry. 29 ayes, 7 nays, Mr. President on the amendment. [LB512]

PRESIDENT FOLEY: No. She said...that's not properly recorded. She said, yes. [LB512]

CLERK: Okay. So, you're telling me you voted yes, then, Senator? Okay. I apologize. 30 ayes, 7 nays, Mr. President, on the amendment. [LB512]

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PRESIDENT FOLEY: AM1083 is adopted. Mr. Clerk. [LB512]

CLERK: Mr. President, Senator Groene would move to amend. (AM1076, Legislative Journal page 1081.) [LB512]

PRESIDENT FOLEY: Senator Groene, you are recognized to open on AM1076. [LB512]

SENATOR GROENE: Thank you, Mr. President. And don't get worried, folks, you'll get to supper. This is just a very small amendment if you look it up. When the bill writers wrote...this is about the veterans' benefits that was added to LB512. In one line it was 3311(b). They left off the (9) behind it, which coincides with federal law. So all this does is add a (9) on page 53, line 10. Instead of 3311(b), it says 3311(b)(9). So I'd appreciate a quick vote and approval of AM1076 so we can have the right language in the...and our veterans can get their benefits. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Harr. [LB512]

SENATOR HARR: Thank you. Thank you for your vote on the last one. I thought I'd worked out a deal with Senator Groene and apparently I hadn't, because I didn't get his support. I should have...when you make a deal with someone, folks, be sure you look them in the eye and say, if I make this deal you'll support the bill, because you know what, he did that to me. My mistake. My bad. I apologize. This is the second time this has happened to me this year. When we did rules, I agreed to pull myself off of Education if everyone the next day would support that what we did, that day and the next day. And I looked every one of them in the eye, every one of them and every one of them said, yes. And the next day two people, before the crow even croaked twice, denied the deal. Folks, your word is your bond here. I'm now struck in two lights, so we're going to be here ten minutes to talk about this. I'm a little hot under the collar. I want to thank everyone for their support. I learned a very valuable lesson today. I got to ask the person who makes the deal, if I make this deal you will support it? Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Chambers. [LB512]

SENATOR CHAMBERS: Oh, how the mighty have fallen. I feel good, like I knew that I would. I know these people, he doesn't. Experience is the best teacher and some will have no other. The slave most easily whipped is most often whipped. You better know who you're dealing with. So I guess now that the bill is still before us, I'd like to ask "Senator Betrayed" a question. And for the sake of the Chair, I'm asking Senator Harr if he will respond to a question. [LB512]

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PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB512]

SENATOR HARR: Like the jackass that has been kicked, I will rise. [LB512]

SENATOR CHAMBERS: Senator Harr, how do you feel about this bill now? [LB512]

SENATOR HARR: I stand by it. I stand by my word and the deal that I made. [LB512]

SENATOR CHAMBERS: Are you aware of the fact that when a contract is entered into, it cannot be binding unless there's a meeting of the minds? [LB512]

SENATOR HARR: I am. [LB512]

SENATOR CHAMBERS: And if the facts show that the minds have not met, there is no contract, is there? We're going to say that consideration was there because I want to focus on this meeting of the minds. What led you to think you had a meeting of the minds with Senator Groene? What did he say that made you think that? [LB512]

SENATOR HARR: Well, he said, would you accept? And I said, would you accept \$35,000? And he said, yes. I said, I will then support it. And he said, look me...you're not going...you're going to support it? And I said, yes, I am. And I did. [LB512]

SENATOR CHAMBERS: And you made an assumption, didn't you? [LB512]

SENATOR HARR: Well, sometimes that's what happens when you assume. [LB512]

SENATOR CHAMBERS: Yeah. And I'm not going to get you to say what it amounts to. You didn't extract from him a promise, did you? [LB512]

SENATOR HARR: Not specifically, no. [LB512]

SENATOR CHAMBERS: Can a contract exist and the consideration consist of a promise for a promise? [LB512]

SENATOR HARR: Fool me once...it cannot? [LB512]

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SENATOR CHAMBERS: That's not what I'm asking. [LB512]

SENATOR HARR: No, it cannot. But I gave my word. [LB512]

SENATOR CHAMBERS: You gave your word. [LB512]

SENATOR HARR: Even if there was a contract, I gave my word. [LB512]

SENATOR HARR: And you feel bound by your word, even though the one with whom you thought you had an agreement with did not? [LB512]

SENATOR HARR: Well, I didn't ask him for his word. I trusted. [LB512]

SENATOR CHAMBERS: So then he did not really violate any agreement that you had, did he? [LB512]

SENATOR HARR: Probably not, no. [LB512]

SENATOR CHAMBERS: He allowed you to assume something without correcting your misassumption, isn't that right? [LB512]

SENATOR HARR: In this instance, yes. [LB512]

SENATOR CHAMBERS: Do you think if he had told you that he would not vote the way you wanted him to, you would have backed off your notion of having this bill go to cloture? [LB512]

SENATOR HARR: I...again, that would be making assumptions and I've made that mistake once. [LB512]

SENATOR CHAMBERS: If I said I was going to carry a bill to cloture, do you think I would do it? [LB512]

SENATOR HARR: I take you at your word, yes. [LB512]

SENATOR CHAMBERS: When I give my word, do I stick by it? [LB512]

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SENATOR HARR: Yes. I have seen that, yes. [LB512]

SENATOR CHAMBERS: And here's where I will leave myself room, because I know how I am. If it's an issue where I can be reasoned with, I will make that clear. But there are some issues I will say, there is nothing that you can say to make me change my mind. And then it's full bore for me and the others in the room have to do what they can to stop me. That's all that I'll be asking of you, Senator Harr. [LB512]

SENATOR CHAMBERS: Members of the Legislature, I thought I was a better teacher than I really am. [LB512]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR CHAMBERS: I thought I had taught Senator Harr something, but I didn't. From now on I'm going to have to say, Senator Harr, a plus b equals c. This is a, this is b. When I put a cross sign between them, that means plus; you add the two together. A plus b, then two little parallel lines, horizontal; that's equal. A plus b equals c. And he'd say, got it. So he goes and talks to Senator Groene. He comes back to me. I say, okay, Senator Harr, a plus b equals? He say, x. I say, you didn't learn. You said the words but you didn't get the sense of them. You all are going to learn that around here you make a lot of assumptions about people and you wind up being disappointed. You think... [LB512]

PRESIDENT FOLEY: Time, Senator. [LB512]

SENATOR CHAMBERS: Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Erdman. [LB512]

SENATOR ERDMAN: Thank you, Lieutenant Governor. I was listening to the conversation from Senator Harr and he made reference to the two people that changed their vote on the Committee for Committees, and I was one of those people that changed my mind. And when somebody lies to you then I no longer keep my word because they lied to me. I gave my word on something that I thought was true and it wasn't. So don't stand up here, Senator Harr, and tell me that I changed my mind. You people didn't tell me the truth, so I have no trouble changing my mind when people lie to me. Okay? I see how bullies work today. I didn't realize how this whole thing worked, but I got it. I've been watching. All right? I see the 12 amendments you got thrown in on LB461. You want to do collegiality and get along? Sounds like it. That's not the way that

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works, I don't think. But I don't appreciate what you did today and I changed my mind because you didn't tell me the truth. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Groene. [LB512]

SENATOR GROENE: Thank you, Mr. President. Let me give you a scenario here. A friend and a senator walked up to me who's got a lot of experience and said, you don't have the votes. I checked, you do not have the votes. You've got to make a deal, you've got an hour. I went to Senator Scheer, he said, you better do something or else it dies. Senator Schumacher asked me, would \$25,000 work? I said, no, originally. I said, I want it to die. So then I went up to Senator Schumacher because he's my legal advice here; he's so close and he's free. So far he hasn't led me too far astray. I said, what do you think about \$25,000 and out of the union contract? He said, that works. Go talk to Harr, see what he says. I said, \$25,000 outside the union contract. Would you agree to that? He said, no, \$35,000. Let me go talk to my people. I didn't agree to anything. What happened here was a hostile amendment to a committee bill, hostile amendments. Senator Harr got his way and those he reports to, because we backed off and sat neutral so that the bill could pass. He got his way. We swallowed our pride and LB512 hopefully here in a few minutes will become law. Senator Harr would have won. He would have killed everything. He would have killed Senator Crawford's bill that was in it. He would have killed Senator Morfeld's bill that was in it. He would have killed Senator Walz's bill that was in it. He would have killed necessary updates that the Department of Education wanted because of a special interest. We gave and backed off. And for honesty, I couldn't vote for that bill. And I stood up and told you that and I said I'm not going to tell you how to vote. But at the end of the day Senator Harr got what he wanted. So was that a good compromise? Did it work out to what his end means were? Yes. Did I stay out of it? Yes. I don't think that...his amendment had died, his original one. So, no, words were kept. Politics was used, and at the end of the day we got a bill passed. Am I going to work if I stay around this place to try to get that out of there completely? Yes, in the future I will. But nobody will be able to say, yes, Groene, why are you doing that? You voted for it a year ago in 2017. Now they can't say that, can they? But I didn't stand in the way of Senator Harr and I never made him a commitment. I asked him, would it work for you? I said it three times, would it work for you? My staff wrote that amendment in a hurry. Senator Harr and I went over it before it was dropped to make sure it was worded right. The agreement was made and agreements were kept. That's how it works. And in Nebraska we do it in public. It's an amazing thing. It's not in a back room. People in Nebraska watch Senator Harr and I running all over this place trying to talk to people and talking to each other. It's democracy in action, a Republican form of government in action. It worked well in this situation and hopefully it will finish with a good ending and we'll vote yes on AM1076 for the veterans and then we send LB512 to Final. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Harr, you're recognized. [LB512]

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SENATOR HARR: Thank you, Mr. President, members of the body. Well, maybe I was wrong. I don't know. Lesson learned. Lesson learned. I did misstate earlier and I want to clarify the records, when I said it was Rules Committee, I lied. It was Committee on Committees, so wanted to clarify the record there. I think AM1076 is a good amendment. I think Senator Groene is a good guy. He and I may have disagreements, but I do think he's a good guy, a good senator. I want to thank him for making the compromise with me, even if he at the end of the day didn't support it. I want to thank those who did come across and did support it so that we could move forward so that this bill hopefully won't be filibustered because if we go to it tonight, folks, we don't have...I don't know if we have 33 votes. I think we do. I don't know if we have 30, I think we do. But I want to thank all those who came around and supported this even if they weren't part of the negotiation. This is a good bill. This is a good amendment. And so thank you and thank you, Senator Groene. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Chambers. [LB512]

SENATOR CHAMBERS: I'm watching some jet-propelled crawfishing here this evening. This is funny. These are grown people acting like little children in the kindergarten. You said that, I said that, I meant that, I meant that. Oh, well, I'm lying, I got it wrong. Okay, it was a good compromise, but it wasn't earlier. That's what I'm talking about when I tell you all I watch what happens here. I study you all, I know what you're going to do. I know what you're made of. And if I am dealing with you, and I give you the impression that I'm of a certain mind-set and I know that you think I'm saying something other than what I am. See, you can lie even when you state words that are factually accurate, and courts have said that. A person can state...make a statement that is factually accurate, but it still constitutes perjury because it's a statement made with the intent to deceive and it in fact did deceive. There are numerous ways to tell lies. There are numerous ways to say that term, disingenuous, dishonest, shifty, but it all boils down to the same thing. You cannot take people literally for what they say around here. The slave most easily whipped--oh, he's gone--is most often whipped. Why does Senator Harr always have to take Lowe? Why is he the one who always has to back up? There's something that he wants. Something that he needs, but I don't. My life does not consist of this Legislature. It's neither my life nor my wife, even though I spend a lot of time here, because if I agree to do a job I'm going to do it the best way that I can and I'm going to do it to the best of my ability. We have 24 days left. I'm not in cahoots with anybody. Senator Groene can't make an ugly face and make me back up. Senator Erdman can't call me out and make me say, yeah, well, I lied. I mean what I'm saying and I mean what I'm saying to whomever. I was the one who called Senator Groene out when he hollered at Senator Pansing Brooks, just like I'll call out Spicer--I can't do it to his face because he's not here--when he trivialized the holocaust. And I look at all these Christians who pray. Then you let something like that be said by a representative of the highest office in this country, and you all are silent. What did they say is all that's needed that evil triumph? That good people do nothing. That good people say nothing because they don't want to offend. Who is it that

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you're offending, people who don't like you, don't respect you? I'm not in that pew. I regret that people are not more trustworthy in this place. I'd rather they tell me, no, every time I ask a question... [LB512]

PRESIDENT FOLEY: One minute. [LB512]

SENATOR CHAMBERS: ...and mean it, instead of the pretending. Now everybody's going to feel bad later on. But see, they can go and talk to John Barleycorn or whatever liquor is referred to by the senators and they'd be in a mellow mood and everybody's going to be all right. But then you're going to have a price to pay in the morning and you're going to have buyer's regret, and you're going to think about how you crawled. I don't have kneepads on my britches. I don't wear out the kneepad, the knees of my britches, and I don't wear out the seat in my britches. Now, how do you like that? I wonder how much time we got before we go to cloture, but I'm not going to push it. I'm having fun watching people disclose what they are, and you see how all of them start telling on the mike what happened, who said what, who didn't say what. I can make them talk. That's what I can do and that's what I do when I decide that's what I want. Thank you, Mr. President. [LB512]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Crawford. [LB512]

SENATOR CRAWFORD: Thank you, Mr. President. I appreciate those who voted for that last amendment and I support AM1076. It's an important technical correction. Colleagues, I just...as we're talking about lessons learned, I just want to point out one important lesson to learn from where we got to today and what happened today. And that is when we put together omnibus committee bills, generally put together bills that have support by all the members of the committee. And why we landed where we landed today is we put a bill in an omnibus committee bill that was a bill that had opposition, including opposition by members of the committee. So it's...we tend to usually treat on the bills by committees with...you know, we expect that they are bills that are really coming out of committee with full committee support and we would not find ourselves in a position like we did today, where there's just one piece of that bill that was stuck on a bill with a lot of other bills that have broad support, but this one piece was put on that bill that did not have that kind of broad support. And that's what really put us in this position today. It's an interesting bill, but a bill that really should have been brought separately and debated separately. And the fact that it got stuck into the committee bill is what really put us in the position that we were in today. So I just urge us all to learn that lesson moving forward and be careful as we're putting together the committee bills and make sure we're packaging bills as broad, big committee bills with lots of pieces to make sure they all of those pieces really have that broad support so we don't get ourselves in the position where one piece threatens to bring the whole set down. Thank you, Mr. President. [LB512]

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PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Groene, you're recognized to close on AM1076. [LB512]

SENATOR GROENE: I waive closing. Let's take a vote and get this done for the day. [LB512]

PRESIDENT FOLEY: Members, you heard the debate on LB1076. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB512]

CLERK: 37 ayes, 0 nays. [LB512]

PRESIDENT FOLEY: AM1076 is adopted. Mr. Clerk. [LB512]

CLERK: I have nothing further. [LB512]

PRESIDENT FOLEY: Senator Wishart, for a motion. [LB512]

SENATOR WISHART: Mr. President, I move to advance LB512 to E&R for engrossing. [LB512]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB512 advances. Mr. Clerk. [LB512]

CLERK: Mr. President, LB427 reported as correctly engrossed. New resolution, LR105, by Senator Scheer. Senator Hansen would like to print amendments to LB259. (Legislative Journal pages 1081-1083.) [LB427 LR105 LB259]

Senator Ebke would move to adjourn the body until Wednesday, April 19 at 9:00.

PRESIDENT FOLEY: Members, you heard the motion to adjourn. Those in favor say aye. Those opposed say nay. We are adjourned.