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Floor Debate
April 27, 2017

[LB233 LB268A LB268 LB326 LB327 LB330 LB331 LB332 LB373 LB409 LB457 LB461
LB467 LB468 LB492 LB512 LB517 LB578 LB640 LR106 LR107 LR108 LR115 LR116
LR117 LR118 LR119]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George w. Norris Legislative Chamber for the seventy-third day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Pastor Jason Dowell of the Freedom Baptist Church in Stamford, Nebraska, Senator Hughes's district. Please rise.

PASTOR DOWELL: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Dowell. I call to order the seventy-third 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. Any corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT FOLEY: Thank you, sir. Any messages, reports, or announcements?

CLERK: An amendment to LB578 from Senator McDonnell to be printed; hearing notice from the Agriculture Committee; the lobby report, as required by state law; and, Mr. President, the agency report acknowledgment, those reports available to the members on the legislative Web site. That's all that I have. (Legislative Journal pages 1247-1248.) [LB578]

PRESIDENT FOLEY: Thank you, sir. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following three legislative solutions: LR106, LR107, and LR108. (Visitors and doctor of the day introduced.) We'll now proceed to the first item on the agenda, Select File, 2017 committee priority bill. Mr. Clerk. [LR106 LR107 LR108]

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

Floor Debate
April 27, 2017

CLERK: LB409. Senator, I have E&R amendments, first of all. (ER60, Legislative Journal page 1135.) [LB409]

PRESIDENT FOLEY: Senator Wishart. [LB409]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB409. [LB409]

PRESIDENT FOLEY: Members, you've heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB409]

CLERK: Senator Kolowski would move to amend with AM1015. (Legislative Journal page 1142.) [LB409]

PRESIDENT FOLEY: Senator Kolowski, you're recognized to open on AM1015. [LB409]

SENATOR KOLOWSKI: Thank you, Mr. President. Good morning, colleagues. Mr. President and members of the Legislature, AM1015 allows school districts for 2017-18 and 2018-19 with a supermajority of the school board to exceed the levy lid to raise the dollar amount to equal the difference between state aid certified under LB409 and what would have been certified if TEEOSA had been left unchanged. This temporary levy authority cannot exceed an additional 3 cents. The purpose of this amendment is to give school districts a tool, a bridge. The school districts that need this provision are already at their maximum levy and are having their state funding reduced. These are low-spending school districts, the most efficient...some of them, the most efficient school districts in the state. Without this amendment, they would be cutting classes, teachers, and staff. In my school districts, Millard will have a 5.3 percent reduction of \$2 million less in state aid, a reduction in aid even though LB409 provides for an overall 2.1 (percent) increase. Elkhorn, also in my district, will lose \$1 million. You will hear arguments that this amendment is a property tax increase. Keep in mind anytime we reduce TEEOSA and do not fully fund the state's share of school funding, we are raising property taxes. This amendment is a temporary tool for two years for the temporary reduction in state aid in LB409. I urge you to pass this amendment to protect our school districts that are being hit hardest by this bill. Thank you, Mr. President. [LB409]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Debate is now open on LB409 and the amendment offered by Senator Kolowski. Seeing no members...Senator Briese, you're recognized. [LB409]

Floor Debate
April 27, 2017

SENATOR BRIESE: Thank you, Mr. President. Good morning, colleagues. I rise today in opposition to AM1015. For me it's about protecting the property taxpayers. According to USA Today, Nebraskans have the fifth highest property taxes in the nation. According to Tax Foundation, we have the seventh highest residential property taxes in the country. And what does it mean to have the seventh highest residential property taxes in the country? It means that property taxes can comprise 30-40 percent of a young couple's house payment, effectively forcing many folks out of the housing market. It means that the owner of a \$200,000 home in Nebraska pays on average \$100 more per month in property taxes than the owner of a similar home in our neighboring states. This \$100 per month difference discourages young families from locating in Nebraska. We could all talk about growing our state by creating economic activity in Nebraska and property tax relief is where we must start. And AM1015 runs counter to efforts to provide property tax relief. Under Section 77-3442 of our statutes, school districts are subjected to a levy limit of \$1.05 per \$100 of valuation. That limit was put in place for a reason. And what is that reason? To put in place some element of protection for property taxpayers. AM1015 guts that protection. We owe it to the property taxpayers to oppose AM1015. And to the extent that districts are impacted by the provisions of this amendment, they'll have to prioritize spending or go to the voters for an override vote. I'd ask for your opposition to this amendment. Thank you, Mr. President. [LB409]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Groene. [LB409]

SENATOR GROENE: Thank you, Mr. President. I would like to remind the body that this is a committee priority bill by the Education Committee to match the actual 2.3 percent increase over the biennium annually in state aid to public schools education. This bill should be passed cleanly. Senator Kolowski's AM1015 was a bill of his. I think it was LB326 in the Revenue Committee. It did not come out of the Revenue Committee. I fought an attempt to amend this in committee because it's really a revenue issue when you change levies. But we do have a small part of LB409 that is in the revenue statutes. But it still should have been debated and passed out of the Revenue Committee. I'd also like to remind you that we did not cut spending. We did not cut funding to public education. In the past when this body did allow, they did allow school district to do what Senator Kolowski said, it was only when we actually cut spending from the previous year. That is not the case. I would like to defend this body and the taxpayers of Nebraska that they do support their public education. From the Education Week magazine, which is a publication of the education establishment, in 1997, after TEEOSA had been in place about six years, we were 24th in the nation at \$5,526 per student. We have been told we've never funded TEEOSA. In 2014 we rose to 12th in the nation spending per student. In 2015 we rose to 10th in the nation at funding per student at \$13,833 a student. Some in the back of their mind are blaming rural Nebraska because of small schools--forget that thought. In 1997 when we were 27th there was 640 school districts. We have risen to 10th. We have 245 school districts. Rural Nebraska has done its part by consolidating its schools. We fund our schools. In fact, we have

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

Floor Debate
April 27, 2017

gotten to the point that when we fund them with an increase, it's not good enough. We need this. It's time for public education to step forward and be part of the answer and be part of the economy--and they don't even have to tighten their belt; they're getting more money--and help the taxpayer through this crisis and the state of Nebraska through this crisis. And to raise property taxes on individuals across the state...and it's more than eastern. My school district in North Platte would fit in here, Fremont would, Columbus would, a lot of districts would, with just a supermajority of the school district to raise property taxes on top of increased aid of 2.3 percent. I urge you to send a message to taxpayers. Yes, we know you have funded education. You appreciate education. You have risen us to 10th in the nation when family incomes in the nation are around 25th or 26th. But we're 10th in support of our education. Let's pass LB409 cleanly. Let's do our duty in the budget process and to pass the Education Committee's and the education, our duty, to match with the Appropriations Committee, Senator Stinner, and the Governor has generously given to our schools. No other appropriation is even close to the 2.3 percent that public education gets. The establishment needs to get on board and be part of the answer. Thank you, Mr. President. [LB409 LB326]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Erdman. [LB409]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor, and good morning. It seem like as long as we were here yesterday, I must live here. But anyway, I rise in, like I say, in strong opposition to AM1015. And I would like to ask Senator Kolowski a couple questions, if he would yield. [LB409]

PRESIDENT FOLEY: Senator Kolowski, will you yield, please? [LB409]

SENATOR KOLOWSKI: Certainly. [LB409]

SENATOR ERDMAN: Senator, I was listening in your opening remarks and you said that these are low-spending districts. Can you define low spending? What does that mean? [LB409]

SENATOR KOLOWSKI: On a per pupil expenditure, as you judge out the number of students in the district times the total dollars spent, they are some of the lowest spending in the entire state. Millard, as an example, is I believe second or third lowest per pupil expenditure in the state with the third largest number of students in the entire state. [LB409]

SENATOR ERDMAN: Okay. Thank you. [LB409]

SENATOR KOLOWSKI: The sheet... [LB409]

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

Floor Debate
April 27, 2017

SENATOR ERDMAN: Thank you. So what percentage...and I noticed these, you handed out a sheet this morning and it had several school districts on it, it looks like all of those in the eastern part of the state if I'm correct. And what percentage of a decrease is this cut that you have alluded to that they're taking of their total budget? Is it a significant percentage? [LB409]

SENATOR KOLOWSKI: As I said, in my school districts, Millard will have a 5.3 percent reduction of \$2 million-plus less in state aid, reduction in aid, even though the LB409 provides for an overall 2.1 (percent) increase... [LB409]

SENATOR ERDMAN: Okay. [LB409]

SENATOR KOLOWSKI: ...in state aid. Elkhorn also has a \$1 million loss. [LB409]

SENATOR ERDMAN: So how much is their total budget? How much is the school's total budget? [LB409]

SENATOR KOLOWSKI: I don't have that figure with me but I can get those. [LB409]

SENATOR ERDMAN: Okay. So then what you're talking about is the decrease in their state aid. You're not talking about their total budget. And their total budget could be hundreds of millions of dollars. [LB409]

SENATOR KOLOWSKI: In some cases, yes. [LB409]

SENATOR ERDMAN: Okay. [LB409]

SENATOR KOLOWSKI: The 11 districts that are listed... [LB409]

SENATOR ERDMAN: All right. [LB409]

SENATOR KOLOWSKI: ...on the sheet I gave you contain one-third of the district school... [LB409]

SENATOR ERDMAN: Okay. All right. [LB409]

SENATOR KOLOWSKI: ...students in the state of Nebraska. [LB409]

Floor Debate
April 27, 2017

SENATOR ERDMAN: The point I'm trying to make here is Senator Kolowski is trying to tell you that they're taking a real big haircut. And when you look at the percentage of decrease that they're getting compared to their total budget, it's minuscule. I find it very peculiar, and maybe some other people in the body do as well, that we have school districts who hire lobbyists to come here and ask us for more tax dollars. I have a problem with organizations, and I don't care what they are, whether it's the University of Nebraska or whether it's Omaha Public Schools, Lincoln Public Schools, whoever it is, that have someone behind the glass that's here to lobby me for more tax dollars. There seems to be a problem, in my opinion, with that. Maybe you were here and you agree that that's okay. That's okay to disagree with me. But the point is this LB409 that came out of the Education Committee is something that has been done numerous times as we find ourselves in the same position we are today in a shortfall. We've done it numerous times. And it has been alluded to that this is a \$21 million increase to the TEEOSA formula. This is not a cut. What this is, is a reduction in the amount of increase. And so how we do it here in the Legislature is we were going to contribute \$67 million but we only contributed \$21 million, so we had a \$46 million cut. I don't know how it works on your farm or your personal finances, but when you have more revenue this year than you did last year that's not a cut. [LB409]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR ERDMAN: And so understand that this is a property tax increase, all right? And a supermajority vote of the school board and that's all they have to do. This is not an acceptable procedure. Live within your means. And I have maybe said this before, I'm going to say it again. We all have to get around that big old tax pool and hold hands and on three we all have to jump in and make a contribution and it may cost you a little something. We're not asking education to eliminate a whole staff. We're asking them to do something that they've done in the past. And they have good people, I would assume, that have management skills that can figure how to management around this. And so, consequently, let's get on with LB409. Vote red on AM1015 and let's move forward. Thank you. [LB409]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Friesen. [LB409]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So this is another opportunity that I think we get to talk a little bit about property taxes and how we fund K-12 education. And so over the past ten years, my ag land taxes that I have to pay, and I won't argue about the valuations or the levy, the tax I have to pay has gone up 180 percent--18 percent a year. You talk about a tax increase. And now we go into a downturn in the economy caused by a downturn in the ag economy and Nebraska takes a hit. And we're trying to solve a revenue shortage. And we again are unwilling to make cuts. We're still spending more than we did last year. We're still taking in more than we did last year. And so we continue to spend more money as the economy

Floor Debate
April 27, 2017

struggles to add more jobs and more businesses. And so when I look back at the TEEOSA formula and how it has operated over the past ten years, if we would have...ag land historically, if you look back since 1996, you'll see an average growth in ag land right around 5.3 percent. So if we could have maintained that growth, that average growth, instead of what happened, we would have a valuation of ag land would be around \$45.9 billion. Currently we're at \$99.4 billion. So if you run that through the TEEOSA formula and if we would have maintained a 5.5 percent growth in land values, TEEOSA would be required to come up with \$166 million this year just to maintain the difference in valuation increase that was needed on the increase in ag land values. Nothing we're doing today yet, none of the bills out here are going to address that. And we're still talking about a TEEOSA formula that's flawed. No one wants to address how it works. It's hands off, keep funding it. We still increased its funding 2.5 percent versus what we would have thought as 5 (percent), 5.5 (percent). So when you look at the tax shift that has happened, in order to get that shifted back, we're talking about an eight hundred to billion-dollar problem. And we're trimming nickels and dimes. And if we keep...you know, no one can predict what our economy will do. We are assuming, as in ag, we've been through these cycles before and we'll be through them again and we'll survive this one. But when you see property tax is your number one expense of putting in a crop, we are doing severe damage to the ag industry, our number one driver of the economy. And we keep being unwilling to address that. And by allowing school districts to increase their levy, that doesn't help. You've got the York School District who now has lost all of their state aid, their equalization aid. They're at \$1.05 on their levy limit. Ag land in that area is over \$100 an acre, \$100-120. And right across the road will be a farm that is at \$40 an acre. And you have a \$60-70 an acre difference in taxes. That takes competition to a new level. When taxes are a major factor in where a business would be located, that would be a big one. And yet we don't talk about any fixes to the TEEOSA formula. We just talk about giving more money. That is not the answer. We cannot continue to do this. We cannot continue to spend money that we don't have. We can sweep all those cash funds. We can continue to take another \$100 million out of... [LB409]

PRESIDENT FOLEY: Time, Senator. [LB409]

SENATOR FRIESEN: ...Department of Roads. Thank you, Lieutenant Governor. [LB409]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Baker. [LB409]

SENATOR BAKER: Thank you, Mr. President. Members of the body, I support LB409, not that I like it, not that I like having the basic allowable growth rate reduced from 2.5 percent to 1.5 percent or having the local effort rate raised to 1.0203 or reducing in some fashion the net option funding. But these things are necessary. I've been through this several times in the past and you understand that when the state has a revenue shortfall, everybody has got to take their share of

Floor Debate
April 27, 2017

the hit, of the solution. So I'm okay with that. What we're talking about here, an example was given by Senator Kolowski, you get districts that are urban and suburban. We're not talking about hardly any, if any, farmland taxes. We're talking about growing school districts like Elkhorn, Millard, Bellevue, Papillion-La Vista. These are growing districts. And what we're saying is that they should not be allowed to make a local decision if they want to find some way...I mean for \$1 million that someone loses, that means you know if it's all in teachers, 14 or 15 teachers they have to do away with at a time when enrollments are increasing. If these districts choose, by a supermajority of the board, you know, three-fourths--if you've got six board members, that means five out of six--would have to say, all things considered, we need to raise the levy because we have no other place to go. Our state aid is down. We're at the property tax limit or close to it. Yet, we feel a duty and an obligation to provide quality education to the students we have that are coming to us in increasing numbers. So based on that, I support AM1015. Thank you.
[LB409]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Harr. [LB409]

SENATOR HARR: Thank you, Mr. President. This is interesting. We're going to have a talk on LB409 when we didn't on General. And it's not so much about LB409. I support LB409. I want to thank Senator Groene and the members of the Education Committee for coming up with a compromise that probably nobody likes, which means it's probably a good compromise. But we're going to talk today about property taxes and Nebraska's overreliance on property taxes. And I'm starting to believe, and don't hold this against me, Senator Groene might have a point. And I think we have some issues with how we're looking at solving the problem. We have to look bigger than this is an urban problem or this is a rural problem. AM1015 deals with the problem in the urban areas where the cost per student is pretty darn low but they are student rich, land poor. And we're dealing with cutting back essential services and we're dealing with problems in urban school districts that rural don't have to. Now in the rural they are population poor, land rich. Unfortunately, we have a very few number of landowners and they are paying and carrying a very large burden. I listen to what Senator Friesen talked about as far as base times rate and that the rate varies from school district to school district and that creates some perverse consequences. Well, we also have a problem when we start looking at what's being suggested in LB461 through Senator Brasch's portion on income basis. We have to be careful that we aren't creating some perverse problems as well on the base where you have a county line and you may have the exact same soil on each side of that county road, county line, and they pay two different bases because with the income it's based on the county. And we might have some constitutional problems there that we probably should be working through and talking about a little bit more. And as we go forward with LB461 we can talk about that some more and try to find some solutions to that. But, folks, this is a real problem in our urban school districts of how to fund education. We are 49th out of 50 in state aid to education, meaning what the state pays. That's what's causing a lot of this tension that we're hearing about today. To give you an idea of what

Floor Debate
April 27, 2017

that means as far as the disproportion, OPS--which I think I'm the only one in this body that sends a kid or kiddos to OPS--is the same size as the bottom 175 school districts combined. We have 245 school districts. Think about that. So when they hurt and they have problems, while it may be only my kids that are directly affected, it definitely has an effect on the economy of this state and the future of this state. [LB409 LB461]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR HARR: Thank you, Mr. President. We have to be careful when we make changes that we don't harm anyone disproportionately. And I hope over the summer that we seriously--and we say this every year, but I think the time is now--look at our TEEOSA formula and how do we fund. And maybe we need two levels of TEEOSA. And we also need a look at the property taxes. We're about ready to have a very large tax increase if Trump's plan passes. And we have to think about what the consequences of that is if you are no longer able to deduct property taxes against your income tax. That is going to be a large problem for our friends in the rural area. So I think it's time we relook at TEEOSA and we think about what are the consequences of the Trump plan before we go and do something as well. Thank you, Mr. President. [LB409]

PRESIDENT FOLEY: Thank you, Senator Harr. (Visitors introduced.) Continuing discussion, Senator Larson. [LB409]

SENATOR LARSON: Thank you, Mr. President. Will Senator Kolowski yield to a question? [LB409]

PRESIDENT FOLEY: Senator Kolowski, will you yield, please? [LB409]

SENATOR KOLOWSKI: Certainly. [LB409]

SENATOR LARSON: Thank you, Senator Kolowski. I understand that AM1015 allows the 3-cent levy by a supermajority of the board, correct? [LB409]

SENATOR KOLOWSKI: Correct. [LB409]

SENATOR LARSON: Is there in current law the ability for the people to override a levy and essentially do the same thing that AM1015 is doing with just...? You're saying that it doesn't take an override of the people, that the board can do with a supermajority, correct? [LB409]

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

Floor Debate
April 27, 2017

SENATOR KOLOWSKI: Ask that again, please. [LB409]

SENATOR LARSON: Right now, the people of any school district could override a levy with a vote of the people to the tune of 3 cents, correct? [LB409]

SENATOR KOLOWSKI: They can. But they're... [LB409]

SENATOR LARSON: So you are saying essentially this power is already in statute, but you're just now allowing a school board with a supermajority vote to do it instead of the people, correct? The people could do it, too. [LB409]

SENATOR KOLOWSKI: Correct. [LB409]

SENATOR LARSON: All right. Thank you, Senator Kolowski. [LB409]

SENATOR KOLOWSKI: Those who are elected by local control. [LB409]

SENATOR LARSON: Thank you, Senator Kolowski. Colleagues, herein lies my rub with AM1015. This already can happen in any of the school districts that Senator Kolowski is trying to do. Any of these school districts, with a vote of the people, can override their levy and increase their property taxes--not four, five, six elected members of a school board. Now, I understand that a school board is oftentimes probably more persuadable by a superintendent or administrators, both of which I heard Senator Baker and Senator Kolowski speak in favor of AM1015, both of which were administrators within a public school district. But in the end, when we're talking about a property tax increase to that extent to override a levy, it should reside with the people. The school board already has the ability to raise and lower the levy within certain limits. Yes, we have levy lids that we cap them at. But if the people...if these school districts are so hurt for money--the Millards, Norrises, the Ralstons--they should go to the people and ask for that override. It is as simple as that. I know school districts in rural Nebraska that do that. Give it to those individuals whether or not they want to override their levy and impose that property tax on themselves. You know, we have a lot of great school board members in this state, but they are true servants. And oftentimes, as I said, in some school districts, not all, some know...they listen heavily to the superintendent and they do what the superintendent wants. They are serving their family, their community in many other ways. They're often people that are on many different boards and nobody else wanted the job. [LB409]

PRESIDENT FOLEY: One minute. [LB409]

Floor Debate
April 27, 2017

SENATOR LARSON: So they're there and they are doing the best they can. I do not think that a 3-cent property tax levy increase should reside...and then when they already have the ability to raise and lower the levy to a certain point. What should happen is it should go to the vote of the people, the entire people of that school district. If it is that needed, as Senator Baker as said and Senator Kolowski has said, the people of that district will vote to override the levy and they will have that money anyway. This is what...what they're trying to do is...they don't want to have the people vote on this. That's what this boils down to. They're skipping the mechanism that is already there to take care of the problem that they say exists. [LB409]

PRESIDENT FOLEY: Time, Senator. [LB409]

SENATOR LARSON: Thank you. [LB409]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Krist. [LB409]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. A couple of cats and dogs before I get to the meat of what I'd like to say. First of all, Senator Erdman was questioning the value, I guess, or the utility of a lobby from...and he mentioned Omaha or whatever district it might be. I don't think any of us have come to this Chamber fully equipped to make all the decisions that we have to make, cast the votes that we need to. I think we get information from many sources. According to Black's Law Dictionary, to lobby is to talk or carry favor with a legislator repeatedly or frequently in an attempt to influence a legislator's vote. And I'd bring to all of your attention that I think that every one of your professions, except for mine, has a lobby out there--and I can say that confidently because I don't see any aviation lobbyists in the Rotunda--the farmers, the ranchers, the cattlemen, the school boards. And you know why they need to be out there? In my opinion, they are a concentrated voice for the people that they represent that you represent. So let's not throw rotten apples at lobbyists, because in this term limited environment you need to get spun up as soon as you can. Now, that's not to say that you need to believe everything that they say. As rational, logical, thinking adults, human beings, you're going to siphon through the minutia and get to the point. If I didn't have a lobbyist from the Omaha Public School system or the Bennington School system that I represent who explained the TEEOSA formula and how it actually affects my school districts--and by the way, we've changed it every year; how do we think anything is consistent with the school funding--I would not have had the education that I have had. Now, again, I don't always agree with John Lindsay and I certainly don't agree with my superintendents 100 percent of the time. But the superintendents in some small districts are your lobby. They're the people who are here when education issues come up. As far as Senator Larson's comments about we are bypassing the people, Senator Larson was elected by people in O'Neill and that area. They expect him to represent them as best he can when he's here and to speak for them in a

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

Floor Debate
April 27, 2017

concentrated voice as elected representatives, just as the Omaha Public School Board has to or should be speaking for their constituents when they are there. This bill does not circumvent any of the process. It puts a tool in place that they can use. After we get done slashing and burning and cutting and cutting, there will still be a requirement at that level to educate kids. And as far as I know, public school system is the number one priority in the state. I don't like telling people they have an additional levy authority, but I do like the fact that our education system is what it is and that there are people at that level that are making good decisions about the education... [LB409]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR KRIST: ...that our kids are getting. Thank you, Mr. President. I have no doubt that this, again, will be a divided house when it comes to this vote. I have no doubt that there are those of you who will continue to say we haven't cut enough. But at this point in the conversation I would like to ask the Chair of Revenue, when Revenue is going to come to the table and try to solve any of these issues? Revenue Committee, when are you going to come to the table? We've got 50 million more dollars. When are you going to look at LB467 and LB468 as offsets? When is LB233 going to come back with reasonable offsets? Thank you, Mr. President. [LB409 LB467 LB468 LB233]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Hansen. [LB409]

SENATOR HANSEN: Thank you, Mr. President. I would like to ask Senator Kolowski a question if he would yield. [LB409]

PRESIDENT FOLEY: Senator Kolowski, will you yield, please? [LB409]

SENATOR KOLOWSKI: Yes, thank you. [LB409]

SENATOR HANSEN: All right. Thank you, Senator, for yielding. So I'm looking at a handout you passed out earlier that shows that some of these school districts, Elkhorn and Millard particularly, are receiving a direct reduction in state aid this year. Is that correct? [LB409]

SENATOR KOLOWSKI: Yes, they are. [LB409]

SENATOR HANSEN: Perfect. And do you know, did the enrollment of Millard and Elkhorn go up or down in the past year? [LB409]

Floor Debate
April 27, 2017

SENATOR KOLOWSKI: Both are up and continue to grow. [LB409]

SENATOR HANSEN: Thank you, Senator. So, colleagues, when we talk about what school districts can do, what we want them to do, want them to be good team players, we have to keep in mind some of the school districts are growing by leaps and bounds and are having to do that within to context of all these funding mechanisms that change on a year-to-year basis. I don't have the exact numbers from Millard or Elkhorn, but the consensus is that they're growing. I know that Lincoln Public Schools grows by about 1,000 kids a year--just had that confirmed. That's two elementary schools. That's a middle school. And that's what they do just every year. They have to find some mechanism in the ever-changing state formula in order to make sure those kids get an appropriate education as we, as a state, are constitutionally required to provide. This is one of the situations I'm learning more. I've gotten up several times and admitted my...admitted that I find school funding formulas to be one of the more confusing and frustrating things we deal with here in the body. So I'm learning more about how LB409 works on its own as well as AM1015 relates into that. And on that behalf, I would yield the rest of my time to Senator Kolowski. [LB409]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Kolowski, 3:20. [LB409]

SENATOR KOLOWSKI: Yes, sir? [LB409]

PRESIDENT FOLEY: Senator Kolowski, you've been yielded 3:15. [LB409]

SENATOR KOLOWSKI: Thank you very much. Senator Hansen, thank you for the time. I would keep in mind what we're talking about would be about 46 districts out of our 245 that are up against their levy lid. Approximately 46 districts are in that precarious situation. This is not a tax for the entire state of Nebraska upon the taxpayers. This is not a tax in any way, shape, or form that will come to anyone except by their board of education, their duly elected board of education, based on local control, bringing up the issues that they desire and they desire to solve, the issues within their own school district. With that approximately 45 to 50 districts that are up against their levy lid, this would not be used by everyone and probably not even by all those districts. It's determined by their plan what they are trying to do as far as their strategic plan in their district to get to the next level of serving their students and serving their public to the very best of their ability. Again, a local control issue is on the floor with us discussing where we are and how much control we want over that local control issue from this venue: the Legislature of the state of Nebraska. This is a duly elected school board, whatever the number might be, and as they have their supermajority vote on the direction and the excellence of their particular district, rather than going to a complete vote of the people because they have already voted for this board. This will shorten the time line, save money, save energy, and all the efforts that go into a bond

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

Floor Debate
April 27, 2017

issue or a public vote. And they're hired to make that happen in their district. The vast majority, I'm sure,... [LB409]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR KOLOWSKI: ...of districts would be happy with that. Mr. President, was that one minute? [LB409]

PRESIDENT FOLEY: Yes, sir. [LB409]

SENATOR KOLOWSKI: Thank you. As we look at the choices that are before us and the opportunities we have to serve, keep in mind this isn't a tax upon anyone in the state at this point in time in any way, shape, or form. It gives the local control choice to a district that's up against its levy lid and needs to make the decisions within its district, most of them because of particular issues on their plans or with growth of the number of students they're having in their district. Keep in mind in our state we do have and will continue to have growing districts in certain areas. That should be self...that should be an issue that all of us keep in mind as we move ahead and to make a difference on the tools that we give them... [LB409]

PRESIDENT FOLEY: Time, Senator. [LB409]

SENATOR KOLOWSKI: ...to meet their needs. Thank you, Mr. President. [LB409]

PRESIDENT FOLEY: Thank you, Senator Kolowski. (Visitors introduced.) Continuing discussion, Senator Pansing Brooks. [LB409]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. First, I just want to thank Nebraskans for reaching out and working so hard last night to call senators about the fact that issues that were part of policy were put into the budget. And I know that there were a lot of people working on that and that a lot of senators were contacted. And I really appreciate that. I think...I just want you to know, Nebraska, it does make a difference. As far as today's bill, I rise in support of LB409 and AM1015. Throughout our session, we continue to hear, oh, this isn't necessary. The western part of the state says this isn't necessary. We don't need to do this. And yet parts of the eastern part of the state in the more populated areas say, wait, we do need to do this. So that's a problem because we have discussions about the urban and rural divide, and I'm worried about that. I'm worried that some of our concerns fall on deaf ears, just like you're concerned about the fact that your concerns fall on deaf ears. And I would say, colleagues, we have to do a better job. To continue to say things aren't necessary diminishes our opinions, just

Floor Debate
April 27, 2017

like if we tell you some things aren't necessary for ag, you're aggravated and think that we're not listening and that your concerns and worries are falling on deaf ears. I'm committed to listening and trying to understand. The purpose of Senator Kolowski's amendment is to make sure that school districts are held harmless by the changes to TEEOSA that we're doing this year. Supposedly it's supposed to be a 2.1 percent increase. But districts in Omaha will be losing money. Millard will have a 5.3 percent reduction in state aid; that's over \$2 million. Norris stands to lose \$500,000 in state aid. Elkhorn is going to lose over \$1,100,000. Bellevue will lose almost \$2.4 million. Papillion-La Vista will lose over \$4.5 million and all those districts average a reduction of 4.5 percent, rather than the increase of 2.1 percent. Everybody is telling us all the time local control. We've got to let the districts out there decide. We have to let the county boards decide in their areas. But when it comes to something else, I mean it's just...we're just couching everything in the terms that we want. We're only in favor of local control when it affects us in our positive way. I believe we need to let the school boards decide. It's a three-fourths majority of the school board and they are most connected to the districts to understand their needs and they are the most connected to their constituents to understand the attitude and tenor of how everybody is feeling out there, or whatever it is in their part of the state. Senator Larson said, oh, it's just simple, it's as simple as bringing a bond issue, I guess is what he's talking about. Well, having cochaired a \$250 million bond issue in Lincoln with Senator Kathy Campbell, I can tell you, colleagues, a bond issue... [LB409]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR PANSING BROOKS: ...is far from simple. To take it to the people to decide whether or not they are going to override, it's a very difficult thing. It costs a lot of money. It costs a lot of time. It takes a lot of work to educate everybody to be able to get to the point of understanding the complicated issue, just like it's taking us a long time to wrap our minds around these complicated issues. TEEOSA...I'm a member of the Education Committee and TEEOSA, I still do not have an ability to quote you every single part of TEEOSA. And I don't think that most people can. So again, we need to allow the local school boards to determine what's necessary. The districts that need to use this most are already up against their levy. And for people to say, oh, it's not necessary, but they're not... [LB409]

PRESIDENT FOLEY: Time, Senator. [LB409]

SENATOR PANSING BROOKS: ...living in the districts where it is necessary... [LB409]

PRESIDENT FOLEY: Time. [LB409]

Floor Debate
April 27, 2017

SENATOR PANSING BROOKS: ...is disingenuous. Thank you, Mr. Lieutenant Governor. [LB409]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Hilkemann. [LB409]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. First of all, I want to say a big thank you to all of the taxpayers in the Omaha Public School District and in the Millard Public School District and in the state of Nebraska because my three children received marvelous educations from kindergarten all the way through high school, and I appreciate it very much. And I know it didn't come as an inexpensive thing. So thank you, taxpayers of Omaha and Millard. You know, Senator Pansing Brooks really just hit on...I had one of those...that was one of the little notes I had down here. It was alluded to that if we wanted to increase funding that we could pass a bond issue. Well, you know, I'm going to maintain that if that is what we're going to do, we're going to cost taxpayers more money, because if you're going to go through a bond issue, are you going to go through a bond issue for a 1 percent increase, or a 1-cent increase? Are you going to do it for a 2-cent increase? If you're going to go through the expense of a bond issue, you're going to do it at a much higher rate. So I look at this bill as a safety valve for our school districts where if you get to the point of if you need another 1 cent or need another 1, that's really what we need to do here. And that's why I like...I think that we need to consider this bill and we need to put this amendment forward. My daughter, who has had the good fortune of teaching at one point in the Millard Public Schools and appreciates the value of public education, her family was in England and while they were in England they were...public schools there. And they enjoyed having symphony for their...violin lessons and cello lessons. And so when they moved to Houston, Texas, they moved to a very fairly nice area of the Houston area. And they were very disappointed that in their elementary schools they do not provide any symphony, any kind of music lessons or things of that sort for them, even in a fairly substantial district of Houston. And I was so pleased during the sesquicentennial we had up over here. I was invited to come up because Millard North's students were performing. And it was just after my daughter had told me about why she was so disappointed with what was happening in her Houston schools. I said, how many...and I don't know if you heard them. They were just outstanding. I said how many of you had orchestra in grade school? And almost every hand went up. And how many of you had orchestra in middle school? And almost every hand went up. You see, these are skills that you develop over the course of time and I'm appreciative that my kids had the opportunity to be in a school district. So not every school district is the same. This is the most local control thing that we can talk about. They have to have a supermajority, a supermajority, to put a 1-cent or a 2-cent or a 3-cent increase. This does not force anything. This is not an unfunded mandate. This is local control at the highest level. Senator Kolowski, would you yield to a question? [LB409]

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

Floor Debate
April 27, 2017

PRESIDENT FOLEY: Senator Kolowski, would you yield, please? There's one minute.
[LB409]

SENATOR KOLOWSKI: Certainly. Thank you. [LB409]

SENATOR HILKEMANN: Senator, you and I didn't...I didn't realize that this...you and I ride together and you and I didn't even talk about this on the way down this morning. Did I pick up the essence of what your amendment is all about from here? Did you just listen to what I said?
[LB409]

SENATOR KOLOWSKI: Absolutely, right on target. It's all about trusted local control and decision making at the local level. [LB409]

SENATOR HILKEMANN: Thank you, Senator. And that's what this is good. All of those who say we want to have local...if North Platte needs to have additional funds, they can do it without having to go through a bond levy. They can maybe...with 1 cent, they could do it. And there's going to be more people who...I just think it's...this is truly a levy override type of vote and, folks, this is a good amendment. And thank you for bringing it, Senator Kolowski. Thank you, Mr. Speaker. [LB409]

PRESIDENT FOLEY: Thank you, Senator Hilkemann, Senator Kolowski. Senator Schumacher, you're recognized. [LB409]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Senator Harr touched on it and it's something that we should start thinking about because it creates a great deal of uncertainty in our tax system. Yesterday's announcement by the Trump administration, even though it was only one page, indicates something that might be huge, maybe even magnificent or maybe disastrous or we don't know. But it is a departure from a longstanding federal policy of giving considerable deference to state taxation in federal taxation by allowing a lot of state and local taxes to be deducted from your income and, thus, saving you federal income taxes. Now, understand what implications this could have for us. Right now, if you have a house or a farm or a business and let's pretend there's a \$2 levy on it, if you are in a 33 percent federal income tax bracket, it means that that \$2, because you're saving on your federal income taxes, is only costing you \$1.33. If that is not allowed as a federal deduction, if you're shoveled off into a standard deduction where it doesn't matter whether you pay the taxes locally or not, that is a tremendous increase in property taxes--and we'll talk about income taxes in a minute--but a tremendous increase in your property tax impact. If it is allowed as a business deduction regardless, and if you have commercial property or agricultural land property, then you won't be affected because you can take it as a business deduction regardless. If, however, it is not, that is a

Floor Debate
April 27, 2017

big change that we've got to be prepared to adjust for. Likewise, if you have just a house, residential property, and it is allowed as a business deduction, it means you don't get the deduction but the commercial and ag property does, and that shifts things back and forth dramatically if you're looking at a factor of 33 percent federal income tax. State income taxes: right now our state income tax rate, we've heard the number over and over at the upper tier, the top tier is 6.84 percent. After the 33 percent federal adjustment because you get to take it off your federal income, you pay about \$4.50. If you do not get to take it off your federal income tax, you're paying the 6.84 percent, which almost means a third increase in state income taxes. We don't know how we're going to have to adjust in order to make a fair and just tax system locally in response to what could be a massive shift in federal tax policy. And anything we do from this point forward, haste will make waste and it will be very difficult to undo. We don't want to make matters worse or better until we know where we stand. This is massive if you won't be able to take a deduction,... [LB409]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR SCHUMACHER: ...an itemized deduction for federal taxes. Folks out there in listening land and folks in here should talk to your accountant as to how it will affect you. And we certainly should not make any policy decisions without knowing exactly what impact in the big scale these things mean. And a lot of us are going to need to rethink our positions with regard to any possible tax philosophy, because this is huge. And we'll have to learn more exactly what is intended by it and how it impacts. But the level of uncertainty as far as our tax system is concerned dramatically rose yesterday. Thank you. [LB409]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Groene. [LB409]

SENATOR GROENE: Thank you. Thank you, Mr. President. I want to clarify to the body how TEEOSA works. First, on Senator Kolowski's example there, I don't know where he got his '16-17 numbers. They have to be estimates. I worked with the Department of Ed on my models. Those schools are in the Learning Community. There is no property tax number for them last year. Their property tax went into a fund for the Learning Community and then it was divided out. I've asked the fiscal department of Department of Ed to give me these numbers and they said that we couldn't be reliable. So I don't know where Senator Kolowski...Senator Kolowski, would you ask a question...answer a question? [LB409]

PRESIDENT FOLEY: Senator Kolowski, would you yield, please? [LB409]

SENATOR KOLOWSKI: Yes. Thank you. [LB409]

Floor Debate
April 27, 2017

SENATOR GROENE: Where did you get your '16-17, state aid no Learning Community numbers? [LB409]

SENATOR KOLOWSKI: That came from some materials I got from my staff that they picked up with their research. [LB409]

SENATOR GROENE: All right. Thank you. Better research than I have as the head of the Department of...Education Committee. Let me tell you how it works here, folks. First in is property taxes. I can list you over and over again numbers of school districts who have less state aid next year than they had before. And I can show you '16-17 numbers where they got less state aid than they did in '15. Why? Because their property tax local effort went up. Millard is at \$103,675,000 local effort rate estimated for next year. Their property tax in the county went up 3.16 percent. So that alone would be \$3.6 million. And they said they took a difference of \$2 million. So they made a \$1 million extra. They got an extra \$1 million to fund their schools. Let's look at facts, folks. Let's look at all the variables in an equation. Very often when state aid goes down it's because property tax went up. Senator Larson had a good point. Westside has had two or three elections overrides and the folks in that district appreciate their schools and agreed to vote on it. Millard has never had an override election, levy override. It's not a bond election, folks. It's a levy override election. They've never had one, haven't even tried that route. None of these school districts are getting less total funding from the taxpayer than they did the year before. The taxpayer doesn't care. It comes out of one billfold--his property taxes and his state income and sales taxes. Overall, every one of these districts in this example and every district in the state will have more money than they had the year before to run their school. Let me tell you frustration, as Chairman of the Ed Department (sic--Committee), talking to administrators and school board presidents, how I've heard this story and then I read in the paper they gave 4 percent raises to their staff. That doesn't happen in economic crises in the free enterprise system. They gave administrators \$8,000 to \$10,000 raises. That is frustrating when you want to help, but they won't help themselves. That's another issue. But you cannot expect the local taxpayer to all of a sudden get 3 cents or 4 or 5 cents or whatever it takes that they deem to collect the difference here that they deem they lost in aid without any input but maybe a notice in the paper... [LB409]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR GROENE: ...that the school board is going to have a vote to raise their property taxes. A bargain was made with local school districts when TEEOSA was started. We cap your local effort rate but we give you state money. They are still receiving the state money, more than they did the year before. They should keep their bargain with the taxpayer and not raise their

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

Floor Debate
April 27, 2017

levy rate. I would appreciate a no vote, red light on AM1015 and a green light. Let's do our duty with the budgeting process on LB409, green. Thank you. [LB409]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Erdman. [LB409]

SENATOR ERDMAN: Thank you again, Lieutenant Governor. I am in strong opposition to AM1015. And before I get into my remarks about that, I want to speak a bit about Senator Krist's remarks over the last couple of days. Yesterday he made a comment that he is probably the most independent senator in the body. I would take exception to that. I mentioned that to Senator Chambers and he just smiled. So I would assume that Senator Chambers may be in the lead on that one. Secondly, Senator Krist lectures us several times on how we should do things and what we know and what we don't know. Last time I looked, there's one green light for each of us or one red light for each of us up on that board. We have one vote. I made comments about the lobby out in the back, about them getting tax dollars to come here and lobby us. I didn't say anything about the value of their opinion. So he made an assumption about those things that I said. The lobby is necessary. I find it unacceptable that we pay people with tax dollars to come here and lobby us. That's my comment. So be it. Senator Krist also had comments earlier, late last year, about how counties manage their budgets and we spoke about that. So it's not the first time he and I disagreed on something and that's fine. Now, talking about AM1015, and as Senator Groene alluded to it when he said this is not a bond issue because Senator Hilkemann made that comment several times--this is a bonding issue--it's not. It's a levy override. No one, as far as I can tell, has ever sent me a notice or made a call and said, can you pay more taxes? Not once. That's exactly what a vote by the people is, is asking them, do you want to pay more taxes? If the school has a legitimate need, those taxpayers will contribute if they're asked. Let them make the decision. Senator Larson was right. They can still do this. So, going forward, we need to make sure that we ask those people who are going to pay more if they can. And that's how you do that and it's not by a two-thirds vote of the school board. Senator Kolowski mentioned you can save money by spending money. I've never heard of that one, but that's a new one. He and I had a conversation earlier and he may remember this one. I asked him if I was going to buy a widget for \$100 and I went back a couple weeks later and the widget was \$80 and I purchased it for \$80, how much did I save? And his answer was \$20. Therein lies the problem. I didn't save anything; I spent \$80. And so when you're making decisions about school funding, if you have the attitude that if you spend less than you were going to spend the year before, you saved money, that's not true. You spent more. If you spend more money this year than you did last, but you spent less than you intended to spend, it's not a savings. It's an increase, okay? That's the sum of it. It's just simple magic and logic...simple logic. So I've said this before. Common sense is not a flower that grows in everybody's garden, all right? I have some, maybe not as much as some think. And in the Bible it says think not more highly of yourself than you ought. [LB409]

PRESIDENT FOLEY: One minute. [LB409]

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

Floor Debate
April 27, 2017

SENATOR ERDMAN: And so that's my goal. But I will tell you this, that those schools are going to be funded. We're giving them \$21 million more than we did last year. And if one of those school systems has a \$120 (million) or \$130 million budget and we cut them a \$1 million, that's less than 1 percent. If the management is as good as they say it is, they should be able to figure out how to manage around a 1 percent cut. So vote red on AM1015 and you all know that I know where the red button is. So please join me and vote against AM1015. Thank you. [LB409]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator McCollister. [LB409]

SENATOR MCCOLLISTER: Thank you, Mr. President. Good morning, colleagues. I currently represent three school districts in Omaha: Millard, Westside, and the Omaha Public Schools. As I look at the sheet that Senator Kolowski sent out, the differences in my three school districts is significant. Millard has a drop of about \$2 million. Omaha benefits to the tune of right at \$13 million. And Westside benefits to the tune of \$1.4 million--fairly significant differences in those three districts. I've also had an opportunity to talk to various senators over the last month about property taxes. Had a great conversation with Senator Friesen yesterday and we talked about how property taxes can differ just across a county line. And he indicated that that is the case in his particular district. That's not right. That's something we need to fix. And then yesterday I talked to Senator Groene about his LB640 which would have taken money out of the Property Tax Relief Fund to help rural areas. We don't have a proper situation here, no question about it. And I would certainly like to be part of a group that tries to fix that. But in this particular case, I support AM1015 to give the voters in Millard the authority to raise their levy by 3 cents if that's what they care to do. We need to give local school districts that authority. If they can't get a supermajority on their board, by golly, they won't have that authority to levy that fee. Would Senator Kolowski yield to a few questions? [LB409 LB640]

PRESIDENT FOLEY: Senator Kolowski, will you yield, please? [LB409]

SENATOR KOLOWSKI: Absolutely. [LB409]

SENATOR MCCOLLISTER: Your amendment, if I'm reading it correctly, does give that school board the authority to raise their mill levy by 3 cents for how long, sir? [LB409]

SENATOR KOLOWSKI: It will be a two-year time period: '17-18, '18-19 when we're in the difficult times we're in at the current... [LB409]

SENATOR MCCOLLISTER: And then that authority drops off. Is that correct, Senator? [LB409]

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

Floor Debate
April 27, 2017

SENATOR KOLOWSKI: Yes, it does. So a two-year bridge only, sir. [LB409]

SENATOR McCOLLISTER: We talked about, oh, a week or two ago about the authority for a school district to increase their mill levy for retirements. Can you explain how that works and whether these two opportunities to raise the mill levy will conflict in any way? [LB409]

SENATOR KOLOWSKI: I would have to look at the most up-to-date decision that's been made on the early retirement programs that are available in the district. It's really a separate issue from this one. This is purely for the operational aspects of the district, whether it's 1 or 2 or 3 cents that you'd be raising to have enough money to complete your plans for your district for that year. [LB409]

SENATOR McCOLLISTER: Yeah, thank you, Senator. I don't see Senator Groene on the floor, but if he were available I'd ask him some questions. Thank you, Mr. President. [LB409]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Baker. [LB409]

SENATOR BAKER: Thank you, Mr. President. Is Senator Halloran on the floor? [LB409]

PRESIDENT FOLEY: Senator Halloran, are you on the floor? [LB409]

SENATOR BAKER: Would you yield? Would Senator Halloran yield to some questions? [LB409]

PRESIDENT FOLEY: Senator Halloran, would you yield to some questions? [LB409]

SENATOR HALLORAN: My pleasure. [LB409]

SENATOR BAKER: Senator Halloran, would I be correct in assuming that Hastings, Hastings School District would encompass more than half the residents of the legislative district you represent? [LB409]

SENATOR HALLORAN: I would say that would be a close guess, yes. [LB409]

SENATOR BAKER: So in an earlier discussion earlier this session, you indicated there is no ag land in the Hastings School District, so it's all residential and commercial as far as their tax base. Is that correct? [LB409]

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

Floor Debate
April 27, 2017

SENATOR HALLORAN: That's correct. [LB409]

SENATOR BAKER: So do you know what happened with the valuation, residential valuations in Hastings? [LB409]

SENATOR HALLORAN: Valuations in Hastings? They've gone up modestly. [LB409]

SENATOR BAKER: Okay. Have you had any communication...I assume Hastings Public Schools, to my knowledge, they're at the levy limit. Have you had any communication from Hastings School Board or Hastings Public Schools with regard to their situation? [LB409]

SENATOR HALLORAN: I have. And they have expressed to me that they have some concerns with it, but they've been able to adequately work within their mill levy. [LB409]

SENATOR BAKER: So with regards to AM1015, would that be something they tell you they want or not? [LB409]

SENATOR HALLORAN: I haven't heard directly from them but in our...excuse me for saying it this way, it sounds very colloquial. But in our part of the country, we're quite fine with initiative petitions or referendum petitions and to increase spending for the district, in other words, putting it to a vote of the people. We're fine with that. [LB409]

SENATOR BAKER: Okay. Has there been any levy override votes in Hastings is the last ten years that you know of? [LB409]

SENATOR HALLORAN: Not that I know of, but the opportunity has always been there for them to do that. [LB409]

SENATOR BAKER: Okay. Well, thank you, Senator Halloran. [LB409]

SENATOR HALLORAN: You're welcome. [LB409]

SENATOR BAKER: Senator Kolowski, would you yield to a question? [LB409]

PRESIDENT FOLEY: Senator Kolowski, would you yield, please? [LB409]

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

Floor Debate
April 27, 2017

SENATOR KOLOWSKI: Certainly. [LB409]

SENATOR BAKER: What happens when you're a principal and there is less revenue? What happens? How are decisions made on how to handle that? [LB409]

SENATOR KOLOWSKI: From a high school principal's perspective, what you plan for in your particular building with increasing student numbers happening every year, you would have to lessen your curricular options, possibly make more room in study halls because you'd have less teachers to be hired or you might have had to RIF some teachers as well. And so the options and the opportunities for your students would be lessened by the lack of funding. And you become...you would increase class sizes as you're doing those things as well. [LB409]

SENATOR BAKER: So who decides? Is there a number of people involved? Would you have been involved in those discussions districtwide how you're going to handle the decreases that are required? [LB409]

SENATOR KOLOWSKI: Yes, the district planning process, the strategic planning process that we have used in the Millard schools for decades involves all the staff and all the key decision makers as far as administrators. You would have options that you begin producing for the superintendent based on the number of... [LB409]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR KOLOWSKI: ...dollars coming in and then you'd have to make some decisions. Is it going to be plan A, plan B, plan C, D, whatever it might be, depending on the final source and amount of the money that you'd have available for that year. [LB409]

SENATOR BAKER: So after the district comes up with a plan, would there be some directive to you, as principal of your building, say here's what you're going to have to...? [LB409]

SENATOR KOLOWSKI: Absolutely. [LB409]

SENATOR BAKER: You figure it out (inaudible). [LB409]

SENATOR KOLOWSKI: We have decision making at the local level to have that impact with the dollars that we have. But, in reality, most of that gets very constricted because the majority of your dollars are usually for staff. [LB409]

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

Floor Debate
April 27, 2017

SENATOR BAKER: Yes, okay. Well, thank you, Mr. President. [LB409]

PRESIDENT FOLEY: Thank you, Senators Baker and Kolowski. Mr. Clerk. [LB409]

CLERK: Mr. President, some items if I may and an announcement. New resolutions: LR115, LR116, both will be laid over. An amendment to LB327 to be printed by Senator Schumacher. An announcement, Mr. President, the Executive Board will meet at 10:45 in Room 2102; Executive Board, 10:45, 2102. (Legislative Journal pages 1248-1250.) [LR115 LR116 LB327]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing debate, Senator Craighead. [LB409]

SENATOR CRAIGHEAD: Thank you, Mr. President. Good morning, colleagues. You know, I sit here and often don't talk but I do listen an awful lot. Last year, much of Omaha's property taxes...property valuations arbitrarily increased 7 percent. This year, the land valuations arbitrarily increased, some of the lots in Omaha from \$30,000 to \$300,000. I would like to know if Senator Kolowski would yield to a question, please. [LB409]

PRESIDENT FOLEY: Senator Kolowski, would you yield, please? [LB409]

SENATOR KOLOWSKI: Yes, of course. [LB409]

SENATOR CRAIGHEAD: Thank you. Do you know how much of these increases the metro school districts received? [LB409]

SENATOR KOLOWSKI: Ask the entire question again within the context of what you were saying, please. [LB409]

SENATOR CRAIGHEAD: Okay. With the increase in property taxes and property and land valuations, do you know how much the school districts received of these increases? [LB409]

SENATOR KOLOWSKI: I don't have that dollar figure before me. No, I don't have that here. [LB409]

SENATOR CRAIGHEAD: Okay. And one more question: Aren't the schools receiving \$44 million this year in the proposed budget? [LB409]

SENATOR KOLOWSKI: Which schools, please? [LB409]

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

Floor Debate
April 27, 2017

SENATOR CRAIGHEAD: Well, just in general, aren't schools receiving increase of \$44 million, so there is an increase in the amount for (inaudible)? [LB409]

SENATOR KOLOWSKI: There is, but with the TEEOSA formula and the Learning Community school districts, the 11 in the Sarpy and Douglas County area, there's adjustments still being made to that and, therefore, there's impacts upon the final dollars as you see on the one sheet that I handed out, again, containing one-third of the students in the entire state of Nebraska. [LB409]

SENATOR CRAIGHEAD: Thank you, Senator Kolowski. I'll yield the rest of my time back to the Chair. [LB409]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Hilkemann. [LB409]

SENATOR HILKEMANN: Thank you, Mr. President. Senator Erdman, would you be available for a question? [LB409]

PRESIDENT FOLEY: Senator Erdman, would you yield, please? [LB409]

SENATOR ERDMAN: Of course. [LB409]

SENATOR HILKEMANN: I was interested in a comment that you made when you were in a conversation with Senator Kolowski that you never heard of anything of being able to save money by spending. Is that correct? Did I hear that correct? [LB409]

SENATOR ERDMAN: Yep. That's correct. [LB409]

SENATOR HILKEMANN: Are you a farmer? [LB409]

SENATOR ERDMAN: I am. [LB409]

SENATOR HILKEMANN: Do you still use two-row equipment? [LB409]

SENATOR ERDMAN: Do I use what? [LB409]

SENATOR HILKEMANN: Do you use two-row equipment to plant? [LB409]

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

Floor Debate
April 27, 2017

SENATOR ERDMAN: Nope. No. I did. [LB409]

SENATOR HILKEMANN: Yeah, so did my dad. What are most of the farmers using now for planting equipment? [LB409]

SENATOR ERDMAN: What are most of them using? [LB409]

SENATOR HILKEMANN: Yeah. How many row equipment do you use to plant with today? [LB409]

SENATOR ERDMAN: Twelve. Sixteen. [LB409]

SENATOR HILKEMANN: Okay. Didn't you have to spend money to go to 12- to 16-row equipment? [LB409]

SENATOR ERDMAN: Yes. [LB409]

SENATOR HILKEMANN: And didn't you go to 12- to 14-row equipment to save money? [LB409]

SENATOR ERDMAN: I don't know of anyone that plants 14-row equipment. [LB409]

SENATOR HILKEMANN: Well, whatever you use. Here's what I'm getting at, is there...we do spend money and we save money with our spending with some of these things. And it happens in farming. That's why farmers can, you know, my father was...he had an untimely death relatively early in his life, but he was toying with going from two-row to four-row equipment so he could farm more. And so there are times when we spend money to save money. I just thought I needed to make that comment. Thank you, Mr. Speaker. [LB409]

PRESIDENT FOLEY: Thank you, Senators Hilkemann and Erdman. Senator Linehan. [LB409]

SENATOR LINEHAN: Call the question. [LB409]

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. Have you all voted who care to? Record, Mr. Clerk. [LB409]

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

Floor Debate
April 27, 2017

CLERK: 25 ayes, 0 nays to cease debate. [LB409]

PRESIDENT FOLEY: Debate does cease. Senator Kolowski, you're recognized to close on AM1015. [LB409]

SENATOR KOLOWSKI: Thank you, Mr. President. Colleagues, I want to thank you for your discussion this morning. I hope you understand and see the need for at least 45 to 50 of our districts in our state that are up against the levy lid and have need for this two-year opportunity to go to their board of education, to have a bridge, a tool, a bridge to get through this time when they have shortages that have taken place with the budgeting processes that we are currently using. What I find challenging in this organization is our back-and-forth decisions on local control, how we interpret local control. Some things we want to make all the decisions on and other things we just leave up to the school districts or county or cities or whatever else. That's not healthy behavior. If we want to do the things we want to do in schools and control everything right from this floor, we don't need 245 districts. Just put us in charge. We'll be the big school district, the big school board. That makes no sense at all. It excludes us and relieves us from the decision making at that local level, knowing truly what's taking place in that district and what their needs are and how to meet them. This is a two-year opportunity for districts that are caught in a crunch. And we are hurting them and not helping ourselves by some of the decisions we make concerning local control. Let's turn it back to those local school districts. Let them make the decisions in their own district as to where they want to go, what they want to do, and what they'll ask for, whether it is part of a penny, a penny, 2 cents, or 3 cents. They know best where they are, what they're doing, and how they're doing it. And it's only for two years to get them over this bridge time. Trust the local districts. Trust the people that were elected by their populations in those local districts to do what is right for their particular district. This is a big issue with those 45 to 50 districts that need our help and are not going to get it in any other way during this session or the next year probably. I ask for your vote green on AM1015 and I support LB409 as well and I hope you'll go along with that and give the local school districts an opportunity to continue their work and to work with their students and their teachers and their staff as a whole to make a difference in their communities. Thank you very much. [LB409]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Members, you've heard the debate on AM1015. 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? 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, please. [LB409]

CLERK: 37 ayes, 1 nay to place the house under call. [LB409]

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

Floor Debate
April 27, 2017

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 Groene, could you check in? All unexcused members are now present. Senator Kolowski, how did you want to proceed on this vote? [LB409]

SENATOR KOLOWSKI: Roll call vote in reverse order, please. [LB409]

PRESIDENT FOLEY: Roll call vote in reverse order. Mr. Clerk. Members, the question is the adoption of AM1015. [LB409]

CLERK: (Roll call vote taken, Legislative Journal pages 1250-1251.) 14 ayes, 24 nays, Mr. President, on the amendment. [LB409]

PRESIDENT FOLEY: AM1015 is not adopted. I raise the call. Mr. Clerk. [LB409]

CLERK: Mr. President, the next amendment I have, Senator Friesen, I have AM1163 with a note you wish to withdraw. [LB409]

SENATOR FRIESEN: Correct. [LB409]

CLERK: Senator Friesen would move to amend with AM1236. (Legislative Journal pages 1251-1259.) [LB409]

PRESIDENT FOLEY: Senator Friesen, you're recognized to open on AM1236. [LB409]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. What this amendment does is in the TEEOSA formula when it was first created, it had what was called the allocated income tax portion. What it does is it returns a percentage of the income tax paid by residents of the school district back to the school district in which they live. So when you file a state income tax, you check the little box there and you put your school district number into that, and so then a portion of your income taxes paid would come back to support your local schools. And so what this does is take a little bit of pressure off of property taxes again. Originally, it was designed as a 20 percent funding and currently we've capped that at 2 percent. So in the TEEOSA formula, it's based on the idea that districts with high resources, which is high property tax wealth, they're better able to support schools locally and, therefore, they need less state support. However, property wealth is not always indicative of their ability to pay. So that's why the income tax portion of it does measure wealth a lot better than just whether or not you own property. In fiscal

Floor Debate
April 27, 2017

year '17, school districts received approximately 2.1 percent of total income taxes paid as the allocated income tax. An increase up to 20 percent would substantially improve the weight of income in the formula's calculation of resources. The inclusion of income in the formula came from the 1990 recommendation of the School Finance Review Commission to provide a broad and stable system of financial support to public schools through the appropriate mixture of revenue sources. So raising the allocated income tax to 20 percent would increase state aid for a majority of districts. All nonequalized districts see an increase in state aid equal to probably 20 percent of the total taxes paid, and the majority of school districts in Nebraska are nonequalized. Most equalized districts see a corresponding reduction in equalization aid because allocated income tax is included as a resource for the district. So equalized districts will break-even. What they gain in the tax, the income tax portion, will reduce their equalization aid by an equal amount. So for the urban school districts it would be no net change. For some equalized districts, the increase in resources would be significant enough for the district to become nonequalized. Even though they would no longer receive equalization aid, they would still see a net increase in total state aid from the increase in the allocated income tax funds. So increasing the allocated income tax will help address the overreliance of state aid to fund K through 12 education in the formula. Throughout TEEOSA's history, when state aid increases as a share of the economy, property taxes decrease as a share of the economy. State aid hit a historic high in 1999, the same year that property taxes as a share of the economy were at a historic low. School spending is limited by both spending lids and spending limits, and, therefore, constrains school districts' ability to simply spend the new state aid dollars without reducing levies. The 20 percent of total income taxes paid is a percentage at which allocated income tax was originally set back when TEEOSA was enacted. Instead of maintaining this, the 20 percent, in 1996 the Legislature capped the statewide amount available for the allocated income tax at \$102.3 million. Since then, the allocated income tax has declined to 2.1 percent of total income taxes paid in fiscal year '17. So LB1067 in 2016 changed the allocated income tax from the capped amount set in statute to 2.3 percent of total income tax liability beginning in 2018. This amendment would keep net option funding from being paid off the top of total allocated income taxes. So in 1996, the Legislature also began paying for the net option funding off the top of that AIT amount, further contributing to the reduction in the percentage of income taxes paid in a school district being returned to the district as the allocated income tax funds. LB1067 in 2016 separated the allocated income tax and net option funding to make each their own General Fund obligation. This was done to prevent changes in the Learning Community from further reducing the allocated income tax percentage. Keeping these two forms of aid separate is important to avoid an increase in net option funding in some districts, negatively impacting the amount of allocated income tax all districts receive. This increase in state aid should be paid for with new dollars. If this change is not fully funded with new dollars, it will necessitate some other reduction in TEEOSA aid that results in a loss of current funding for the districts that doesn't see new state aid from this proposal. Using existing funding as opposed to new funding would harm equalized districts whose needs exceed their ability to raise revenue locally. So in order to fund this portion, we

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

Floor Debate
April 27, 2017

would...we're looking at some tax credits that were available under LB775. There's an expenditure report and these were...I'm hoping Senator Schumacher would help explain some of these tax credits that help pay for this. And so as we go through this, one of them was the...basically it was a capital gains election that was used in certain corporations, and the other one is a repeal of the income for multistate S corps. And obviously, these are very technical in nature and so I will leave that for further discussion down the road. With that, I would urge you to look at this bill. It does help in some way to get the funding of your tax dollars back to the school districts the way TEEOSA was initially intended. I hope you would support AM1236. Thank you, Mr. Lieutenant Governor. [LB409]

PRESIDENT FOLEY: Thank you, Senator Friesen. (Visitors introduced.) Mr. Clerk. [LB409]

ASSISTANT CLERK: Mr. President, Senator Baker would move to amend the Friesen amendment with AM1238. (Legislative Journal page 1259.) [LB409]

PRESIDENT FOLEY: Senator Baker, you're recognized to open on AM1238. [LB409]

SENATOR BAKER: Thank you, Mr. President. Members of the Legislature, Senator Friesen's amendment would essentially return us to a day with little or no equalization. Lawsuits would be filed to the state's method of funding K-12 education and the method would, without a doubt, be declared unconstitutional under the equal protection clause of the Fourteenth Amendment to the constitution. Let's not go down that path, and I doubt if Senator Friesen wants to either. The amendment would strike the language Senator Friesen has inserted and call for a study of school district finance. It would insert a section that says: The Education Committee of the Legislature shall review the TEEOSA and shall declare a new system of financing school districts. Committee may ask members of other committees of the Legislature to assist in the process. Committee shall report electronically the results of such review, prepare legislation to implement the new system of financing for school districts to the Legislative Council or Legislature on or before December 31, 2017. If you want to know what equalization is all about, get on your gadget and Google school equalization aid. You'll see the lengthy history of what states have gone through with their school funding formulas to basically move toward equalization, existing formulas before those things having been struck down by the courts. With that, I close. Thank you. [LB409]

PRESIDENT FOLEY: Thank you, Senator Baker. (Visitors introduced.) Continuing discussion on the amendment, Senator Harr. We will come back to Senator Harr. Senator Briese. [LB409]

SENATOR BRIESE: Thank you, Mr. President. And good morning again, colleagues. I rise today in support of Senator Friesen's AM1236 and I need to review AM1238 of Senator Baker's.

Floor Debate
April 27, 2017

But at this point, I believe I oppose Senator Baker's amendment. Roughly 60 percent of property taxes collected in Nebraska go towards funding K-12 education. Obviously, some districts are a lot higher than that. But the bottom line is we rely much too heavily on property taxes to educate our children. In fact, we're essentially second in the country in the percent of K-12 education derived from property taxes. Roughly 49 percent of Nebraska K-12 funding comes from property taxes. The national average is only 29 percent. It's no wonder we have the fifth highest property taxes in the country and it's no wonder Nebraskans are clamoring for property tax relief. They want this imbalance corrected. And I've talked about this before. There's two ways to correct this imbalance to deliver property tax relief. It must be a two-pronged approach. First of all, we must control spending, and we worked on that issue and my LB457 is found in LB512 and that was the basis...it was also the basis of my objection earlier in the day to AM1015. The second prong of the approach is to change how we pay for things. And Senator Friesen's AM1236 helps us do that. It injects a new source of revenue into education funding to help correct this imbalance. I believe that AM1236 will be widely supported by Nebraskans. And as I understand AM1236, Senator Friesen first intends to eliminate the exclusion for S corporation out...nonstate income. Nebraska income taxes are based on a taxpayer's federal adjusted gross income, or AGI. Under Nebraska Revised Statute 77-2716, paragraph (4), a subchapter S or limited liability company can exclude from adjusted gross income, income not derived from or connected with Nebraska sources. This exclusion was put in place in '87 and expanded in 1983. So income from an S corporation or limited liability company that is not apportionable to Nebraska is not assessed here and goes untaxed, unlike wage income earned from other states which is taxable, unlike limited liability company income from...or, excuse me, partnership income which is taxable. It's unclear if any other states exempt this income, but if they do it would appear to be very, very few states. This provision is a lucrative tax exemption for very high income earners living in Nebraska. Eighty-five percent of this loophole is claimed by roughly 620 taxpayers with federal adjusted gross incomes in excess of a million dollars per year. It's a special interest loophole benefiting only a fraction of wealthy Nebraskans, less than .1 percent of Nebraska returns, and it's worth roughly \$80 million per year. As UNL assistant professor of law Adam Thimmesch testified at the hearing on LB373, removal of this exclusion, "Would move Nebraska to the approach that the vast majority of states use," by eliminating this, "tax-induced distortion in the law that is aimed specifically at a limited subset of Nebraska taxpayers." Eliminating this loophole through the provisions of AM1236 would generate roughly \$84 million to help fund the allocated income tax provisions of TEEOSA that Senator Friesen referred to earlier. I certainly will support AM1236 to LB409 and I'd urge your support also. Thank you very much. [LB409 LB457 LB512 LB373]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Friesen. [LB409]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I rise in opposition to AM1238 as it strikes my original language and just inserts that portion that studying the TEEOSA formula. I

Floor Debate
April 27, 2017

will agree that we need to study...or we need to fix the TEEOSA formula but I think that should be done under separate circumstances than this. This here addresses under the current TEEOSA formula that is already in place. And I will admit the TEEOSA formula is flawed, but this process is already there. It's just never been funded to its full potential. What this...what my bill does is fund it to its full potential and I would still support any effort in the future to redesign TEEOSA to where it's understandable and more equitable to all school districts. Thank you, Mr. Lieutenant Governor. [LB409]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Schumacher. [LB409]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I think Senator Friesen has come up with kind of an interesting idea here, and I'll pat myself a little bit on the back for looking at some of the funding mechanisms. It occurred to me, as a result of something prepared by Speaker Hadley, as he left office--he was Chairman of the Revenue Committee--that itemized out for the last ten years changes in the tax law that were tax reductions, tax breaks, whatever, and how they're impacting us today and how much we guesstimated they would cost and how much they ended up really costing, and the number was guesstimated by the former Speaker as being three-quarters of a billion dollars or so a year--not small change. But a lot of those tax changes probably were good and they were passed by this body. So went off on what amounted to a safari in the tax savings woods. And in going through that, we noticed a couple of other things that were beyond ten years ago that also grew and impacted us. And what kind of clued us in that there was possibly something we should seriously look at was a thing called the tax expenditure report. And that's a thing each year we get that lays out how much various tax breaks are costing us. In the 2016 report, at Section B, page 4, there was an interesting notation. Two things showed up--dividends and capital gains deductions--and that indicated it was costing us \$20,805,000 a year. You turn the page and the next page says there's this thing called non-Nebraska S corporation and LLC income/loss exclusion. And that has a cost, a price tag, of \$84 million a year. Well, those things, in addition to the changes in the last two years, were put on the "let's check them out list" as part of LB373 with the idea being let's bring in all the beneficiaries of these things that are costing us close to \$1 billion in tax money and see if they're still a good idea, see if they are justified, see if the people who are getting the benefit show up and explain why they are a good thing. And I was hoping to find out and actually see in the flesh and blood who these folks were and why this was a great idea. I figured we'd have a good and fun discussion as to why these breaks existed. Well, we had people show up in response to that, a young man, I suppose he was ten years old, defending the YMCA exemption, and all kinds of little exemptions were defended. But nobody shows up to defend these two animals, nobody. Finally, an accountant, I think it was in neutral testimony, said, well, I don't know if it would be fair if we took these away. Those were big red flags. What is going on here? Why do these things exist? As we dug into it a little bit more, let's go through this thing called the special dividends

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

Floor Debate
April 27, 2017

and capital gains deduction. And if I can explain it simply and I think I'm about 95 percent right on this, I'm not 100 percent sure how the loophole works but it's... [LB409 LB373]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR SCHUMACHER: ...kind of like Star Trek when you slip into a worm hole. At any rate, that thing is people are paid by some corporations in a thing called stock options and that's part of their compensation for working for the company. And this thing, if it was a corporation that had five people and met certain other requirements, when people left that corporation that they were employed in, they sold their stock or stock options back to the company. So kind of they got their savings out of the company that way, and they got that Nebraska income tax free. As Senator Briese points out, not many people get at this picnic basket, but they get basically their retirement income tax free, unlike most folks that put them into a... [LB409]

PRESIDENT FOLEY: Time, Senator. [LB409]

SENATOR SCHUMACHER: Thank you. [LB409]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Kolowski. [LB409]

SENATOR KOLOWSKI: Yes. I'm sorry. I touched my light at an earlier time. [LB409]

PRESIDENT FOLEY: You can waive the opportunity if you care to. [LB409]

SENATOR KOLOWSKI: Yes, I will. Thank you very much. [LB409]

PRESIDENT FOLEY: Very good. Thank you, Senator. Senator Baker. [LB409]

SENATOR BAKER: Thank you, Mr. President. I'm going to request to pull my amendment. I actually like things that Senator Friesen has in AM1236. It was that earlier amendment which he's now pulled, AM1163, that I really had the problems with. So I'm going to pull my amendment. [LB409]

PRESIDENT FOLEY: Without objection, AM1238 is withdrawn. Returning now to discussion on AM1236 and the underlying bill, Senator Schumacher, you're recognized again. [LB409]

Floor Debate
April 27, 2017

SENATOR SCHUMACHER: Okay. Continuing on my discussion on this special capital gains deduction, so if you have like your 401(k) or your retirement fund, you put money into that. You don't pay taxes on it when you put into it but when you take it out you pay income taxes, well, state and federal. Well, this thing, when you take money out of these employee stock option things when you retire from a company, you don't pay Nebraska income tax on that, and that's a lot of money. In fact, it's your savings. It's a really big tax break. And one of the things that limited it to the number of people that could take it was five shareholders. And there was a running battle that occurred between the Department of Revenue and the tax accountants that tried to say...to define what they meant by five shareholders. And the Legislature, I think like three, four years ago, responded to a request. I think it came maybe from one Omaha company, maybe there was two, that basically their employee stock ownership plan could be considered part of the five shareholders. And we actually passed legislation expanding this thing. Then the battle continued and the Supreme Court was asked to rule on a deal where it was a sham transaction to generate the five shareholders to qualify someone for this exemption. And there's a case I'd call to your attention, Stewart v. Nebraska Department of Revenue. The decision was October 16 of 2016 in which the Supreme Court said, you know, Legislature says something, we're going to say they meant it. And their ruling in that is thought to open the floodgates for use of this exemption and legitimizing this sham shareholders to make up the five shareholders, thus, opening the door for more people to use it. This is used by a small number of people. It's probably grossly unfair. No one showed up to defend it at the hearing. That should put us on notice that it's fair game. They didn't justify this, show us economic benefit, show us anything. Didn't show up. Of course, the Revenue Committee, on the other hand, didn't pursue anything because we were about tax cuts, not income recovery. So let's go on to the next little picnic basket here and this one is kind of curious. I actually think the number is high, the \$84 million number. And that goes back in time to the late 1980s when the federal tax law was shuffling around. If you have a job out of state and you make some money there--and let's just make it easy and say it's a nontax state like Texas or Florida--you still have to pay Nebraska income tax on that money you made in Texas or Florida. You earned it there but you're a Nebraska resident. You fill in the form and you've got to pay taxes. Well, this enables you to not, if you do it under a subchapter S company or an LLC, to not have to pay much, if any, taxes on that particular income. The argument in passing it was that it would encourage people to stay in Nebraska, when in fact it may be encouraging people to set up their sub...or have their businesses conducted from one of their ideas in a nontax state although they live in Nebraska and have the benefits of Nebraska. Was kind of curious on the legislative history... [LB409]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR SCHUMACHER: ...of that particular...and I'll press my button again so maybe I can keep gabbing for a bit. The legislative history of that, it was kind of just one of these quiet little things that showed up and the senator who introduced it, a very short discussion in the context of

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

Floor Debate
April 27, 2017

a much bigger discussion. You all get the picture of how these things happen already here and it kind of flies under the radar screen. But he said...let's see, I thought I had it highlighted. It was Senator Vard Johnson, and he told the body that it was simple and novel--God, that sounds like something I would say--in its approach, neutralizes state taxes in any... [LB409]

PRESIDENT FOLEY: Time, Senator. [LB409]

SENATOR SCHUMACHER: ...residency decision. [LB409]

PRESIDENT FOLEY: Time, Senator. [LB409]

SENATOR SCHUMACHER: Thank you. [LB409]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Krist, you're recognized. [LB409]

SENATOR KRIST: I'd yield my time to Senator Schumacher. [LB409]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Schumacher, 5:00. [LB409]

SENATOR SCHUMACHER: Okay. Here is the line I wanted in his little speech, which didn't last very long: The aggregate cost of this provision to Nebraska is expected to be relatively insubstantial because of the limited number of affected returns compared to the total number of returns to Nebraska. Okay. Well, I guess \$84 million is insubstantial. It's grown up to be substantial. Tax accountants are sharp people and they figure out how to use these things, and it's big. Now what I think is inaccurate on this tax expenditure report is the \$84 million. If we were to tax it, I think we'd have to allow credit back for income earned in another state. Say you had half of your income in Nebraska and half coming from New York, which is a higher tax state. We'd have to give you credit for what New York taxed you, up to our rate. So I think that \$84 million figure is high, but nevertheless we're talking in the tens of millions regardless how you figure it. And it's too bad again that we don't have an accurate figure for some of that because we did such a fine job of analyzing how we could do our work in Revenue Committee to help out with this tremendous pickle that we're in. But what Senator Friesen has done is married this notion that at least these two fat cats should be picked up by the tail and put into the school aid formula. I would expect we're going to feel an earthquake here shortly because we're messing with some pretty serious stuff and we're playing with some money that goes to a very limited number of fairly significant people, my guess. So if we shake, maybe it's...I hope that there's heavy shingles up there. We may have a sower coming through the roof. But nevertheless, that's

Floor Debate
April 27, 2017

the story on what these two things are, and it is an indication that if we do our job right in true tax modernization and in true tax reform rather than just rate "gimmicking," we might actually be able to solve some of these fiscal problems. And until something hits me on the head or a lightning bolt strikes, I'm supporting Senator Friesen in his amendment, and I ask that you do, too, and maybe we'll learn something in this process, because I don't know if all the people that have empty chairs have been called out in the lobby or not, but it will be interesting. Thank you very much. [LB409]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Friesen, you're recognized. [LB409]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I do believe we have identified who they are. The building is starting to shake. So as you look at this proposal, just look back and look at TEEOSA. Look at what can be done with it. This portion of TEEOSA has always been there. It has just never been properly funded. All of these components have had a public hearing. There was no opposition. They were all on the table, every component of it has been there. I've been to the Education Committee. They've been to the Revenue, where they belonged. So all of these pieces have been laying there. They've had their hearing. But they're starting to come out. We're starting to find out who they are. I'm agreeing with Senator Schumacher and we're going to know shortly. So I again look at the proposal. We are getting TEEOSA back where it was initially intended. Our income taxes are coming back to where they belonged. When I looked at the "Counties at a Glance" book here that was put out by the Fiscal (sic--Research) Office this year, I will use my county as an example, Hamilton County, we were number three in the state per capita in the payment of income taxes. That money doesn't come back to us. We get 2 percent. There are a lot of other counties. Grant County would have been number one, I believe, per capita in income taxes paid. So let's utilize TEEOSA the way it is until we can fix it. We found the funding mechanism. Let's continue forward and support AM1236. Thank you, Mr. Lieutenant Governor. [LB409]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Groene. [LB409]

SENATOR GROENE: Thank you, Mr. President. Senator, I said I wanted LB409 clean because it's a budget bill, but I can't tell you not to vote for Senator Friesen's amendment because if the TEEOSA formula would have been true and kept the way it is, with the 20 percent income allotment, when you do your state income taxes, have you wondered why you fill in your school district, up above, number? It's because of that 20 percent. That's when it was put on there so that the Revenue Department figures how much income tax was generated by school district, and then they took 20 percent. But that didn't last very long. We had one of these crises back in early 2000. Guess who took the hit. Rural Nebraska. They took away the 20 percent income tax

Floor Debate
April 27, 2017

allotment. It's 2.23 percent now and that is only because Senator Sullivan worked really hard about this time last year, really hard as a compromise that at least something...compromise at least something was given to the other school districts when we took away the Learning Community--small amount of money compared to the billion, \$30 million, \$40 million. But if the 20 percent would have stayed in place, we would not have this urban and rural fight over TEEOSA. I wanted to let you know about...I've heard from school districts on LB409: well, you know, certain districts are taking all of the pain. Of 245 districts, 54 districts receive 95.6 percent, \$956 million of the \$1 billion of state aid that we are adjusting with LB409, but they take 91.4 percent of the cut...91.3 percent of the cut of the \$47 million, but they get 95.6. The other 190 districts receive 4.4 percent of total state aid, but they take 8.7 percent of the cuts. Rural Nebraska stepped up again and took a bigger part of the cut and helped out the urban districts. Even though it was minor, they took more of a cut. LB409 is a good bill. It needs to pass as is. It needs to go for certainty on our budget. Will we have to revisit it next year probably? I don't know, but we might have to adjust it next year again because of \$55 million this year, more this year. We don't know what the economy is going to do. But right now accept what you got, education. You got a nice little increase when nobody else did in the budget. And they are. I am not saying they aren't. You hear from a few that are complaining, but we always listen to the squeaky wheel. I will tell you over and over again, I've talked to school board presidents, administrators who said we understand we're part of the process, we're part a free economy...free market economy that makes our schools as good as they are. And when it has a pause, we can take a pause, too. The vast majority of education establishment are fine with this. I always got to remind myself of that. But when you spend 90 percent of your time with 10 percent of the squeaky wheels, you forget that sometimes. [LB409]

PRESIDENT FOLEY: One minute. [LB409]

SENATOR GROENE: Senator Friesen makes a good point here. It should have stayed at 20 percent. My LB640 wouldn't have been needed. That LB640 fixes TEEOSA, by the way, and I'm not giving up on it. It will be the focus of what I do, as long as I'm in this body, to try to fix TEEOSA, at least the funding source. It makes sense. So you do what you want. I'll probably vote, well, I want LB409 clean, but I sympathize with Senator Friesen's AM1236. Thank you, Mr. President. [LB409 LB640]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Schumacher. [LB409]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. In one of the more interesting Revenue Committee hearings in the last six years, a very sharp and wise accountant, who I think may have been behind this big subchapter S exemption, told the Revenue Committee what a good tax was. And I...probably will be one of the things I remember

Floor Debate
April 27, 2017

from my service here in the Legislature. Incidentally, I understand it's rocking and rolling out there in the lobby, and this is really fun, because we're looking at the unfairness of the tax system. But we were told what a good tax system is. A good tax system, he said, was one that did the greatest amount of plucking for the least amount of squawking. And I'm listening for the squawking that may be coming through the glass in the back right now. This underscores what probably is underlying some of the tax discontent in this state. A lot of the tax discontent has been generated by politicians doing what politicians always do and telling people: I will reduce your taxes, I will give you this or that, you're too high taxed. And that's fair political rhetoric. The fact of the matter is that in Nebraska we're probably par for the course, little high, little low here, but we're par for the course. We got pretty good economic growth and pretty good economic situations. But people can sense inequality and unfairness. And they can sense the very wealthy getting breaks that they don't get. They can sense that somehow they're paying money on their retirement to the state of Nebraska when they pull it out, but that other folks aren't if you're a member of the right corporation or in the right program with the right accountants with the right law firm and the right accounting firm. And that's what gets a populous state like ours just fit to be tied and why we feel the heat in here in the calls for tax fairness and true tax modernization, not smoke and mirrors. You guys are going to have so much fun because you're going to be forced to deal with this issue. And you're going to be forced to dance with the rocking and rolling that's going on out there. I actually feel sorry for Senator Friesen because he bit off something very bravely here this morning, which you know I know how the power structure in the state works, and I would guess that Senator Friesen's AM will not go very far. Even if we adopt it, I would suspect there would be a challenge on Final Reading. Certainly, certainly, certainly, when we're dealing with sub S and we're dealing with tax gimmicks on interstate operations between Wyoming and Nebraska and Illinois and wherever, certainly there will be a veto. And there isn't the votes to override a veto even if there may be the votes to pass his amendment. But it would be kind of fun to see it play out. There's 100 million bucks a year maybe, give or take, and this is just the tip of the iceberg. And so I would encourage you to have a little fun today and to add this amendment on there,... [LB409]

SENATOR LINDSTROM PRESIDING

SENATOR LINDSTROM: One minute. [LB409]

SENATOR SCHUMACHER: ...see where we go, knowing that probably good and well on Final Reading there will be an amendment to pull it back out, or maybe a veto of LB409 entirely, which would be bad because LB409 is actually a good thing that we have to do. But I think the good thing of this is that the freshmen folks are getting a little bit of the flavor of how she works and how you got to be really, really attentive and how the committees have all got to do their work and work together and how the influences from the outside have got to be shut down so

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

Floor Debate
April 27, 2017

that you can operate within the parameters of your own intelligence and your own sense of what's right. We're poking around at that today. And so thank you for listening. [LB409]

SENATOR LINDSTROM: Thank you, Senator Schumacher. Senator Krist, you are recognized. [LB409]

SENATOR KRIST: Thank you, Mr. President. Good morning again, colleagues and Nebraska. Wondering if Senator Friesen would yield to a couple of questions. [LB409]

SENATOR LINDSTROM: Senator Friesen, would you yield to a few questions? I do not see Senator Friesen, Senator Krist. [LB409]

SENATOR KRIST: How about Senator Schumacher? [LB409]

SENATOR LINDSTROM: Senator Schumacher, would you yield to a few questions? [LB409]

SENATOR SCHUMACHER: Yes, I will. [LB409]

SENATOR KRIST: Did this part of this come out of Revenue? Was it heard in Revenue and heard in Education? Is that what I'm gathering, that bits and pieces were heard in different places and it's been put together this way? [LB409]

SENATOR SCHUMACHER: Right. I mean LB409 and the TEEOSA thing, as you well know, is Education stuff. [LB409]

SENATOR KRIST: Right. [LB409]

SENATOR SCHUMACHER: And I don't pretend to know much about the intricacies of TEEOSA. I understand there's a fellow named Einstein that understood it once upon a time. But the Revenue piece of it came out, is in LB373, stranded in Revenue Committee, just like your bills that would try to do some revenue recovery and make some sense to generate some ease on this budgetary pressure are stranded in Revenue Committee. [LB409 LB373]

SENATOR KRIST: So the amendment basically had, as Senator Friesen said earlier, just for the legislative record, have...the detail has had a public hearing. And I understand your candor and a little sarcasm with "have a little fun and vote for this." My problem is, having spent enough time on this floor with you and with others, is that I'm reluctant to...TEEOSA is like a LEGOLAND. I

Floor Debate
April 27, 2017

mean you take out one of those pieces and the rest of it is affected. It leans one way or another or it collapses on itself. I'm reluctant to have that kind of fun because it is a complicated, complex issue that not many of us totally understand. And this, to me, seems like it's a pretty large change in the structure and something that, to be blunt, should not be slapped on, on Select File, where we have a smaller amount of time, first of all, to talk about it, and potentially less justification for the outcome, if you will, and really no metrics to show what that outcome is going to be. Those are my concerns and those are why I don't think I can support at this point putting it on. Now, I would say between the two of us in conversation, which is now part of the legislative record, this might be something that could stay in committee until next year, could be explored completely and brought back out as its own entity. But I have those reservations. And I'll yield you the balance of my time to answer those questions because there's many. [LB409]

SENATOR LINDSTROM: Senator Schumacher, you're yielded 1:26. [LB409]

SENATOR SCHUMACHER: Senator Krist, as he always does, speaks wisely. And in an ideal world, this would have been thoroughly vetted in a Revenue Committee or an Education Committee or, as Senator Gloor and Senator Sullivan did, some type of joint thing were we serious about tax reform, were we serious about... [LB409]

SENATOR LINDSTROM: One minute. [LB409]

SENATOR SCHUMACHER: ...writing these tax differentials. I don't think we are. I think you can put this back in Revenue Committee. It will be sitting there exactly a year from now until we IPP the whole idea at the end of the session a year or so from now. So that's where we're at and that's the reality. The sad reality for Nebraska is that good ideas are squashed by the kind of activity going on right now behind the glass by powerful forces with special interests. And I hear what Senator Krist is saying. I understand it. I'm still up for a little fun. Thank you. [LB409]

SENATOR LINDSTROM: Thank you, Senators Krist and Schumacher. Senator Erdman, you're recognized. [LB409]

SENATOR ERDMAN: Thank you, Mr. President. Senator Krist, I agree with what you're saying there. I also looked at LB467 and LB468 that you had brought. There's some value there and we need to go forward with discovering what that is. Having said that, I look at this and in the Education Committee, our goal was to bring LB409 out clean, to get it moving, moved through, and that's what I hope we do. As I review this and I see what the amendment says and what it will do, and I wasn't here in '90 when they put TEEOSA in place, but it was their intent to have 20 percent of the income tax from each district stay there to help fund schools. That is a true statement. And this would do that. This is probably \$400 million or some number in that range. I

Floor Debate
April 27, 2017

would love to do that and help property taxpayers in that regard. I don't know that we have that ability today to do that and we're not afforded that opportunity anyway. But Senator Schumacher throws a lot of things up there to have fun, and I understand that, but I believe that in the past we would have never had this discussion. I don't think these kind of things ever got to the floor for discussion to even think about. So I appreciate us having that. And I was visiting with Senator Brasch about that and she said she had a similar bill in '15 that didn't make it out. But those are the discussions that we need to have is how do we actually fix this TEEOSA formula. And for years I've heard about TEEOSA and we talk about what it does and how it is not maybe as easily understood as it could be, and it needs to be probably replaced or looked at very seriously. But I don't know that this amendment is something we need to proceed with and I would rather see a vote on a clean LB409 and vote against AM1236. Thank you. [LB409 LB467 LB468]

SENATOR LINDSTROM: Thank you, Senator Erdman. Items, Mr. Clerk? [LB409]

CLERK: Mr. President, just an announcement: The Appropriations Committee will meet at 11:30 in Room 2022; Appropriations, 11:30.

SENATOR LINDSTROM: Thank you. Those in the queue: Senator Kolterman, Brasch, Krist, and Hilgers. Senator Kolterman, you're recognized. [LB409]

SENATOR KOLTERMAN: Thank you, Mr. President. Good morning, colleagues. I've been listening to the conversation on AM1236 and understand LB409. While I think Senator Friesen is looking, just like everybody else, at some really intriguing ways of getting money to our schools in the TEEOSA formula, I, like Senator Erdman, think that perhaps we ought to bring LB409 to a vote clean. And applaud Senator Friesen for bringing this, something that we probably ought to look at. But there is a solution to this problem and that is if we would listen to our Revenue Committee and adopt LB640 and LB461. While most of my districts come out pretty well in those two bills, I think it's important that we make sure that we listen to the people that have spent a tremendous amount of time working on this and we don't do something just quickly to try and put band-aids on things. So I, like the people you've heard earlier and I think even Senator Schumacher, would admit that this is...it's an interesting concept, but can we afford to do this, just throwing it on the floor of the Legislature as an amendment? I might be wrong but I think he's wiser than that. And so I would suggest that we oppose AM1236, while its intent is good, and move on and approve LB409 and move it to Final Reading. Thank you. [LB409 LB640 LB461]

SENATOR LINDSTROM: Thank you, Senator Kolterman. Senator Brasch, you're recognized. [LB409]

Floor Debate
April 27, 2017

SENATOR BRASCH: Thank you, Mr. President. Thank you, colleagues. I had stepped to the side for a moment, and initially had great interest in this amendment, in AM1236, because it did have a familiar ring to it when I did introduce in 2015 that we take...we go back to the initial plan of taking 20 percent of the income tax and bringing it back to the counties where it was paid. That, I believe, had been tested thoroughly. Before it was even suggested years ago, I spent a lot of hours researching that and putting that together, and that was a bill that did not make it out of committee. At the same time, I had a 75 (percent) to 65 (percent) bill. That's LB350, LB351. But there were at least eight or more property tax reduction bills that had come to the Revenue Committee. And I'm not even sure that any of them made it to the floor that session. Would Senator Schumacher yield to a question, please? [LB409]

SENATOR LINDSTROM: Senator Schumacher, would you yield? [LB409]

SENATOR SCHUMACHER: Sure. [LB409]

SENATOR BRASCH: Refresh my memory on your LB373. Were there...how many people came to testify? [LB409 LB373]

SENATOR SCHUMACHER: Oh, gosh, I honestly don't remember how many people came. There were some people in opposition but they were like the little guy who was for the YMCAs. On the two things that Senator Friesen...and I did not conspire with Senator Friesen to bring this, okay? Senator Friesen just picked up on the idea. But with respect to these two items of the long list of items that were in LB373, on these I don't think there was any testimony in opposition. There was the accountant who came up neutral, I think, in the end and said that she didn't know whether or not it would be fair, I think is a fair summary. [LB409 LB373]

SENATOR BRASCH: Very good, because, as I was thinking, I thought there was some opposition, but we'll go back into the committee statement and take a look at that. These are desperate times for property tax relief, very desperate. You know, we have spent over a decade trying to resolve the situation, and I believe Senator Harr said it earlier this morning, the word "disproportionate," disproportionate taxation. And we've been battling that. And we, as a body of 49 senators, we experience ongoing push and pull for our districts and for the entire state. And when you look at the disparity and the need for education and one school district bursting at the seams where another is struggling to consolidate, consolidate, bring our kids together, but we look at our taxation system and it's broken. It needs work, especially when it comes to our ag land values, which we will be addressing once more. But we kept looking for solutions. I do support a portion of AM1236, but it's one piece. It's a very difficult call to make. But I do know that as we all go back into our districts and we take a look at the needs that we have, and it's been

Floor Debate
April 27, 2017

said before, you know, when...I believe that Senator Briese brought it up earlier, is we're crying for some relief. And then when you... [LB409]

SENATOR LINDSTROM: One minute. [LB409]

SENATOR BRASCH: ...see administratively there's a 4 percent increase, something is wrong with that. The dollar per dollar is going to a growth in administration perhaps, to address the growth of students. But these are not the times to increase a budget but to look at how we together can work at sustaining ourselves. Thank you, Mr. President. Thank you, colleagues. [LB409]

SENATOR LINDSTROM: Thank you, Senators Brasch and Schumacher. Mr. Speaker for an announcement. [LB409]

SPEAKER SCHEER: Thank you, Mr. President. Colleagues, I just wanted to again touch base, what we might be looking at for next week. And before I get into this, I want to preface that all of what I'm telling you and anything that you receive today as far as a schedule is tentative. So if things take longer or shorter, things may change on this. So I don't want anyone to come up and say that's not what the schedule said. This is for informational purposes only. It is tentative. This is not the calendar. So having said that, here's what I'm envisioning for this upcoming week. Next Tuesday we will spend the first hour on a cloture vote on LB98. After that we will move to budget bills LB331, LB332, and the claims. After that we will go to LB461. After LB461, we will go back to Select and perhaps some budget. There will be a couple other bills intertwined in there as well, time permitting. On Wednesday morning we will be taking up LB647 and LB647A followed by budget, and assuming that we will have LB327 and the other bills that...budget bills that we had talked on earlier back so we will be on Select. And just because they're on Select does not mean that we will only be spending three hours because we may, indeed, spend longer than three hours, even though it's on Select, because there is a lot to discuss. Thursday morning we will be working on LB415, which is a Retirement Committee priority bill. In the afternoon we will start off with Final Reading and then finish the day again with budget work. On Friday morning we will be doing LB447 and LB447A. And if we finish that, we would be filling in some additional items there. I do want to inform the body that this morning I asked and the Executive Committee approved my request to make four of the budget bills major proposals. And by doing such it allows me to prioritize those amendments as they are coming forward so that we, indeed, will have full, fair, and adequate debate on the budget. The budget bills are the mainline, the construction, the transfers, and the minimum reserve requirement I believe is what it's termed, something like that, but there are four of them. And I've done that simply because, one, on LB327, our mainline, we've induced some policy into a budget bill and I want to make sure that we can adequately discuss that policy before that portion of the bill moves forward. As

Floor Debate
April 27, 2017

we talked last night, as I told you, I will be working with Senator Pansing Brooks and Senator McDonnell to work on some type of amenable agreement with everyone. But as everyone knows, we were dealt a different hand than the Appropriations started with. We are down another \$65 million as of yesterday with the budget forecast. That means that LB327 will have to be adjusted to compensate for those lowering of revenues. We've got some tough decisions ahead of us. By making them major proposals, it gives us the opportunity to discuss those important things in order of how I believe the importance should be. This, as I suggested to the Executive Committee, is a matter of trust, because you are trusting me to place those amendments in the order that I believe is best fit for the body and the state. I hope I have proved myself in our First Session that I have been fair and even-keeled and I've not shown favoritism, and I will not in this respect either. We have a problem in relationship to budget and we need to address it and we need to stay on task. By doing this, we will be able to do that. I would also like to mention that the Executive Committee did vote this out unanimously, so there was no dissenting votes. The entire committee agreed with this proposal, so this is not something that was...tried to be rammed through or came through with a minority or anything else. Everyone on the committee agreed with the proposal and the analogy behind it. So we've got a lot of work to do. Enjoy the four-day weekend. We need the break. We do. We need to recharge. We need to forget a little bit about the Chamber and about the problems and the task in front of us. Enjoy your families. Enjoy the weekend, even though it may be raining, supposed to snow in Norfolk. But it is time away so enjoy yourselves. I'm not exactly sure what our time will be this morning. We'll try to get our three hours in and get to a cloture vote on LB409. I'm assuming we probably started somewhere in the neighborhood of "9:15-ish" and so we probably have somewhere about a half hour left on the floor on this bill. We'll take a vote and then we will adjourn. So thank you very much for your patience, your hard work again this week, and look forward to another fruitful week, a productive week next week. We've actually done quite a bit this week. We've put a lot of time in and it's been constructive. It would have been nice to have a little more constructive work on some of the days, but that's 20/20 hindsight. So let's look forward, get your thinking caps on...hats on because we all need to come up with some ideas on how we can move forward. It's important. The state is depending upon us. Thank you, Mr. President.

SENATOR LINDSTROM: Thank you, Mr. Speaker. Those in the queue: Senator Krist, Hilgers, Kolowski, and Smith. Senator Krist, you're recognized. [LB409]

SENATOR KRIST: Thank you, Mr. President. It was my intention to call the question on this amendment, but I think if it's just another half an hour. But given the announcement by the Speaker, I have to stand in opposition to part of his scheduling process. See, I don't think there's the votes to bring LB461 back to this floor, not in its present state. I think I've heard from urban and rural, and LB461, as it is currently constructed, does not have the votes to come back to this floor. The rule stated by the Speaker early on is 33, it comes back; without the 33, it doesn't come back. So I would challenge the Chair of the Revenue and the Governor, who put out this

Floor Debate
April 27, 2017

propaganda, which is not supportable in any way, who has called it his top priority to bring something back to this floor that we can talk about and expedite and get through. The tax assessment process that is changing the tax assessment process that Senator Erdman has involved I've publicly said I think we need to talk about. Senator Brasch's bill, if you're forming a committee that's going to establish its priorities and you're changing the assessment process from 55 to 65 from the 75 rate, and you're putting a 3.5 percent cap going up, none of that makes any sense because there's no way, with the two of them come in conflict, that we can resolve those given that piece of legislation. So I would challenge the Speaker to look at vote cards from the Chairman of the Revenue Committee and from anyone else who wants to put it together. And if you show me that it's going to come back out and going to be something that we can discuss, then I'll shut up. Until then, what's good for the goose is good for the gander. I don't care if it's the Governor's top priority. LB467 and LB468 are my top priorities because it actually puts money back into General Funds. John Stinner has killed himself over this budget and he has cut it to the bone, whether you think he has or not. And there will be others coming to this floor that want to cut that budget even more in the next few days, another \$30 million from the university. You know what? You do that and all of those Extension programs are going away. You talk to your constituents about those programs. LB461 does not have the votes to come back up and it's up to that committee to make sure that they reach out and make sure that that bill does have enough votes. And I would encourage you to have the intestinal fortitude to put your name on a vote card so that the Speaker has the information that he needs to logically, rationally schedule that piece of legislation. Gloves are off, the games are over. We've got just a few days left to balance a budget and there are people in here who are talking about, I'll be here until July, August, September, at \$10,500 a day, at \$10,500 a day. That's a conservative value. I'll be here till September. Sorry. I do respect what the Speaker has done. I have supported him in all that he has done. But the gloves are off. Thank you. [LB409 LB461 LB467 LB468]

SENATOR LINDSTROM: Thank you, Senator Krist. (Visitors introduced.) Senator Hilgers, you are recognized. [LB409]

SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. I rise in opposition to AM1236, but let me first say I appreciate the thoughtful approach that my good friend Senator Friesen and Senator Briese have taken to these types of issues. They have diagnosed the problem I think accurately. Our tax system, our education funding system I think are broken. They're complex but I don't...and I don't think they're actually getting the results that we all intend for them to have and that the people of Nebraska deserve. So I think they have done good work and thoughtful work in approaching this problem. But I do have particular concerns with some of the pieces of this proposed solution, AM1236. And I want to speak particularly about the portion of the amendment on page 9, lines 5 through 13, which deal with the taxation of S corps. So an S corp is a very common corporation form. It's, I think, maybe the most common form of corporations for small business owners in Nebraska and around the country. And it's actually an

Floor Debate
April 27, 2017

election that can be taken by more than just S corps but also by owners of limited liability companies, LLCs. You can be an LLC in the state of Nebraska and elect, for purposes of taxation with the federal government, to be treated as an S corp. And the way that the taxation works currently, and it's very...it's pretty complicated, but at a high level and what I want to focus on is the multistate aspect of S corporations. And so there are a number, maybe hundreds or thousands, I would wager maybe more than tens of thousands of Nebraskans who own S corps or LLCs that are taxed as S corps here in Lincoln that have a multistate component. In other words, they are based in Nebraska but they have some form of operation or they earn some income in another state. And the way that that is currently taxed is at the state level, you are not taxed, that owner is not taxed on their income as to their entire enterprise. So if you earn \$100 in Nebraska and \$100 in North Carolina, then you, for your state income tax, you are only taxed in Nebraska as to that \$100. You will then be taxed separately in North Carolina on the \$100 that is earned there. Of course, federally you're taxed at the \$200, the total amount that you earned minus your deductions. How I read this portion of AM1236 is that it would change it and that taxation now would no longer be tied directly to the portion earned in Nebraska but now it would be tied to your federal adjusted gross income, in other words, the \$200 in my example--the entire amount that you have earned less...without any of the multistate deduction. So now if there's no corresponding change in North Carolina--and there's not--what happens is you're getting double taxed. You're getting taxed on your \$100, that you earned in Nebraska, in Nebraska. You're getting taxed on the \$100 you earned in North Carolina, in Nebraska. Now Nebraska is taxing that and you're still getting taxed in North Carolina on that \$100. It's a double taxation for small business owners here in Nebraska. I think it would cause a significant disruption, cause significant harm. I think we would see significant capital flight, business flight from this state. So I do view that as I'm firmly against that portion of AM1236. And for that reason, colleagues, while I certainly do appreciate the thoughtful comments and approach from my colleagues, Senator Friesen and Senator Briese, on these issues, I oppose AM1236 and I would urge your red light on the amendment as well. Thank you, Mr. President. [LB409]

SENATOR LINDSTROM: Thank you, Senator Hilgers. (Visitors introduced.) Senator Kolowski, you are now recognized. [LB409]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I just wanted to stand and recall the number of times in the last couple of weeks that we've had discussions on something like LB409 and the TEEOSA formula, and that's come up from numerous individuals. I have not written all the names down, but I know how many times...I wish I had an exact total of the number of times someone has said the TEEOSA formula is not working, the TEEOSA formula is broke, the TEEOSA formula needs fixing, all those kind of things. And I've had a bill in the Education Committee to look at that in a longitudinal way for a 12- or 18-month study, as they did back in 1990, and it has not moved out. I'm just reminding everyone that there is something there that we

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Transcriber's Office

Floor Debate
April 27, 2017

could look at and could work on, but it's not come out of Education Committee. Thank you. [LB409]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Kolowski. Senator Smith, you're recognized. [LB409]

SENATOR SMITH: Thank you, Mr. President. And I rise in opposition to AM1236 and in support of LB409. I want to echo what earlier we heard from Senator Erdman and Senator Kolterman. LB409 is much too important of a bill to get passed than to risk its success by adding AM1236 to it. AM1236, in my opinion, colleagues, is bad policy. We certainly did not get into this situation overnight, and we're not going to get out of it overnight. We do need to make gains, however, this session to relieve the burden on property taxpayers and income taxpayers in this state. And this is not the approach that we need to take. We do have a spending problem in the state and education funding is certainly one of the primary drivers of that. And I do believe there has been some discussions this year and there's some pending legislation that we need to get to, to be able to move us in the right direction in this state. Like to also focus on what Senator Hilgers, his comments, that this could be a violation of the commerce clause, that the risk of double taxation in two states without apportionment is a burden on interstate commerce and a bad idea. So I ask that you vote red on AM1236 and support LB409, a very important piece of legislation we need to move forward this session. Thank you, Mr. President. [LB409]

SPEAKER SCHEER: Thank you, Senator Smith. Senator Harr, you're recognized. [LB409]

SENATOR HARR: Question. [LB409]

SPEAKER SCHEER: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB409]

CLERK: 27 ayes, 0 nays to cease debate. [LB409]

SPEAKER SCHEER: Debate shall cease. The question before us is adoption of AM1236. Excuse me, Senator Friesen, you're welcome to close on AM1236. [LB409]

SENATOR FRIESEN: Thank you, Mr. President. Again, AM1236 addresses a problem in TEEOSA, something that the state has neglected to fund over the last how many years, which is the tax, the income tax portion that gets rebated back to school districts. So again, when we look

Floor Debate
April 27, 2017

at what this does and how it may impact some schools, I know that in an equalized district it probably doesn't benefit, but I don't think it harms you. It's a wash. But in those nonequalized districts it will provide some state aid that has not been there. I'm assuming that in the TEEOSA formula, the way it works, if you show more resources and you receive those income tax rebates back, you would receive less TEEOSA funding, which would then allow more TEEOSA dollars to fund into some of those nonequalized school districts. I know some of the comments out there behind the glass doors were that this was a double tax, and I will dispute that. But not being an accountant, I know that when you do pay tax in another state on income and you come...and it comes back to Nebraska, you are given a credit for tax paid. So I...in no case do I think that it double taxes anyone. Again, I realize this is, you know, some can view this as a tax increase. But this again is just taking away some tax credits that were there, available to a few. And I look at this as I have tried in any way I can to provide property tax relief and I will continue to work at that. And I still think that we have a lot of work to do. I am willing to look at TEEOSA. I think it is broken. But in the end, when we look at how TEEOSA is funded and where the money goes, I know that the school districts that receive that equalization aid now are going to be unwilling to give up any of that revenue. So we have to come up with new revenue and we have to come up with different ways of funding it. And then we have to design a TEEOSA formula that is fair and equitable to all school districts, not just some. With that, I wish you would vote green on AM1236. I'd like a call of the house. [LB409]

SPEAKER SCHEER: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor please vote aye; all those opposed please vote nay. Please record. [LB409]

CLERK: 26 ayes, 0 nays to place the house under call. [LB409]

SPEAKER SCHEER: 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 Bolz, Stinner, Kuehn, Vargas, Wishart, Clements, and McDonnell, the house is under call. Please return to the floor. Appropriations Committee, would you please return to the floor. We are under call. Senator Bolz, Vargas, Clements, please return to the floor. Senator Friesen, we're still missing three members. Would you like to proceed? Machine vote? The question before us is adoption of AM1236. All those in favor please vote aye; all those opposed vote nay. Have all those voted that wish to? Please record. [LB409]

CLERK: 11 ayes, 22 nays on the amendment, Mr. President. [LB409]

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Floor Debate
April 27, 2017

SPEAKER SCHEER: The motion fails. Moving back to LB409, seeing no one wishing to speak, Senator Groene, you're welcome to close. [LB409]

SENATOR GROENE: Everybody knows the purpose of this. And I admire Senator Friesen to remind everybody how TEEOSA used to operate and should have operated. But I would appreciate a green on LB409. Let's get towards the budget. [LB409]

SPEAKER SCHEER: Senator Wishart for a motion. [LB409]

SENATOR WISHART: I move to advance LB409 to E&R for engrossing. [LB409]

SPEAKER SCHEER: Colleagues, you've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB409 is advanced to E&R Engrossing. Items, Mr. Clerk? [LB409]

CLERK: Mr. President, Enrollment and Review reports LB268 and LB268A as correctly engrossed. I have a communication from the Executive Board Chair regarding the designation of certain bills as Speaker major proposals (re LB327, LB330, LB331, LB332). Amendments: Pansing Brooks to LB517, Harr to LB492. And a series of resolutions: LR117 by Senator Stinner, LR118 by Senator Stinner, Geist is LR119. (Legislative Journal pages 1259-1266.) [LB268 LB268A LB327 LB330 LB331 LB332 LB517 LB492 LR117 LR118 LR119]

Mr. President, a priority motion: Senator Albrecht would move to adjourn the body until May 2 at 9:00 a.m.

SPEAKER SCHEER: You've heard the motion. All those in favor to adjourn vote...say aye. All those opposed say nay. Ayes have it by a long ways. Enjoy your weekend.