

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

Floor Debate  
May 05, 2017

---

[LB31 LB32 LB110 LB219 LB233 LB278 LB289 LB289A LB394 LB413 LB415 LB512A  
LB512 LB532 LB568 LB578 LB578A LB632 LB644 LR130]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-seventh day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Pastor Brian Johnson from the First Presbyterian Church in Norfolk, Nebraska, Speaker Scheer's district. Please rise.

PASTOR JOHNSON: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Johnson. I call to order the seventy-seventh 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: Mr. President, an amendment to be printed: Senator Larson to LB632. I also have the...and an amendment...two amendments to LB632. I have the lobby report, as required by state law. And an acknowledgment of agency reports received, available to members on the legislative Web site. That's all that I have, Mr. President. (Legislative Journal pages 1363-1364.) [LB632]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Members, our first item on the agenda is a Final Reading bill, if you'd please proceed to your desks. Pursuant to the agenda, Final Reading. Mr. Clerk.

CLERK: Mr. President, Senator Harr, first of all, Senator, I understand you wish to withdraw AM1204. Mr. President, Senator Harr would move to return LB512 to Select File for specific amendment, AM1346. (Legislative Journal page 1361.) [LB512]

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

Floor Debate  
May 05, 2017

---

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

SENATOR HARR: Thank you, Mr. President, members of the body. As some of you may recall, LB512 was a bill, it's the Education's omnibus bill or "magic bus" bill. It has a number of bills on it. And one portion of it was Senator Briese's bill that deals with voluntary teacher... termination agreements for educators. And it was debated and we accepted Senator Briese's amendment. I brought an additional amendment and I did it on the fly and it wasn't ready for prime time and it did some things that I didn't want it to do. For instance, it eliminated the reporting requirement and there was some inconsistencies between the two amendments. So I have worked with Senator Briese, I have worked with Senator Groene, and I've worked with legal counsel to rectify those contradictions. I would ask that you please vote to...and I believe I have the support of Senator Groene and his vote, and Senator Briese, and I would ask that we could bring it back from Select to Final and then adopt the amendment. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Debate is now open on the return motion. Senator Groene. [LB512]

SENATOR GROENE: Thank you, Mr. President. Yes, I will vote on this amendment in the positive. I even had a witness. We even had a witness when we made the agreement so we did it legal. I explained to Senator Harr I will accept an amendment. Doesn't mean I will vote for an amendment. So we now understand those legal different terms, in my view. But anyway, we are on the same page here. Been a lot of hard work, many versions. Tammy in bill writing must have done eight, nine versions of it to correct the language to what the intent was. It puts the reporting back into it so that the taxpayer and the citizens and this body knows how this program is being used inside and outside the levy. That's how we caught a few abuses and a trend that was going in the wrong direction of where we should spend our tax dollars in education. So it really helps the bill and it really helps clarity. But as Senator Harr said, this is an omnibus bill. There's a good bill in here from Senator Morfeld that was blended into it on on-line, protecting on-line personal information, because the students are now involved in the Internet so much. There's a good bill in here from Senator Wayne about having a certified lifeguard in our public schools when they have swimming pools. There's a good bill in here from Senator Walz about allowing smaller operations receive federal money for summertime food programs and there's actually a negative...this bill, if you look at the fiscal note, actually has a negative fiscal note. So it's a good bill. Sometimes you tug and you fight. And contrary to what somebody said, an omnibus bill should just be rubber stamped, I don't agree with that. Omnibus bills should be where we can give and take and come to consensus where the greater good is done, and I believe this bill will do that. So I encourage you to vote yes, green, on AM1346 and let's get LB512 back on Final Reading, first back to Select and then get her done so we can go home early today. Thank you. [LB512]

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

Floor Debate  
May 05, 2017

---

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

SENATOR BRIESE: Thank you, Mr. President. Good morning, colleagues. I just rise in support of Senator Harr's motion to return this to Select File. And I appreciate all the work that Senator Harr and Senator Groene have done towards getting this issue resolved and making these two amendments work. So I will support it. But I think Senator Harr is going to offer some additional explanation on his amendment and I can help with that, too, if he has any questions. But I think he can...it's his amendment, he can handle it well. So thank you. [LB512]

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

SENATOR HARR: Thank you. So quickly, what this does, and maybe I wasn't clear in my introduction, is with this amendment, if we bring it back, and we can debate the amendment at that time, but what this does is it says voluntary termination agreements above the line, meaning if you have to be at your limit, levy limit, it will be limited to \$35,000. There is a three-year phaseout to that maximum of \$35,000. If you retire September 1 and you have a retirement of, let's say, \$50,000, you will receive \$10,000 for five years. And that \$10,000 will all be above the line. If you go your next year, a year from...you teach next school year and you retire, \$7,500 will be above the line, \$2,500 has to be found within your budget. If you go...retire the third (sic--second) year, 50 percent above, 50 percent below. And if you retire the third year, 25 percent above, 25 percent below of that \$50,000. You also cannot match. So after three years, you can't get a retirement of \$50,000 above the line of which...well, \$50,000, of which \$35,000 is above the line and \$15,000 is below the line. That is not allowed. It also requires that any school district that does participate in a voluntary termination agreement, that they report to the State Department of Education what they are doing and they have to be able to show how they're saving money by entering into these voluntary teacher agreements or voluntary termination agreements. And I think that's all it does, the agreement. If I'm missing something, it's not intentional, but I don't remember anything in addition. But what we're trying to do, folks, is...and this, oh, and by the way, you can't do it for administrators. It's for teachers only. The voluntary termination agreements above the line are for teachers only, certified teachers. So it can't be for administrators or janitors or cafeteria workers or bus drivers. I'm going off the fly on this but I think that's all it does. And if I missed anything, I would ask Senator Groene or Senator Briese to step up. But that's the agreement. Thank you. [LB512]

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

SENATOR ERDMAN: Thank you, Lieutenant Governor. Good morning. I would like to ask Senator Harr a couple questions, if he would yield. [LB512]

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

Floor Debate  
May 05, 2017

---

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

SENATOR HARR: Gladly. [LB512]

SENATOR ERDMAN: Nice tie. [LB512]

SENATOR HARR: Thank you. Was that the question... [LB512]

SENATOR ERDMAN: No. [LB512]

SENATOR HARR: ...or statement? [LB512]

SENATOR ERDMAN: That was a statement. [LB512]

SENATOR HARR: Okay. [LB512]

SENATOR ERDMAN: Here's a question. You said in your remarks a moment ago that they're going to have to show they save money... [LB512]

SENATOR HARR: Yes. [LB512]

SENATOR ERDMAN: ...by doing this. Can you explain how they would do that, how the explanation would be and what the requirements are to prove that they do save money? [LB512]

SENATOR HARR: Yeah. Okay. Thank you. So what happens is you have a teacher that currently is already fully vested, meaning that they've already reached Rule 85 and they can receive their full pension, which we get to talk about later this morning. But the individual teacher may be making, and I'm going to throw out round numbers, \$70,000. But they still want to teach and they still have the ability to teach. So what happens is the teacher agrees to take a voluntary termination agreement for, let's say, \$50,000. [LB512]

SENATOR ERDMAN: I understand that. [LB512]

SENATOR HARR: The school district then saves that \$20,000, plus that new teacher that they hire is maybe someone, one of our pages, and they make \$35,000. So you have the \$35,000

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

Floor Debate  
May 05, 2017

---

savings, plus the \$20,000 savings, and you have a new teacher in the classroom. And that's how you show the savings. [LB512]

SENATOR ERDMAN: Okay. So you and I had this conversation before. So I'm going to go through this again. I'm going to buy a widget that costs \$100. [LB512]

SENATOR HARR: Yep. [LB512]

SENATOR ERDMAN: But it goes on sale and I buy it for \$80. How much do I save? [LB512]

SENATOR HARR: Well, but that's apples to oranges. But in that case, you save zero. [LB512]

SENATOR ERDMAN: I saved zero. I spent \$80. Okay. [LB512]

SENATOR HARR: I've run this through with my wife a thousand times. [LB512]

SENATOR ERDMAN: All right. So here's my point on what you're saying about savings, okay? They're going to assume, and it's pretty easy to figure this out, if they hire a teacher that the old teacher was getting \$80,000, the new teacher gets \$40,000, we save \$40,000. We didn't save nothing. They didn't save anything because what they'll do, they'll use the \$40,000 to spend on other projects that they wanted to spend it on and there will be no savings. In my opinion, savings means you spent less this year than you did last year. And there's no school district in the world that I know of that's going to hire a teacher for less money and remove that \$40,000 or whatever the savings is from their tax asking. They're going to still collect the same amount of taxes as they always did and just spend it in a different way. Would agree with that statement? [LB512]

SENATOR HARR: Partially. And if you allow me to, because you're required to have that teacher in the classroom. Buying a widget, you may or may not need, but you need that teacher in the classroom. You cannot educate without that teacher. And so you are, if I had to buy that widget,... [LB512]

SENATOR ERDMAN: Okay. [LB512]

SENATOR HARR: ...I would buy it for \$80 over \$100. [LB512]

SENATOR ERDMAN: I agree. [LB512]

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

Floor Debate  
May 05, 2017

---

SENATOR HARR: And there is a savings. [LB512]

SENATOR ERDMAN: So then... [LB512]

SENATOR HARR: If I don't have to buy the widget which... [LB512]

SENATOR ERDMAN: All right. [LB512]

SENATOR HARR: ...it is the difference. [LB512]

SENATOR ERDMAN: Now, let me ask a question as Senator Chambers would ask. What is the penalty to the district that does this and doesn't prove there's a savings or can't prove there's a savings? Or in my example of my questions to you, they won't be able to prove there's a savings, so what's the penalty for not doing that? [LB512]

SENATOR HARR: Well, you have to present your plan to the Board of Education and the Board of Education would not approve it, State Board of Education. [LB512]

SENATOR ERDMAN: Yeah. Okay. All right. I think I understand what you explained there. I just want to make sure everybody understands this is not a savings. That's my point. Thank you. [LB512]

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

SENATOR GROENE: Thank you, Mr. President. There's no conspiracy here. We had two amendments: Senator Briese's amendment, which stays intact, which conflicted with Senator Harr's amendment. Senator Briese's amendment, the original bill got rid of voluntary retirement outside of the levy or outside of the budget authority. They always could still give an administrator \$200,000 inside the levy, which was never reported, because we don't know if they're doing that because that was not reported. Before, it was only you had to report what was outside the levy. So, Senator Harr, that's why I wanted to bring up, we are only talking about outside the levy. We limited that to \$35,000. You've seen the examples. We don't need to debate the whole thing of \$150,000 for administrators, as high as \$208,000 administrators we're giving, where the school board was taxing the taxpayers more to do that. We passed Senator Harr's amendment, so we had to go back to bill writing and to correct it. But in the original bill, we struck the reporting because we didn't need it anymore, because we were going to get rid of "outside the levy." Senator Harr brought his amendment in haste and did not add back that they have to report to the State School Board. We are here today debating this because it was

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

Floor Debate  
May 05, 2017

---

reported. We could go to the State Department of Education and ask for information about who was doing this, who was getting it, because they had to report it. Senator Harr and Briese and I agreed to put it back into the bill. Not only that, we have put reporting for under the levy back into the bill, which was never there before, which makes this a lot better, a lot better, because now we'll be able to keep track of how many dollars are not going to the classroom but going for early retirement bonuses statewide. I was lukewarm, upset when Senator Harr's amendment passed because we didn't have the numbers here for a filibuster, but this is a lot better bill. The union looked, worked at it. The State School Boards Association has worked at it. This amendment is a better amendment. The system works here, folks, when we look at bills over time, with three times and then returning it to Select File. This is a good bill. And, yes, Senator Erdman, there's no penalty. If you look at that sheet we gave out, OPS, their last couple of times they reported, lost money on it. And you know why? Because they gave one administrator \$1 million because he snuck it into his contract. That is why OPS now is strongly for this. They don't want the pressure again of having to come up with an administrator that thinks he needs a million dollars. A lot has been fixed with this bill. A lot is really going to be fixed with this amendment. It's a good amendment. It wasn't Senator Harr doing it. It wasn't Senator Briese doing it. It wasn't Senator Groene. We were all involved. We all worked on it and it was written, put together by the Education staff. It's been cleared, this is a good amendment. This is a very good amendment and it fixes and it gets everybody on the same page. So thank you, Mr. President. And I encourage you to return it to Select and approve AM1346. [LB512]

PRESIDENT FOLEY: Thank you, Senator Groene. (Doctor of the day introduced.) Continuing debate, Senator Linehan. [LB512]

SENATOR LINEHAN: Thank you, Mr. President. I just have, because I am new, have some questions about procedure. Senator Harr, would you yield for a question? [LB512]

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

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

SENATOR LINEHAN: So before we start voting here, I just...I'm not sure I understand this. So we vote to return it to Select File. Is that the first vote? [LB512]

SENATOR HARR: Yes. [LB512]

SENATOR LINEHAN: And then do we vote on your amendment? [LB512]

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

Floor Debate  
May 05, 2017

---

SENATOR HARR: We will debate my amendment and then hopefully at the end we'll have a vote on it, yes. [LB512]

SENATOR LINEHAN: And then we go to Final Reading? [LB512]

SENATOR HARR: No. It will sit there, it has to lay over. And so we'll vote on it, a Final Read down the road. [LB512]

SENATOR LINEHAN: Okay. Thank you. That's all I have. Thank you, Mr. President. [LB512]

SENATOR HARR: Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Linehan and Senator Harr. Senator Crawford. [LB512]

SENATOR CRAWFORD: Good morning, colleagues. Thank you, Mr. Lieutenant Governor. I rise in support of AM1346 and I just want to thank Senator Groene and Senator Harr and Senator Briese for their hard work. We had interesting conversations and hard work and good compromise coming together, and this is a great example of how we actually were having debate on the floor, raising important questions, and then making decisions after we're bringing people together on the floor to make important policy decisions. And often we try to hammer out as much as we can. We work hard in committee to hammer out ideas and bring the committee on board and the committee tries to work with other stakeholders to get on board. But colleagues, this is a deliberative process and we're all sent here to read these bills when they hit the floor. One of the great things about our Chamber is that we have very open amendment rules on the floor. And that's on purpose because this is supposed to be a Chamber where there is open debate, and that was George Norris' intent that we work hard and that there's a lot of work that we do to pave the way, a lot of conversations going on to pave the way. But ultimately, when we get here at the Chamber, we still have that obligation to read the bill, think about how it impacts our own constituents, and ask tough questions. And when we see a path forward that addresses issues that aren't addressed yet by the bill or amendments, to fight hard for those. And that's exactly what Senator Harr did with...in all the rounds on this bill, fought very hard to address concerns that our growing school districts have and their need to be able to get early retirement buyouts and free up space to hire new teachers in these growing districts that are bursting at the seams. So Senator Harr worked hard at each round to fight for those changes. And we made some compromises and this amendment is a good result showing how, after we make adjustments on the floor, we can go back, iron those things out so that by the time we get to Final Reading we have a good, consistent policy. And that's what we have. That's what I believe we have in AM1346--good effort by Senator Groene, as Chair of the committee, Senator Harr as an

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

Floor Debate  
May 05, 2017

---

advocate for making sure we're fixing this voluntary separation in a way that helps to preserve what the growing schools need, and Senator Briese's concern about phasing out the spending that goes over the cap. And I believe AM1346 is a good amendment that brings those policy concerns together that we debated hard on the floor, and puts it together in a consistent amendment that makes for a policy that addresses as many of those needs as we can in a good, consistent way moving forward. And so again, I thank Senator Groene, Senator Briese, and Senator Harr for their hard work in pulling this amendment together. And I urge you to support AM1346 and LB512. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Harr, you're recognized to close on your motion to return the bill to Select File. [LB512]

SENATOR HARR: Thank you. And just quickly, I want to thank Senator Briese, Senator Groene, and probably most importantly their staff and Tammy Barry for their hard work on this, along with subject matter experts outside behind us that really helped bring everyone together and to make a good bill better so that we are clear on what the compromise really was and to address some of the issues that I personally was not smart enough to find initially. So thank you to everyone. And I please ask for your vote to return to Select. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Members, you've heard the debate on the motion to return the bill to Select File for specific amendment. Those in favor of the motion will vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB512]

CLERK: 40 aye, 0 nays, Mr. President, on the motion to return. [LB512]

PRESIDENT FOLEY: Motion is adopted. We're now back on Select File. Mr. Clerk. [LB512]

CLERK: Senator Harr offers AM1346. [LB512]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on AM1346. [LB512]

SENATOR HARR: Thank you, Mr. President. This is the amendment I promised. This is the clarification after some issue spotting that Senator Briese, Senator Groene, and staff worked on together to come up with a compromise and to clarify what we're trying to do. And what we're trying to do is for three years it phases out and then...well, first of all, once this bill passes, the voluntary teacher...or termination agreements can no longer be part of a collective bargaining agreement. And I think, folks, that's the most important part of this bill because it discourages these voluntary teacher separations to be part automatic and now it takes a little bit more work

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

Floor Debate  
May 05, 2017

---

for these to happen. Then we phaseout how it's paid for, for over three years, between above and below the line as far as outside the levy limit, inside the levy limit. And then after three years, it's limited to \$35,000 and that's a cap. If we have 5 percent inflation, folks, it's still \$35,000. There is no CPI, so each year that \$35,000 becomes worth less and less. And it's for teachers only. Certified teachers are the only ones who qualify. Administrators and janitors, bus drivers, etcetera, do not qualify anymore, whereas today they can. They can receive a voluntary termination agreement. And this is for if you are paying above the line. With that, I would ask for your support on AM1346. Thank you. [LB512]

PRESIDENT FOLEY: Thank you, Senator Harr. Seeing no further discussion on the matter, Senator Harr, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM1346. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB512]

CLERK: 42 ayes, 0 nays on adoption of the Select File amendment. [LB512]

PRESIDENT FOLEY: AM1346 is adopted. Mr. Clerk. Senator Wishart for a motion. [LB512]

SENATOR WISHART: Mr. President, I move to advance LB512 to E&R for engrossing. [LB512]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. The bill advances. Proceeding on the agenda, General File, 2017 committee priority bill. Mr. Clerk. [LB512]

CLERK: Mr. President, LB415 was a bill originally introduced by Senator Kolterman. Senator Kolterman presented his bill on Wednesday, May 3. The committee amendments from the Retirement Systems Committee were offered. There had been an amendment, two different amendments adopted to the committee amendments. There was a third amendment offered by Senator Walz. So, Senator Walz, AM1219 is an amendment to the standing committee amendments as offered by the Retirement Systems Committee, Mr. President. (Legislative Journal page 1273.) [LB512]

PRESIDENT FOLEY: Thank you, Mr. Clerk. It's only been a couple of days since we heard this bill, but, Senator Kolterman and Senator Walz, if you'd each like to take just a quick minute to refresh us. Then we'll proceed to the debate. There's a long line of senators in the queue. Senator Kolterman. [LB512]

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

Floor Debate  
May 05, 2017

---

SENATOR KOLTERMAN: Good morning, colleagues. Thank you, Mr. Lieutenant Governor. This morning we're going to debate LB415 again. We've had three hours of good, fair debate. I appreciate that. There is a lot in this bill. We're going to talk about the modified Rule of 85 that deals with teacher retirement. We're going to talk about new service...separation of service requirements. We're going to talk about things like purchasing credible service from the plan on the part of the employer and the employee. We're going to talk about county prior service annuities. We're going to talk about sending the reports to the Auditor of Public Accounts rather than just sending them to us. We're going to talk about changing the mortality tables, about changing the actuary in the bill, the definition of disability, how it improves the judges' and State Patrol's ability to request their retirement 120 days instead of 90. And then we're going to talk about military service credits. There is a lot in the bill. We're focused on...so far I've had no questions on anything other than the teachers' portion of the bill that was presented by the amendment. We have amended the plan by Senator Baker, which was a friendly amendment, and we have come together. Nine of us, ended up with about twelve of us to talk about this bill. We thought we had some consensus, but at the end of the day we didn't have. I'm going to concede to what I thought we had agreed to and drop an amendment here in a little bit. I've already dropped it, but at the same time, at the present time we have Senator Walz's amendment which... [LB415]

PRESIDENT FOLEY: Senator Kolterman. [LB415]

SENATOR KOLTERMAN: ...I'm opposed to. So thank you. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Walz, would you like a minute? [LB415]

SENATOR WALZ: Thank you, Mr. President. I want to start by thanking Senator Kolterman and the numerous people, way too many to name, who have worked tirelessly on this bill the past two days to try to come up with an agreement. AM1219 tries to address the substitute teacher shortage that currently exists and will continue to exist as this bill currently reads. Lincoln Public Schools averages 12 classrooms per day where LPS cannot get a substitute. In more remote areas in Senator Brewer and Senator Erdman's districts, schools are having to pay for mileage and even hotel rooms in some instances so they can bring subs in to a severe shortage in their area. Our goal should be to fill the substitute needs with the most qualified teachers in the best interest of our students. Currently state laws allows teachers to substitute in 180-day break following retirement on an intermittent basis. And I'm going to say that one more time. Currently state law allows teachers to substitute in 180-day break following retirement on an intermittent basis. However, the definition of "intermittent" is not known, leaving teachers at risk for violating the separation agreement based on a judgment call. AM1219 would define "intermittent" at 45 days in 180-day period. AM1219 also takes away the two-year restriction to work as a volunteer.

Floor Debate  
May 05, 2017

---

Restricting teachers from not being able to work is not fair because no other state retirement plan has these restrictions. Thank you, Mr. President. [LB415]

PRESIDENT FOLEY: Thank you, Senator Walz. Proceeding now to the speaking queue. Senator Baker. [LB415]

SENATOR BAKER: Thank you, Mr. President, members of the body. I'm not on the Retirement Committee but I've been visiting over the past few weeks with Senator Kolterman, and I have agreed to help him. Need to be clear here. Senator Kolterman is not into school bashing and there's certainly plenty of that that goes on. Every year there's some bills that don't seem to be designed to be helpful to public schools. And that's been going on for a long time. You know there was, so you would know, I mean public schools have been under attack you know back from 1880 to 1940. There was a progressive education movement where the idea was to deal with the whole child and to have active experimentation. And then the 1955 "Why Johnny Can't Read" came out; 1982, "A Nation at Risk." So it's been fairly steady. But you need to be clear, I don't see this at all as being anti-public schools. It's about keeping the Nebraska Public Employee Retirement System strong. There was a parallel action a few years ago. You go back 15-20 years, there was concern that the system was being weakened by spiking, by people finding ways to pump up their last three years' salary so they could earn a higher retirement benefit. And you know that weakened the system and it got taken care of. This parallel action, you know the problem that now exists that would be corrected, dealt with by LB415 and the amendments that are forthcoming, would be to look at the practice of someone retiring early, with full intent to come back to work, and that's probably not good for the well-being of the retirement system. Things look good now for NPERS because a lot of how they look has to do with how the markets do. We've been on an eight-year bull market. That's going to end some day. Those numbers will drop. There will be another recession some day and the numbers for NPERS won't look so good. And at that time, there will be cries to, we can't afford this, let's change this to a defined contributions plan. My mission is to keep our existing program strong, our existing defined benefits program strong. I get calls all the time from people saying...think it's going to affect them. It doesn't. It doesn't affect anybody currently in the profession. I even, from time to time, I hear from people who have been retired from teaching for several years say, there is nothing that they can do, is there? Or is there anything that can happen that would affect my retirement? The answer to that is no. There is nothing that can be done. So people who are currently in the profession, rest easy. It's not going to impact you. You know, other states have provisions that if you're drawing a retirement pension from the teacher retirement plan, you can't come back and do school work at all in that state. I had nine years in Iowa. So I'm drawing a pension from Iowa in addition to a Nebraska pension. Some might think that's a sweetheart deal, get two pensions. Well, if you do the math, it would have been better off if I would have had my whole career in one pension. But you don't make career moves just based on money and

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

Floor Debate  
May 05, 2017

---

retirement plans. But if I were to go back to Iowa, under their rules I could not ever make more than \$30,000 a year. [LB415]

PRESIDENT FOLEY: One minute. [LB415]

SENATOR BAKER: So other states do guard against this practice of taking a retirement and then turning around and going back to work. With regards to substituting, the amendments forthcoming from Senator Kolterman will actually help the substitute situation. Under his amendment, the waiting period, there has to be a clear break from retirement before you can go back to work. That goes down from 180 days to 140 days, so a person intending to retire as a teacher, go back to work as a substitute, would actually be able to substitute more under the upcoming amendment than they do at present. So I think that the matter of this is going to harm our substitute teacher pool, not so much. I mean, first of all, you're only talking about the most recent years' retirees. [LB415]

PRESIDENT FOLEY: Time, Senator. [LB415]

SENATOR BAKER: Did you say time or one minute? [LB415]

PRESIDENT FOLEY: That's time, Senator. [LB415]

SENATOR BAKER: Thank you. [LB415]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Crawford. [LB415]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. Colleagues, LB415 is a complex bill that has many parts and Senator Kolterman and the Retirement Committee have been working very hard on lots of the components of this to try to make sure we have a strong retirement system and trying to think about what all those pieces and parts look like with stakeholders, administrators, talking to them, teachers talking to them. And so there are a lot of pieces in LB415, including for new hires changing the retirement age. Colleagues, there have been all kinds of conversations over the past two days and I want to thank Senator Kolterman for continuing those conversations, conversations in his office, conversations here under the balcony that I wasn't part of. But there's all kinds of conversations and, really, most of those conversations have come down to discussion about two pieces which are represented in Senator Walz's amendment. And there are two pieces of the...what most of the conversation has been about and the contestation has been about in terms of what's in LB415. And one piece is what the break is. What's a required break? In other retirement systems, that's

Floor Debate  
May 05, 2017

---

120 days. And there are some unique things about...one argument is there's some unique things about teaching that may make that a different number of days. Senator Walz's amendment has the existing 180 days, but with a provision that allows substituting in between, had lots of conversation about if we should just pick another number so it's a clean break and what that number should be. So that's a lot of the conversation that you'll hear this morning is on that side. How do we make sure there is a clean break that protects our system, but is no more restrictive than need be to protect our system? That's what we need. A good number that is no more restrictive than needs to be to protect our system. Now colleagues, then there is another number that we're going to be talking about and that number is how long you must wait if you work with your school district and there is a voluntary separation. And currently, with the Baker amendment that's currently there, it's two years. And with the Baker amendment that's currently there, you can come back and volunteer, but you cannot sub. You cannot even sub in those two-year waiting period if you accepted a voluntary buyout. And that number, how long people should have to wait if they have a voluntary buyout, colleagues, that's not something we need to do to protect the integrity of the system. I just don't see the logic for why we need to restrict someone's career if they meet the requirements, they take the needed clear break. And if there is a school district that needs that teacher for...because we have teacher shortages all over, why would we keep that teacher out on the ice for two years or even 18 months? And, colleagues, when you think about a school district schedule, there is not a lot of difference between two years and 18 months. If you can't start in August, you may not be of much use to that school district. So two years to 18 months is not really very much movement in terms of that principle. So I'll have much more to say but, because there's a long queue, I'm going to yield the rest of my time to Senator Patty Pansing Brooks. [LB415]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Pansing Brooks, one minute. [LB415]

SENATOR PANSING BROOKS: Great. Thank you very much. I just want to reiterate some of what Senator Crawford wisely said. We're concerned, while there has been some movement, the movement was with not talking to the teachers groups. And the teachers are very concerned about the fact that we are going to have issues in classrooms that will hurt the kids because we are limiting the number of substitutes available. Senator Erdman has a bill to allow high school graduates with some extra couple classes to be able to substitute. And now we're precipitously limiting our best and brightest educators from being able to be substitutes. That doesn't make any sense in a state that doesn't have a giant significant population. Even if we're hurting one classroom of kids, that's one classroom too many. But...and that's what they'll say is that, oh, it doesn't hurt that many people or that many teachers. But when you start adding up a number of teachers, you need to add a multiplier for the number of children who are affected. [LB415]

PRESIDENT FOLEY: Time, Senator. [LB415]

Floor Debate  
May 05, 2017

---

SENATOR PANSING BROOKS: Thank you. [LB415]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Linehan. [LB415]

SENATOR LINEHAN: I would yield to Senator Kolterman. [LB415]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Kolterman, 4:50. [LB415]

SENATOR KOLTERMAN: Thank you very much, Senator Linehan, Mr. Speaker. I'd like to talk about the Walz amendment and I really need your attention because it's a huge, huge, important issue. The retirement plan, what we're trying to do is protect the plan for teachers. The last thing I want to do is penalize teachers or take them out of the work force. But the plan is being abused and the PERB brought this amendment to me and it had 180 days with a bright yellow line. I talked about that for three hours the other day. We need to have that bright yellow line so that the plan doesn't get abused and throw it out of qualification, because if this plan falls out of compliance then we've got huge issues. The teachers will not get a tax deduction for the money that they're putting in. The employers won't get their money. It would be nonqualified instead of a qualified plan and everybody would end up paying taxes on...a lot of taxes, huge amount of taxes. So that if we look at Walz's amendment, I passed out a sheet and I want you to follow through on that with me. It eliminates all the early retirement inducement language and the provisions, including the certification requirement and the three-, now 18 months, year separation of service requirements in committee amendment, AM923, as amended by Senator Baker. I have an amendment following this, would take it to 18 months. Senator Baker was cordial enough to agree to move it to two years from three. This will take it...my amendment that follows this amendment will move it to 18 months. So don't tell me I'm not compromising. I'm giving up a lot of compromise on this bill. Number two, it rescinds the provisions of LB415 and amendments related to the 180-day bona fide separation of service period. AM1219 allow retirees to work as substitutes or volunteers on an intermittent basis up to 45 days during the 180-day period following retirement. This is where it is hugely important that you follow this. On the first page that I handed...on the second page of what I handed out there's a calendar. It talks about a 180-day separation of service. What happens is, there's a safe harbor that everybody that terminates early and comes back to work has to follow to keep this plan into compliance. We're getting into the weeds, but you need to understand why we're in the weeds on this. It all boils down to workdays in that intermittent period. That's why the PERB brought this issue to me, because those workdays are being abused. We have people that have retired and worked too many days, and they had to take their retirement away from them and start holding their payment until they broke their service. So the safe harbor is you can't work more than 20 percent of the time that's eligible. If we take this amendment, there is 67 workdays there because the blue line takes you down to where they can start to work. Most people don't work during the summer.

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

Floor Debate  
May 05, 2017

---

We're assuming they come back September 1 or thereabouts. So out of 67 days, if we follow the Walz amendment, they will work 45 days or have that ability. That's 70 percent of the working time. [LB415]

PRESIDENT FOLEY: One minute. [LB415]

SENATOR KOLTERMAN: If we allow that to happen, it's going to cause the plan to fall out of compliance. If it continues to get abused, the IRS could come in and say, no more, we're shutting down this plan. We got to avoid that. We have to avoid that. My amendment will bring it to 140 days and that's very workable. I can't make it any clearer than that. We have spent four different meetings talking about this particular issue. The compliance issue is the most important aspect of this and nobody behind the glass wants to buy that. If you really look at it and we go to 140 days, they'll only have to give up 45 days, approximately, before they can start to work. That's not asking too much. That's not taking their livelihood away. And when I get some more time on the mike, I'm going to rebut everything that's being said about me, my committee,... [LB415]

PRESIDENT FOLEY: Time, Senator. [LB415]

SENATOR KOLTERMAN: ...and what we're trying to do. Thank you very much. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Kuehn. [LB415]

SENATOR KUEHN: Thank you, Mr. President. I rise in opposition to AM1219 and I ultimately do support AM923. I've had an opportunity to take a look at the forthcoming amendment that has been introduced by Senator Baker, which I also support. And I yield my time to Senator Kolterman. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Kolterman, you're yielded 4:30. [LB415]

SENATOR KOLTERMAN: Thank you very much, Senator Kuehn. And again thank you, Mr. Lieutenant Governor. So let's go on. I hope I've made that very clear to people why it's important not to accept this amendment. We have to vote it down because it will throw us into noncompliance. I'm not scaring...I'm not trying to scare you. If you think you want to do that, then bring it on and we'll deal with the consequences. But we cannot afford to do that. Number two, I want you to understand, under the Internal Revenue Code an employee must experience a bona fide separation of service, period. In evaluating, the IRS...in evaluating this the IRS looks at whether the employee, the employer relationship has been permanently severed, whether there is

Floor Debate  
May 05, 2017

---

intent by the employer and the employee that the employee would return to work, and it looks at all the surrounding facts and circumstances. So if you look at what I'm telling you, the school year ends around May 15. The 180-day separation of service period runs until approximately November 11. Most teachers just work during a nine-month period during the school year--I'm repeating myself, but it's important--generally 180 to 190 days. However, most contracts are written on a 12-month contract so the employees are paid over a 12-month period. Now bear in mind, when they get their retirement benefits, starting May or whenever they retire, they're going to get that retirement benefit. They're also going to get paid their regular salary till September 1. So when we ask them to give up 45 days, they're getting double-dipped right there. Is that unfair? I ask you that, is that unfair? Are we being unfair to teachers? I don't believe so. Most teachers just work the nine-month during the school year. That's generally 180 to 190 days. As I just said, most are written over a 12-month period. Here's the other thing that's hugely important. We are allowing them to stay...they're getting their retirement and they're getting paid till August or September 1, end of August. Guess what else they get. They get their health insurance. They're not working, but they're paying their health insurance, the districts are. Is that unfair? I think we're being fair with them. That's a huge deal. You know what it costs? Probably \$3,000 a month per teacher, a lot of money, folks. They continue to have retirement contributions taken out of their salary and wages through August 31 and all the retirement contributions taken out through August 31 are counted towards the calculation in their final retirement benefits. So even while, even while they're not working, we're putting another three months into their retirement benefit and we're giving them their health insurance. So the employer-employee relationship is not personally...permanently severed until compensation of the contract period, which is usually August 31. Here's some of the facts and circumstances that the IRS will look at to determine if there has been a bona fide separation of service. We have to do this on every employee that abuses the system. I wished I could have the attorney that sat in on the last three nights of meetings here because he could show you a booklet this thick of people that have come to him and the work that they have to do with the PERB. [LB415]

PRESIDENT FOLEY: One minute. [LB415]

SENATOR KOLTERMAN: So Senator Walz's amendment allows a teacher, a sub to volunteer 45 of those 65 workdays, means that a retiree is providing service more than 70 percent of the time; 50 percent is clearly beyond the IRS and 20 percent is a safe harbor. We can't afford to do that. I've got some more. Give me some more time and I'll tell you some more. Thank you very much. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Mr. Clerk. [LB415]

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

Floor Debate  
May 05, 2017

---

ASSISTANT CLERK: Mr. President, a priority motion: Senator Erdman would move to recommit the bill to the Retirement Committee. [LB415]

PRESIDENT FOLEY: Senator Erdman, you're recognized to open on your recommit motion. [LB415]

SENATOR ERDMAN: Good morning. Thank you, Lieutenant Governor. These rules are a great thing and I'm trying to learn how to use them. And I would guess the best way to learn is try it, so here we go. I was so far down in the queue I may never see the light of day, so we moved up. Senator Chambers has got some good ideas if you watch. So we're going to talk about this on my terms. I wonder if Senator Walz would answer a few questions. [LB415]

PRESIDENT FOLEY: Senator Walz, would you yield, please? [LB415]

SENATOR WALZ: Yes, I will try. [LB415]

SENATOR ERDMAN: Okay. Not difficult. [LB415]

SENATOR WALZ: Oh, good. [LB415]

SENATOR ERDMAN: Who brought you this amendment? [LB415]

SENATOR WALZ: I talked with administrators. I talked with the NSEA. I have letters and e-mails from... [LB415]

SENATOR ERDMAN: Okay. [LB415]

SENATOR WALZ: ...constituents, teachers, principals. [LB415]

SENATOR ERDMAN: Okay. So the long and short of it, I'll conclude it's the NSEA. Would that be fair? [LB415]

SENATOR WALZ: I would say it was a number of people. [LB415]

SENATOR ERDMAN: Okay. Well, thank you. [LB415]

Floor Debate  
May 05, 2017

---

SENATOR WALZ: Thank you. [LB415]

SENATOR ERDMAN: The issue that I have, and you addressed that in your comments and I appreciate the shortage...that you understand the shortage that we have, the issue I have is this may help substitute teachers in my district but it doesn't solve the problem. The problem is we have a shortage of teachers,... [LB415]

SENATOR WALZ: Uh-huh. [LB415]

SENATOR ERDMAN: ...substitute teachers. And Senator Pansing Brooks made a comment about we're going to allow people with little education or a high school education to substitute teach. Other states do it and it works and...but you see, when that bill came to the Education Committee, and you are a member of that committee, it found a lot of opposition from the NSEA. And I don't know that we've ever passed anything in my recent memory as I watched the Legislature that the NSEA was opposed to. So whatever they're opposed to, that's what we have to do. This provision, I don't know if it's allowable by the IRS or not, I have no idea. Sounds like some think it is; some think it's not. And we talked about that yesterday. Senator Chambers gave us a lesson on that one, and I appreciate his help. But today we're talking about letting teachers teach for 180 days, 45 days in the first 180 days. The department had made a new rule right after I introduced LB568 that would have allowed substitutes to teach 90 days in each district, so they made that determination, so that is a requirement or an option for people now. So we did get something out of LB568, not much, but that's how it works here. You do a little at a time. Take...you eat an elephant one bite at a time, so I guess we'll move on to something else next year. But the point I'm trying to make with this whole deal is, Senator Kolterman is on the right track, okay? Senator Kolterman is trying to fix the system, trying to make it better, trying to do what we charge that committee to do. And as I've said before, and I will say this again, if we have a plan, if we have an idea but it doesn't exactly meet with the approval of those people on the other side of the glass, especially organized labor, then that's not a good idea--it wasn't our idea so it's not good. I don't understand that. This is good common-sense legislation, and common sense is not, I will repeat, common sense is not common here. So vote against AM1219. Vote for LB415 when it's amended and let's move on, And I'll yield the rest of my time to Senator Kolterman. [LB415 LB568]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Kolterman, 5:50. [LB415]

SENATOR KOLTERMAN: Wow! Thank you very much, Senator Erdman. Appreciate that. I hope you're not serious about your motion, but I like the time. Another fact I want to talk about is circumstances that the IRS would consider with the Nebraska Department of Education Rule 21. I'm not that familiar with Rule 21. Rule 005.20 regarding substitute teaching certificates

Floor Debate  
May 05, 2017

---

limits teachers to 90 teaching days in the same school and same assignment. The Walz amendment allows 45 days, which equals half of these days. Under Rule 5.23 for teachers holding a local substitute teaching certificate, they are limited to working 40 teaching days per school year in the Nebraska school systems or local substitute teacher consortium. The Walz amendment allows 45 days, which is more than 100 percent of this fact and circumstances-- again, another reason why we can't do this. The Nebraska Public Employees Retirement System, known as NPERS, administers a multiemployer school employees' retirement plan. This plan includes 240 school districts and ESUs. The only one that's not in the plan in the state is OPS, Omaha Public Schools. I'm going to talk about that briefly. Our plan is 90 percent funded. We like to think that if it's 80 percent funded you're okay. Ours is 90 percent funded because the people coming before all of us have done a good job of administering this plan, and NPERS has done a wonderful job in constantly looking at ways to improve this plan. Omaha Public Schools' plan is in huge trouble. Our plan is 90 percent funded. Omaha Public Schools was over 70 percent funded. On Monday they got a report that said that it had dropped to 60 percent funded and they're going to have to put approximately \$15 million into the plan as an actuarially required contribution this year because they had to lower their projected rate to 7.5 percent and the mortality tables changed. They are in trouble. There's a reason they came to us this year and asked us to take over their plan. And I vehemently opposed that because we can't afford to jeopardize what we have. It goes right back to what Senator Baker's said all along. We're not in a position to jeopardize this plan. Each district out of those 240 districts drafts its own separate contract or contracts for the employees. NPERS, the people that we ask to administer this plan, has no control over how these contracts are written, how the negotiated agreements are written. It has no control over the management of the employees or how the contracts are carried out. It is dependent on the information that is reported to the school district employer and school plan member employees. This 45-day standard is problematic and will be difficult, if not impossible, to administer. What happens if we have a teacher that goes from...that's retired and substituting and goes from one district to the next? Let's use the example, Omaha Public School, Millard Public Schools, Ralston, and throw in Elkhorn. If you go to all those different districts, who's going to keep track of that? The PERB? We going to throw more work to the PERB and have them have more challenges? Simply put, how will the number of substitutes' days be monitored? Secondly, communication about substitute and volunteer service between schools in the same district is not consistent. It's not consistent how they keep track of things. Further communication between the school districts and ESUs about substitute and volunteer service is essentially nonexistent. Monitoring this threshold is completely impractical. Now let's talk about the subs. The subs are a problem. I would 100 percent agree with that. I am not trying to eliminate subs. I've looked for three years now, how can we improve the sub pool? [LB415]

PRESIDENT FOLEY: One minute. [LB415]

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

Floor Debate  
May 05, 2017

---

SENATOR KOLTERMAN: But do we really have a sub problem? From Millard Public Schools we hear that they have 500 to 600 teachers on their sub list. Of that amount, 13 are in the 180-day period, 13 out of 506 of them retired. OPS has 500 and 600 teachers in their subs and they've got 41 in that 180-day period. And finally, LPS has about 850 subs, and there's 2 subs. Is that really a problem? Percentage wise, are we really hurting teachers by not allowing them to teach for sitting out 180 days, which is really not 180 days when you throw in the summer. We're not hurting anybody. We're overreacting. We're becoming emotional about an issue that I've studied for three years, and we're trying to improve it. When I get more time I'm going to tell you how we came up with the original part of the bill from the PERB. Thank you very much, Mr. President. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Ebke. [LB415]

SENATOR EBKE: Thank you, Mr. President. Colleagues, I want to just say a couple things here. First of all, I appreciate the great work that Senator Kolterman and the Retirement Committee have done, and I especially want to thank Senator Baker for adding his expertise to this discussion. As I look around this Chamber, and I have great respect for all of you, but there are no two people on this floor that I would trust more in giving us the straight scoop than Senator Baker and Senator Kolterman on this issue. I wonder if Senator Erdman would yield for a second. [LB415]

PRESIDENT FOLEY: Senator Erdman, will you yield, please? [LB415]

SENATOR ERDMAN: Yes. [LB415]

SENATOR EBKE: Senator Erdman, was there something else you wanted to say? [LB415]

SENATOR ERDMAN: There was, and I was remiss when I transferred my time to Senator Kolterman. I would like to withdraw that recommit motion. Thank you for your time. [LB415]

PRESIDENT FOLEY: The recommit motion has been withdrawn. [LB415]

SENATOR EBKE: Thank you. Senator Kolterman, I wonder if you might yield for a couple of questions. [LB415]

PRESIDENT FOLEY: Senator Kolterman, will you yield, please? [LB415]

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

Floor Debate  
May 05, 2017

---

SENATOR KOLTERMAN: I certainly would. Thank you. [LB415]

SENATOR EBKE: Thank you, Senator Kolterman. Currently if someone retires, if I retire at the end of May of this year, how long do I have to sit out before I can substitute? [LB415]

SENATOR KOLTERMAN: It's rough...I think it's roughly about 60...well, hold on. Let me get that answer for you. I don't have it at the top of my head. [LB415]

SENATOR EBKE: Okay. Well, I tell you what, Senator Kolterman. I will yield you the rest of my time and then you can answer it as time allows. [LB415]

SENATOR KOLTERMAN: Thank you very much. I'll get that answer for you. [LB415]

PRESIDENT FOLEY: Senator Kolterman, you've been yielded 3:15 if you care to use it. [LB415]

SENATOR KOLTERMAN: Yeah. The answer to that question is at the present time the way that the law is written, and this is what's problematic, they can serve intermittently--that's the problem--during that 180-day period. But the reality is there's only a certain amount of time that they're really going to work because they have the summer off. So we automatically exclude 90-some days of that. So intermit...the problem has been what's "intermittent"? I can give you an example of what isn't intermittent because we've got somebody right now that substitute way more than they should of, and over a three- or four-month period they were out of compliance. They were receiving their retirement benefit. The PERB found out what was going on, and by the way, the people that tell the PERB are other teachers. They're telling them, hey, this guy's working way more than a sub. So what happens is the PERB goes back and they say, well, hey, this person has worked way too much, he's hurting our plan; we're going to ask him to either pay back the four months that he gave us or we're going to withhold his money for four months until he does sit out for 180 days. So that's what they did. He's not getting paid for four months and he's sitting out the 180 days. People say, well, that doesn't happen. It happens all the time. That's what we're trying to stop. Does that answer your question? Do I have...I have the rest of the time? [LB415]

PRESIDENT FOLEY: Another 1:40. [LB415]

SENATOR KOLTERMAN: Thank you. So let me tell you how this part of the bill came about. The issue that I just described is what the PERB deals with on a regular basis. Let me tell you who the PERB Board is. The PERB Board is made up of someone from the schools, someone

Floor Debate  
May 05, 2017

---

from the State Patrol. There's a public...two public members. There's somebody working from the state of Nebraska, somebody that's in the judges plan, another school member. There's a county member, and there's another...there's a public member. So everybody that serves on this board is representing the teachers, the retirees that are in the plan, and we have two people from the public. The board has an executive director. Those people, by the way, are appointed by the Governor, but they then go out and hire their own executive director. And then they monitor every challenge that comes in to them, and they work with their legal counsel, Orron Hill and his team, and decide who are we going to have to go after to get our money back or who are we going to have to slap on the hands and say, quit doing this? Again, these people, they are the ones that brought the 180-day yellow line of separation and put it in the bill and they testified 100 percent in support of it. Now, they've been in negotiations with all the people that support the unions. [LB415]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Kolterman. Senator Halloran. [LB415]

SENATOR HALLORAN: Thank you, Lieutenant Governor. I will yield the balance of my time to Senator Kolterman. [LB415]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Kolterman, 4:55. [LB415]

SENATOR KOLTERMAN: Thank you very much, Senator Halloran, Lieutenant Governor. So they have to make the tough decisions between the board and the PERB, so rather than constantly fight the battle they've decided that they wanted to put it...because "intermittant" was so unclear, they wanted to put in statutes 180 days. And they testified in support of that and they voted that unanimously by the PERB. So school teachers voted...their representative voted to bring this 180 days, as did the State Patrol and everybody else that's on that board, unanimously. Now, having said that I've compromised to take that down to 140 days with my amendment, if we ever get to it. They have not voted on that because they have not met, but I've worked with their legal counsel and I've worked with my legal counsel, both of who represent us. They're there to protect the plan and my legal counsel there is to protect each and every person in this body that we don't do something foolish. So a lot of time has gone into this. We've agreed to move it to 140 days, and the opposition would not agree to that. That's giving up 40 days, which really brings it down to about 45 days that a teacher or an administrator has to sit out before they can go back to work on an intermittent basis or as much as they want. Is that really unfair? I ask you that. Is that really unfair? So...and the information, all the information that we get, comes from actuarial studies. The actuary that we use has been fair in evaluating the plans. The thing that I said probably three or four times the other day is this: The easier you make the plan for people to come back, the more it diminishes the opportunity to pay out the plan and diminishes

Floor Debate  
May 05, 2017

---

the ability of the plan to stay strong. That's written right in the actuarial documents that we receive. They are here to give you advice and to protect the plan, just like I'm here, my committee is here. One last thing I would say while I still have a few minutes is this: This came to my committee and we had eight different hearings on these bills. They're all in this. Every one of the bills came out unanimously without any opposition, every one of them, except the part that dealt with the separation. The NSEA came in, in opposition, and at the time they recommended 120 days. And I said I can't do 120. I think that's going to hurt us compliance-wise. So then we left it at 180. My committee of six individuals, who now some of the opposition sits on, voted unanimously to bring this bill to the floor, and there was very little discussion because there's a mutual understanding and there was a trust that we're trying to protect this plan. Now all of a sudden, because the people behind the glass are putting the pressure on them, they're turning on us and running the other way. It's all about protecting the plan. I understand their opposition. I understand the pressure they're getting. If I thought I was going to jeopardize a teacher's retirement I would not be doing this. [LB415]

PRESIDENT FOLEY: One minute. [LB415]

SENATOR KOLTERMAN: I have a lot of friends that are teachers. And the next time I get the mike I'm going to tell you the misguided information that's going out and the rationale behind why you are getting all this e-mails that's going into your spam folders. Thank you very much. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Lowe. [LB415]

SENATOR LOWE: Thank you, Lieutenant Governor Foley. Would Senator Lindstrom be able to answer a question for me? [LB415]

PRESIDENT FOLEY: Senator Lindstrom, would you yield, please? [LB415]

SENATOR LINDSTROM: Yes, I would. [LB415]

SENATOR LOWE: Can you talk about what this will do for tax liability with this? [LB415]

SENATOR LINDSTROM: Yeah. Thank you, Senator Lowe, for the question. When we looked at this bill and we were tasked, what we are tasked to do in that committee and what the PERB is tasked to do is protect the plans. This bill, LB415 and the amendment, AM923, protects the plans. The Walz amendment is detrimental to the plans, the reason being is that there's no clear distinction on the separation. With 140, which Senator Kolterman compromised on from the 180,

Floor Debate  
May 05, 2017

---

Orron Hill, who is the legal counsel for the PERB, said that he could protect the plans if the IRS were to come in and analyze and say whether or not there was a separation. What this really comes down to is protecting the long-term solvency of the pension, and with \$1.9 billion, I'm going to say that again, \$1.9 billion in the contributions to the plan, this would put \$133 million in risk of losing its tax liability status. So when we're making decisions, these are huge decisions. And the Walz amendment jeopardizes that if we are out of compliance. So thank you for the question, Senator Lowe. [LB415]

SENATOR LOWE: Thank you, Senator Lindstrom. I'm going to keep my comments brief and yield the rest of my time to Senator Kolterman. [LB415]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Kolterman, 3:20. [LB415]

SENATOR KOLTERMAN: Thank you very much. I appreciate it, Senator Lowe. And thank you for your comments, Senator Lindstrom. So let's talk about the opposition to this. I'm...I've been listening. I don't have blinders on. E-mail went out this morning: Action alert. I'm going to read it to you. This went out to all the teachers that are members of the NSEA: Act now to prevent unfair changes to your retirement plan. Unfair changes. Friday morning the State Senators will continue to debate LB415, a bill that would negatively affect your retirement plans. This bill--now pay attention--would prohibit all educators from teaching for three years if they take voluntary separation agreements from any Nebraska school district. That's an untruth. We amended it to two years, and I'm willing to go to 18 months, okay? So they're putting out unfactual information. Number two, prohibit a teacher from substitute teaching for 180 days after retirement. That's not true. We're really going to prohibit maybe 45 days from actually teaching, unless they're teaching during the summer. I'll give you that. And number three, effectively eliminate the Rule of 85, increasing the minimum retirement age by five years to age 60 for new employees. Now I ask you, colleagues, is age 60, this...and by the way, age 60 only affects people hired after July 1 of 2018. Anybody in the plan will not have their plan changed. They will not have their plan changed. If they are eligible for the Rule of 85 and they've served 35 years or 30 years and they're 55 years old, they will be able to retire. They will be able to retire. We are not doing one thing to change that other than putting in the yellow line and telling them when they can come back for their separation of service. So, and then it leads you directly to each one of your e-mails addresses and tells them to send you opposition to this bill. I get it. I'm a marketer. If I were working against this bill I'd do everything I could to stop it if I thought it was going to hurt people. It's not going to hurt anybody. This bill is prudent law and I think it needs to be heard. Now, I have a question for everybody that is listening. If you're listening and you've been in a defined benefit plan, would you raise your hand? A defined benefit plan, we've got two. I know there's four or five for sure. [LB415]

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

Floor Debate  
May 05, 2017

---

PRESIDENT FOLEY: Time, Senator. [LB415]

SENATOR KOLTERMAN: Thank you. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Friesen. [LB415]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I stand in support of LB415 and I'll yield the remainder of my time to Senator Kolterman. [LB415]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Kolterman, 4:50. [LB415]

SENATOR KOLTERMAN: Thank you very much, Senator Friesen, again you as well, Mr. Lieutenant Governor. The reason I asked about who's in a retirement plan, and I know for a fact that Senator McDonnell, probably Senator Quick, Senator Kolowski. I was in a...I'm in a defined benefit plan. It's why I'm so supportive of keeping it if they're fully funded or adequately funded. I've been in one for 40 years. It's a nice benefit. It's a rich benefit. How many aren't in a defined benefit plan? How many are in a 401(k) or IRA or something like that? Let's see the hands. Would you like to have...I see most of you. Would you like to have a defined benefit plan if somebody said I'm going to give it to you? Everybody would like to have that. So my question is for those that are in the defined benefit plan. I'd like to ask Senator Baker, since he's right here, if he'd work with some dialogue with me. [LB415]

PRESIDENT FOLEY: Senator Baker would you yield, please? [LB415]

SENATOR BAKER: Yes. [LB415]

SENATOR KOLTERMAN: Senator Baker, you went into the plan when you were 65, 66? When was that? [LB415]

SENATOR BAKER: I retired at age 65. [LB415]

SENATOR KOLTERMAN: Okay. And when you went into that plan, you were promised for the rest of your life that you would receive a benefit. And if you elected correctly, you'd get that benefit for you and your wife for the rest of your life. Is that correct? [LB415]

SENATOR BAKER: That's right. You can select several options. I happened to select the option that would be for the life of me or my wife. [LB415]

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

Floor Debate  
May 05, 2017

---

SENATOR KOLTERMAN: Correct. [LB415]

SENATOR BAKER: You know, the good thing about this is, you know, if you're an educator you don't have a business to hand off to your kids. You don't have a farm to give to your kids. That's all you got. And you can't give the school to your kids. When you get that... [LB415]

SENATOR KOLTERMAN: I agree with you. So don't sit down. I'm not done yet. So you understand there's tremendous value to this. Now, Senator Baker, we've got plans all over the nation that are going broke, and I'm going to talk about that in a minute as well with Senator Williams. But if all of a sudden this plan fell on problematic financial crisis, and it was taken away, and I'm just going to use an example. You get \$5,000 a month and all of a sudden it's in trouble and they're going to cut it to \$3,000 a month, how would that appeal to you? [LB415]

SENATOR BAKER: It wouldn't appeal to me at all, but that can't happen. [LB415]

SENATOR KOLTERMAN: You're right because you have an annuity payment for the rest of your life. [LB415]

SENATOR BAKER: Right. [LB415]

SENATOR KOLTERMAN: But for those that are expecting that to happen, it can happen. So those that are in the plan currently and not collecting benefits, if this gets into trouble they're in trouble. Are you with me on that? So you can elect an annuity that guarantees that for the rest of your life. But for those that are still in the plan, they're in deep trouble. Okay? It's all the more reason why we need to protect this plan and why these types of provisions are being put in there. And, again, when Senator Linehan, as gracious as she was to pull that amendment the other day trying to move it from 2 percent to 1 percent, my rationale was we can't afford to do that. Does that sound to you like I'm against the teachers? I support them 100 percent to keep this plan fully funded, and they're working their tails off outside the glass to get me to pull this, which is really protecting them. So with that, I think I'm about out of time. I appreciate that. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Hilgers. [LB415]

SENATOR HILGERS: Thank you, Mr. President. I'd yield my time to Senator Kolterman. [LB415]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Kolterman, 5:00. [LB415]

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

Floor Debate  
May 05, 2017

---

SENATOR KOLTERMAN: Question. [LB415]

PRESIDENT FOLEY: Question has been called. Do I see five hands? I do. The question is, shall debate cease? My error. My error. You were yielded time, Senator. You cannot call the question on yielded time. My error. [LB415]

SENATOR KOLTERMAN: Can't call a question? Okay. [LB415]

PRESIDENT FOLEY: My error. [LB415]

SENATOR KOLTERMAN: Well, I'm just saying we need to hear...if they think that we haven't been fair, we...that's fine. So, again, my question really, the other thing that I passed out to you, if you look at the handout, there's 180-, 120-, and 140-day period there. Okay? Each one of those shows you why our protection is there. A hundred and eighty days is the best. We can work with 140, but 120 doesn't cut it. A hundred and twenty days takes us way into a position where we're almost in trouble again. And we're trying to draw that yellow line in the sand that protects the plan. So I appreciate that. With that, I'm going to let the other people talk. Thank you. [LB415]

PRESIDENT FOLEY: Mr. Clerk. [LB415]

ASSISTANT CLERK: Mr. President, a priority motion. Senator Pansing Brooks would move to recommit the bill to committee. [LB415]

PRESIDENT FOLEY: Senator Pansing Brooks, you're recognized to open on your recommit motion. [LB415]

SENATOR PANSING BROOKS: (Recorder malfunction)...thank you. There. Thank you, Mr. Lieutenant Governor. I thank Senator Erdman for the good idea this morning, for the recommit. When I hear that Senator Kolterman is already attempting to call the question when we have a line of literally 20 people and the people that have spoken so far very wisely pushed their buttons early and have now given time to Senator Kolterman the whole time so that Senator Kolterman is the only one that's gotten to speak. And we've got a whole list of about 30 people that do want to speak that haven't spoken. That's not appropriate. We are talking on behalf of teachers. And whether or not Senator Kolterman believes that he has negotiated in good faith with them, the teachers are saying otherwise. The teachers are writing all of us. I know that you all know that because I know that you're all getting calls and letters from the teachers and the teachers association. And it's not appropriate to try to precipitously cut off debate when we are actually trying to discuss something that is important to a large group of our people in this state. Senator

Floor Debate  
May 05, 2017

---

Walz is bringing an amendment that she feels is important as a prior teacher. And it's not appropriate to try to call question after you've had eight times on the mike and other people haven't. So I appreciate the fact that Senator Kolterman has worked hard on this, that the Retirement Committee has worked hard on this, but there are alternate views. He says that the Retirement attorney, whom I respect and know, has one opinion, and so does the NPERS attorney, but there's another attorney up at a very respected law firm in Omaha, Baird Holm, who says just the opposite. So it's fine to say that this is clear. Senator Lindstrom said that the tax liability status is at risk. All three lawyers agreed that it's not clear at all that the tax liability is at risk. There's no agreement. There is a risk if you don't have a clear separation and if you don't have a bona fide break in service, but there is no clear, defined date or bright line in the sand, as he's liking to say, that clearly states, oh, the IRS will not come after you. And there's all sorts of discussion about, well, you know, since teachers get some benefits later in the...at the extension of the year, when they quit and terminate on May 15, or whatever date that is, the schools can't force them to come back. The IRS is going to look at that and say, well, the fact that you're still getting your insurance for a year or a benefit for the next month or so doesn't mean that you're still working for the schools. You have a property right that is vested. You have a deferred benefit. So it is a...it's a tool for payment. Rather than being paid in the nine months, teachers and schools, because it's better for schools to disburse that payment over 12 months rather than 9, the teachers also want to be paid over 12 months rather than over the 9 months that they work. So it's a tool. It has nothing to do with the fact that they're still employed. So I think that is disingenuous and I think it's easy to say, oh, the IRS could say they're still working. There's no working. LPS has...if you...in Lincoln Public Schools, our second largest school system and school district, if you say that you are going to quit, they have you fill out a staffing change form and the rest of the payroll ends in May. Now not all schools do that. But why is that not a clear determination for the IRS that there has been a severance of employment and a bona fide break in service? So there are questions that need to be answered. And, yes, they have had some...they've had some people at the table and they've had the hearings. But there's been a changeover in what's going on at NSEA. Teachers are understanding differently what is going on. We've gone...he's gone...he said...before we were hearing that 180 days is absolutely necessary to protect the tax status. Well, now it's...now we're hearing it's 140. Well, the schools feel more comfortable with 120. And the problem is that this is all very complicated, so everybody is just deferring to Mark, and I under...or Senator Kolterman. I understand. I respect what he's doing and I understand how frustrating this is because I had the same kind of issue with right to counsel for juveniles. I've worked on this for many years fighting for juveniles and in law. And I've gotten a number of you who say, well, you don't know what you're talking about, this isn't necessary. And I know that Senator Kolterman has the same exact frustration with the fact that we're sort of coming up at the eleventh hour and I'm sorry about that. But we have the teachers association and many teachers writing saying this is not right. When they looked at the three-year ban, I think that's unconstitutional, that original plan, because that's effectively a noncompete clause. And we know that noncompetes have to be limited by law as to the time and

Floor Debate  
May 05, 2017

---

the duration and the geography. Well, saying you just can't work anymore in the state when you retire is...but of course you can go right...Omaha people can go right across the state into Omaha or into Council Bluffs, that is not reasonable. So again, that has nothing to do with dollars paid. It has nothing to do with the budget. It's just they're drawing a line in the sand and that's it. So again, I see all the people that are still in line. That's why I had to jump in here. And I still think it's a good idea to recommit it to committee so that there can be some more discussion. Yesterday when I got brought into the discussion at the eleventh hour, it's like we've already decided this, this is it, we're not going to discuss anymore, that's it. Well, there are a lot of people that are pushing at us to not just say that's enough. And I get the defined benefit plan, but the defined benefit plan also relates to accepting the fact that they don't get their salary increases at the time. So the reason that there's a defined benefit plan that allows employees to get the payment when they retire is because they've accepted the fact that they aren't getting the increases that they would normally deserve in their salary. So that's a differential. They've accepted what has happened to them. And, yeah, it's...it sounds...it's a good deal and many people are willing to do that. But that's not because they haven't assumed some cost and risk of their own at the time. It defers the salary increases that the counties would be having to pay. So again, I would like to...I just think this needs to go back to committee. There is enough question about it. Clearly so many people are just deferring and not making even a comment on this because they don't understand it. It's a complicated issue. So we've got another, what, 15 people ready to defer to Senator Kolterman and follow along and I understand this is his area, and that's great. But I think also we've got a lot of people that are in the lobby that represent the schools, that represent the teachers. I think they're worth listening to. So I will...again, this is about...it's about kids being hurt. If you go out to talk to the various schools, they will tell you how many classrooms that they have today in their various schools that they're searching for substitutes for. And if you're searching for substitutes, that just hurts the kids. It means overloaded classes. It means teachers giving up plan time. I dare any one of us to go and try to spend eight hours with a middle-school kid, with a classroom of middle schoolers. It's difficult work. So I just...I think that this is precipitous and that it's not appropriate because there's been...to not have the schools on board and to say we've already compromised when the schools weren't even involved in the discussion of the compromise, isn't a compromise. So I will give the rest of my time to Senator Walz. Thank you. [LB415]

PRESIDENT FOLEY: Thank you. Oops. Time has actually expired, I think. [LB415]

SENATOR PANSING BROOKS: Oh. [LB415]

PRESIDENT FOLEY: Sorry, Senator. Senator Craighead. [LB415]

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

Floor Debate  
May 05, 2017

---

SENATOR CRAIGHEAD: Thank you, Mr. Lieutenant Governor, and good morning, colleagues. I yield my time to Senator Kolterman. [LB415]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Kolterman, 4:50. [LB415]

SENATOR KOLTERMAN: Thank you very much, Senator Craighead. I'm going to talk a little bit again about the qualification of a defined benefit plan. A 401(a) qualified defined benefit plan like the school plan must comply with the Internal Revenue Code, IRC, in both form and operation, how the law is executed. The IRS plan qualification letters reaffirm this standard. They state, in relevant part: Continued qualifications of the plan under its present form will depend on its effect in operation. And you can see that in Section 1.401(b)(3) of the income tax regulations. We will review the status of the plan and the operation periodically. The Legislature, which we're a part of, has changed the Nebraska Public Employees Retirement System under the direction of the Nebraska Public Employees Retirement Board, the PERB, with administering the retirement system in a manner which will maintain the plan's status as a qualified plan under the IRS/IRC code. To ensure compliance with this provision of the IR, Internal Revenue Code, the PERB and NPERS have sought guidance from outside tax law experts when questions significant in magnitude arise. Over the years, these experts have rendered opinions that have guided plan administrations. Now there's concerns about the form that we're talking about. In 1999, LB545 in part attempted to remove the requirement in Nebraska law that a plan member experience a break in service before receiving retirement benefits. The PERB, which you've already heard about, and NPERS sought guidance from an outside law expert. That expert "opinioned" this: The removal of the break in service requirement under LB545 would create a substantial concern that the IRS would conclude that the governing status would permit actively employed members to commence payment of the plan benefits before their retirement/ termination of employment and, as a result, violate Section 401(a) of the Internal Revenue Code. Based in part on this opinion, the provisions of LB545 removing the requirements that a plan member experience a break in service before receiving retirement benefits, did not pass. LB415 in part amends the law on the school plan that requires school plan members to experience a break in service before receiving their retirement benefits. Amending the period to be too short, as I've said many times, could in operation result in the IRS concluding that the school plan does not comply with Section 401(a) of the Internal Revenue Code. The concern grows sharply when considering the operation in the majority of the school employees' contracts. The concerns about the operation are this. The Internal Revenue Code requires that employee have a bona fide severance of employment before benefits can be paid. This is a long-standing tax qualification rule to ensure compliance with the provisions of the IR, Internal Revenue Code. NPERS has sought legal guidance from subject matter experts, including outside tax law experts. One outside tax law expert has "opinioned" again this: A participant must experience a bona fide termination of employment that completely severs the employment relationship to be considered as having separated from service. That is why there is a serious concern that if benefits are paid to a former

Floor Debate  
May 05, 2017

---

employee, an employee is retired by the...rehired by the sponsoring employer without sufficiently long break in service between the termination date and the date of reemployment, the IRS could find that there has not been a bona fide severance of employment and that the commencement of the pension benefit violates the tax qualification requirements and the severance must be determined in accordance with the facts and circumstances of each case. So each case that comes to the PERB gets reviewed. It's created an enormous amount of burden. [LB415]

PRESIDENT FOLEY: Senator Kolterman, time has expired but you're next in the queue. You may continue. [LB415]

SENATOR KOLTERMAN: Thank you. And that, in order to support the commencement of plan benefits, severance must be consistent with the concept of a pension plan within the meaning of Section 401(a). On this basis, the tax qualification rules undoubtedly require that the severance be a bona fide termination of employment with the intention of a permanent severance of the employer-employee relationship. This expert's opinion was sought over 15 years ago during when the PERB and the NPERS identified a problem with this operation. This problem has been growing and growing and growing, and it's grown over 15 years. So we brought the amendment. They brought the amendment to me. I've been working on it for two years. We came up with 180 days. That's okay. If we want to adjust that, I've agreed to adjust that down. There's no question that I'm willing to work on that. But if we're going to do that, we could even go to 120 days. If we're going to do that, and I'm probably even open to that idea, but then we're going to...when we pay them in May, whenever they retire, that has to be their last day of work and they have to get all of their money. And if they want to deduct their health insurance out of the money that they're going to receive, I would be open to that. So I would take it to 120 days. I would compromise even more. I would take it to 120 days if they're willing to move all of these retirements to May, pay everything out in May, and then sit out 120 days. I think my proposal is better for them being able to come back, but I'll be willing to do that. So don't tell me I'm not willing to compromise. I will do that but I can't do it here. It's going to have to be on Select File and you've got to trust that I'm a man of my word. I don't think I've relinquished on that yet on this floor. So if that's a compromise that anybody can live with, I'm willing to work on it. Did you hear that? I'm willing to go to 120 days if we have a clear break on a certain date and that certain date allows them to get paid out everything that they have coming and it allows them to deduct the health insurance from what they get paid out. I'm not willing to compromise anymore on the 18-month separation of service agreement. That's not asking a lot because they're getting paid an extra...they're getting paid extra to quit early. That's two pensions they're getting right away. Thank you. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Mr. Clerk for an announcement. [LB415]

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

Floor Debate  
May 05, 2017

---

CLERK: Mr. President, thank you. General Affairs will have an Executive Session at 11:00 in Room 2022. Thank you.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing debate, Senator Stinner. [LB415]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, I want to thank Senator Kolterman for taking on this issue. I also am a member of the Retirement Committee and I just cannot support something that's going to jeopardize this teacher plan. And obviously we've had visits from the PERB legal counsel. They met with us and they believe that we need to have this type of an amendment put in, so I am not for AM1219 or the recommit motion. And I'd like to yield the rest of my time to Senator Baker. [LB415]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Baker, 4:20. [LB415]

SENATOR BAKER: Thank you, Mr. President. I'm going to talk about the substitute teachers. I mean, that's been one of the reasons given why we can't do what Senator Kolterman is proposing. Right now there's 180 days so that takes you up to about November 27, roughly 75 school days. And according to Orron Hill, IRS says you can only work up to 20 percent of the time. That means a person could legally teach, substitute teach 15 days during the current 180-day period. If you want to stretch it, say, well, they really separated May 1, or May 31 or whenever the last day of work was, and count those summer days, too, that's still 20 percent of those 180 days, still only gives you up to 36 days. Forty-five days exceeds that. Under the amendment, going to 140 days, people can actually substitute more. In that 140-day period, people will not be able to substitute at all. But from around October 17 to November 29, which is a period now that's covered by the 180 days, they could substitute 28 times. So a retired teacher could actually substitute more under this plan than they can right now. So what happens during those first 140 days of the separation? You know, that takes us up to roughly October 17. Who could not sub during that time? Just the people who retired the previous year. No one else is restricted. And I will tell you, not everybody who retires from teaching wants to substitute, so we're talking about a relatively few people. So under the plan people could actually substitute more. If that's their desire to retire and do a fair amount of substituting, just taking that period up to November 27, they'd be able to work 28 days instead of the current 15. Problem is people are exceeding 15 right now. It's hard to keep track of because they go to work in various districts. No one has all that information until someone turns into the NPERS and someone is investigated and start adding it all up and find some in violation of the plan. This with all due respect to Senator Walz, my former student. I have great respect for Senator Walz. I think she's doing a great job as a freshman senator. Remember, retirement is not just teachers. It's administrators. It's paraprofessionals. It's food service workers. It's bus drivers, secretaries, everybody who works in a school. So this is not just a teacher plan. It's everybody who works in education plan. So this is

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

Floor Debate  
May 05, 2017

---

not a threat. This is not a threat to the profession of teaching; it's not a threat to our retirement plan. There are threats on the horizon. There's people--I've heard it mentioned on this floor--people who want to go after the Commission on Industrial Relations. They want to defang professional negotiations. So... [LB415]

PRESIDENT FOLEY: One minute. [LB415]

SENATOR BAKER: ...this can't be about the amount of time that people can substitute, so let's not get stuck on stupid here, folks. Thank you. [LB415]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Smith. [LB415]

SENATOR SMITH: Thank you, Mr. President. And I just want to thank Senator Baker and Senator Kolterman for their work on this. And I know that Senator Kolterman is offering some type of a compromise here and I...again, it seems very reasonable, the approach that he and Senator Baker are taking. I stand in opposition to this motion to recommit. I stand in opposition to AM1219 from Senator Walz and in support of the Retirement Committee amendment and Senator Kolterman's bill. And with that, I will yield the remainder of my time to Senator Kolterman. [LB415]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Kolterman, 4:30. [LB415]

SENATOR KOLTERMAN: Thank you, Senator Smith. Again, thank you, Mr. President. I threw out my willingness to compromise. I did that. It's a good-faith effort. But here's the caution that I tell you. I'm doing what I can but I've still got to get it tested by the legal counsel and I've still got to get it tested to make sure it would fly because, again, I'm not going to do anything to jeopardize this plan. Here's what I see that does. If we say that we're going to pay everybody June 1 and they're going to get their retirement starting June 1 and they're going to get their health insurance June 1 and they're going to get their last paycheck June 1 and they're done, that's when the clock starts ticking for the 120 days. So they've now sat out June, July, August, when school normally starts, and 30 days in September. We've allowed them to come back to work in 30 days. So if we accept that compromise, they've sat out for 30 days, but they can come back and they can take another full-time teaching job wherever they want to take it, what have we done? We've encouraged them to get back in the plan. We've encouraged them to dilute the plan, just exactly what the actuaries tell us not to do. And we cause a problem. Now, again, don't tell me I'm not willing to compromise. I'm willing to compromise anytime we can do it. I'd like the time to work. I'd like to have Senator Walz and Senator Pansing Brooks withdraw their motions. I'd like to advance this bill and I'd like to work on an amendment that could be drafted on Select where we can figure out how we make this work. But I will tell you that if it's going to

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

Floor Debate  
May 05, 2017

---

hurt the plans, I'm going to be extremely disappointed because I'm doing everything I can to save it. So with that, I would yield my time to Patty...or Senator Patty Pansing Brooks,... [LB415]

PRESIDENT FOLEY: Senator Kolterman... [LB415]

SENATOR KOLTERMAN: ...hopefully pull her amendment. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Patty Pansing Brooks, 1:30. [LB415]

SENATOR PANSING BROOKS: Thank you, Senator Kolterman, and thank you, Mr. Lieutenant Governor. I would really like to thank Senator Kolterman for working and finding a good compromise. I think people are very pleased with the compromise. I think it sets a bright line and makes sure that teachers know that they have a line past which they cannot move. And I think right now the amendment is being drafted, but I don't know. I think we're doing it on Select but I'm not exactly sure. Is it going on Select? Oh, could I ask a question to Senator Kolterman, please? [LB415]

PRESIDENT FOLEY: Senator Kolterman, would you yield, please? [LB415]

SENATOR KOLTERMAN: Yes, I will. Senator Pansing Brooks, I want to make it very clear what I just said. If this jeopardizes the plan in any way, on Select we're going to have to negotiate that as well. But I am willing to use 120 if we can make it work. [LB415]

SENATOR PANSING BROOKS: Okay, I appreciate that. Thank you, Senator Kolterman. So I just really appreciate his willingness to work through and listen to the teachers. And I know that the teachers and the schools feel positive about this and I really appreciate it. And it's my understanding that we're still needing some time. Is it...it's going to be done on Select? [LB415]

SENATOR KOLTERMAN: I would hope (inaudible). If you take me at my word, it will. [LB415]

SENATOR PANSING BROOKS: Okay. I am now withdrawing my motion to recommit, Mister... [LB415]

PRESIDENT FOLEY: The recommit motion has been withdrawn. [LB415]

Floor Debate  
May 05, 2017

---

SENATOR PANSING BROOKS: Thank you. And with that... [LB415]

PRESIDENT FOLEY: Time has expired. [LB415]

SENATOR PANSING BROOKS: Pardon me? [LB415]

PRESIDENT FOLEY: Time is expired. [LB415]

SENATOR PANSING BROOKS: Thank you. Oh. [LB415]

PRESIDENT FOLEY: We're now back on AM1219. Senator Blood. [LB415]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, there are several questions that I still need answered that I'm hoping when I repeat this for the second time, because I did talk about this in our previous conversation. I am really confused about why we're doing this because...and I appreciate the work being done by the Retirement Committee. You work very hard. You have knowledge that many of us do not. But there were reforms made in 2013 through LB253 and I encourage you to bring that bill up on your computers right now. That bill funded the plan at 90 percent and it was projected to be 100 percent funded by 2040. And we had the discussion on the floor where an 80 percent funded ratio or higher was considered acceptable. So when I did my research when I ran for office, I researched all the retirement plans and the best funded plan in the state of Nebraska, in my personal opinion, based on my research, was this retirement plan, more than the judges, more than...I don't want to start listing everybody who I think (sic) plans aren't as good as this one. So I'm really confused why we're doing it again. But that's just my personal opinion. I want to bring this discussion back to what we're really talking about, and that's Nebraska's greatest natural resource, our children. I'm going to read a letter from our...a teacher that was not in the 400 letters that I received but a personal one that was sent to me from Christie (phonetic). And I have a huge microcosm of teachers in District 3 so I'm standing up for them. And she says: This year has been a difficult year. This year I've gone to work sick because the likelihood of getting a substitute for my students was zero. My peers have come to work sick because they, too, know the likelihood of getting a sub is unlikely. On days when a teacher doesn't arrive, we then have to come up with a plan and dividing up a student for the day according to my already large class. This means on days I had planned to go to a doctor appointment or attend a funeral, I have to write two sub lesson plans, one if a sub arrives and one if they don't show. I've spent three hours writing double plans for just one day off. I hope you will not support LB415. We need teachers that retire to be able to substitute right after they retire. Even now, the sub pool is so low due to our low unemployment rate. I encourage you and everyone to visit schools and see what we are doing. The job as an educator has become increasingly difficult. I understand our retirement age is also part of this

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

Floor Debate  
May 05, 2017

---

bill. It takes a lot to be a great teacher. I still consider myself youngish but there are days that I am exhausted. Teaching 25-30 students per class and halving multiple classes, write multiple lesson plans, preparing for each class, analyzing data, prepping for class assessments, district assessments, and state assessments, building relationships, monitor hallways, bus duty, tutoring after school, disciplining, communicating with families--this is the short list of what I have to do in a day with only a 45-minute plan time but usually it means I have to do work in the evenings from home. The option to retire early is to the benefit of our children in Nebraska. Teacher burnout is real. Teaching is exhausting. Teaching extends beyond just the lesson the students sit through. Teachers need the option to stop teaching full time and to move into subbing and pursue other options. Please support our students, but more importantly, vote no on LB415. Thank you, Christie Lee (phonetic). I, again, am puzzled why we are revisiting this,... [LB415]

PRESIDENT FOLEY: One minute. [LB415]

SENATOR BLOOD: ...when I feel it was resolved in LB253. I don't understand the momentum behind this, but as a freshman senator I know there are things I don't know. But I encourage my colleagues to look at that bill before they vote today. I stand in favor of Senator Walz's amendment but, frankly, I stand against everything on our board right now. Thank you. [LB415]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Williams. [LB415]

SENATOR WILLIAMS: Thank you, Mr. President, and good morning, colleagues. First of all I would really like to thank Senator Kolterman, the Retirement Committee, and then beyond that, the people that have been working diligently over the last couple of days, and in particular late last night and this morning, to arrive at what we now believe is the grand compromise to solve this situation and move it forward, first of all taking in consideration that what we are doing in maintaining the health of a defined benefit plan for the important teachers in our state is vital and it is vital for the teachers and we are doing this for the teachers and administrators, not trying to damage them in any way, shape, or form, as you know, because--I've said it before--I've had the opportunity to be involved with four plans during my professional career that had to be terminated because of financial instability. What we have arrived at is a slight addition to what Senator Kolterman has talked about thus far, which makes great sense. The school systems have agreed in basis that they will fully compensate...teachers or administrators at the end of their work days, even though there may be a contractual relationship that lasts a few months longer. So if the last day of school for a teacher is May 20, on their final paycheck they will be paid out the balance of their contract. They will also have to, that teacher and administrator will have to take care of their health insurance from that point on. What we are doing by that is establishing that bona fide break in service from that date, rather than having this limbo issue of is it that date or is it at the end of the contract? Also in that agreement, then, is the starting of 120-day clock,

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

Floor Debate  
May 05, 2017

---

rather than 140-day, rather than 150-day, rather than 180-day. In addition to that, we have had many discussions on a three-year, a two-year under the Baker amendment, or an 18-month break in service. The 18-month break in service will be proposed in a new amendment for those that take a buyout before they can return to full-time employment in a school system. However, if that same employee were to want to substitute, they could be available to sub after the passage of the 120-day clock. Also, there will be a provision put in for extreme emergencies, understanding that it is possible that a school system would be in such position that there is a...the need for a physics teacher, a whatever that under extreme circumstances or emergency circumstances they could fill a position like that. Those are the issues where we're getting to. The plan is to ask Senator Walz to withdraw her amendment, move forward with AM923 and LB415 as amended by AM923 and move it to Select File so this amendment that I have just talked about, that concept can be presented. That amendment is being drafted as we speak. But at 11:00 on the last day of the week it will be difficult... [LB415]

PRESIDENT FOLEY: One minute. [LB415]

SENATOR WILLIAMS: ...to do that. If you have questions, please come talk to either Senator Kolterman or myself. With that, I would like to yield the balance of my time to Senator Walz. [LB415]

PRESIDENT FOLEY: Senator Walz, you've been yielded 45 seconds. [LB415]

SENATOR WALZ: Thank you, Senator Williams. Thank you, Mr. President. First of all I want to thank everybody for working so hard on this. You know, the bottom line for me is that we have teachers in classrooms teaching kids. I will pull my AM1219 with the understanding that we are working on the 120-day separation and that we are going to address any teacher shortage in the 18...within the 18-month waiting period. Thank you, Mr. President. [LB415]

PRESIDENT FOLEY: AM1219 is withdrawn. Speaker Scheer, you're recognized. [LB415]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. I just wanted to sort of touch base with everybody as far as next week. And while I'm talking, I'd like to give everybody the opportunity to please shut your lights off because, as we can get the lights off, then we can get on with the vote and move this forward. So those of you, I'm not trying to tell you you can't talk, but if you have your lights on, there seems to be an agreement in principle and it would make sense perhaps to pop the lights off so that we can move forward. Having said that, next week is sort of fluid because of the budget and so forth, so I'm going to give you Monday and Tuesday. The rest I'll probably share with you sometime Monday. Monday morning we will be working on LB335. That provides some funds for the budget, so I want to make sure we do that as we move into the

Floor Debate  
May 05, 2017

---

budget. We will then go into Final Reading on some of the budget items. We will do the legislative portion, the constitutional offer portion, and the construction portion, as well as the claims. After that, we will do Senator Wayne's override on LB75 and then perhaps some Final Reading depending upon time permitting. On Tuesday morning we will start with the final three bills on the budget. Upon completion of that, we will take up Senator Murante's LR1CA. And we may add something, or not, on Tuesday depending upon the time. There probably will be something there in case things move faster or slower. But that will give you an idea sort of what Monday and Tuesday looks like. I'm hoping not to run into evenings, so I'm not calling for late nights. I believe Monday should be workable. Tuesday, depending upon how the budget goes probably determines how long we might have to go, but that this time we won't be utilizing late nights, at least for that capacity. So again, those that have lights on, like Senator Clements, if you would shut it off, that would be great so that we can move on with this bill. (Laughter) And I appreciate everyone's work this week. It's been a tough week. We've got a lot done. And enjoy your weekend. Thank you, Mr. Lieutenant Governor. [LB415]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Mr. Clerk. [LB415]

ASSISTANT CLERK: Mr. President, the next amendment I have to LB415, Senator Kolterman. [LB415]

PRESIDENT FOLEY: Senator Kolterman, you're recognized on your amendment. [LB415]

SENATOR KOLTERMAN: At this time I'd like to withdraw that amendment. [LB415]

PRESIDENT FOLEY: That amendment is withdrawn. Members, we're now back on the committee amendment, AM923. Senator Erdman. He waives the opportunity. Senator Quick. I do not see Senator Quick. Senator Brasch. Do not see Senator Brasch. Senator Hilkemann. Do not see Senator Hilkemann. Senator Bolz. [LB415]

SENATOR BOLZ: Thank you, Mr. President. I wanted to rise as a member of the Retirement Committee to thank everyone for their hard work and engagement in trying to get to a place where we can discuss what the right thing to do for the teacher portion of this bill. And the reason I want to thank everyone for that willingness to engage in dialogue and cooperate is that the underlying bill is really important. And it's really important to a number of different plans. And I kept my light on because I thought that as we advance LB415, we did need to pause for a minute and talk about the underlying bill and the importance of the underlying bill moving forward this year. And to me, the most important part of the underlying bill that's moving forward was originally in LB219, which is related to the mortality tables in the plans and making sure that that piece of this moves forward and can be updated. Other pieces relate to

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

Floor Debate  
May 05, 2017

---

clarifications of the definition of disability, clarifications about military service, clarifications about reporting and payouts. I have a summary here with me related to all of the portions of this bill. But I did just want to refresh the committee and the body's attention on the underlying bill and the importance as it relates to keeping our plan sound, avoiding legal issues, providing clarity for retirees in a number of different plans. So I appreciate the body's willingness to move forward on the underlying bill. Thank you, Mr. President. [LB415 LB219]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Kolowski. [LB415]

SENATOR KOLOWSKI: Thank you, Mr. President. I just simply want to thank, as a member of the committee, again, thank Senator Kolterman for his leadership and his flexibility this morning on these topics. It's been very important to us. One of the things that became abundantly clear in the last couple of weeks was the complexity and a great deal of clarity starting to come about on some of the issues internally in this bill in total that were very important to us. That grew over time and I thank the entire committee for the work they put into where we are and the difference this will make with retirement teachers. This is really important to us to have the substitutes that we need in our classrooms. Senator Baker and myself are the ones who had to deal with that over our career and nothing is more important than having fully certificated and trained teachers dealing with the students on a daily basis. I think we have a very good...a great start for excellent compromise and the pieces of this coming together will put us in a great place for the future. Thank you very much. [LB415]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Kolterman, you're recognized to close on AM923, committee amendment. [LB415]

SENATOR KOLTERMAN: Thank you very much, Mr. President. In closing I'd like to say thank you to a lot of people. The first person that I need to thank are two attorneys that have worked diligently: my legal counsel, Kate Allen--I don't...she left--Orron Hill. We spent a lot of time drafting this legislation and the committee has worked very closely with me. Like to thank Senator Walz for pulling her amendment and Senator Pansing Brooks for pulling her recommit amendment. Everybody in here knows that I'm a man of my word, so if I tell you that I'm going to work with you to get this resolved and compromise, I will do that. I do want you to know, though, the 120 days will have to be written very thoroughly and will have to be looked at very closely. I'm not saying I'm not agreeing to that, but it has to meet the criteria necessary to keep this plan fully funded. I've gone as far as I can go in that. I don't see any way...obviously I could have taken it to a cloture vote. Unfortunately, it's Friday afternoon at 11:00 and people are gone and I probably wouldn't...I had the 35 votes but I don't think they're here any longer. So in the essence of what Senator Bolz said, we have LB31, LB32, LB110, LB219, LB278, LB413, and LB532 all rolled into this bill. It has to move forward because it's all good legislation. And I've

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

Floor Debate  
May 05, 2017

---

said all along I was willing to compromise and we spent most of this week working on compromises. So thank you. I would encourage you to support AM923, LB415, and there will be changes on Select. With that, have a nice weekend. [LB415 LB31 LB32 LB110 LB219 LB278 LB413 LB532]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Members, you've heard the debate on AM923 committee amendment. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB415]

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of the committee amendments. [LB415]

PRESIDENT FOLEY: The committee amendments are adopted. Senator Kolterman, you're recognized to close on the advance of LB415. [LB415]

SENATOR KOLTERMAN: Again, thank you. [LB415]

PRESIDENT FOLEY: He waives closing. The question for the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB415]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance the bill. [LB415]

PRESIDENT FOLEY: LB415 advances. (Visitors introduced.) Proceeding on the agenda, Select File, 2017 committee priority bill. Mr. Clerk. [LB415]

ASSISTANT CLERK: Mr. President, LB289 does have E&R amendments. (ER39, Legislative Journal page 867.) [LB289]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB289]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB289. [LB289]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB289]

Floor Debate  
May 05, 2017

---

ASSISTANT CLERK: Senator Pansing Brooks would offer AM1175. (Legislative Journal page 1332.) [LB289]

PRESIDENT FOLEY: Senator Pansing Brooks, you're recognized to open on AM1175. [LB289]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. On General File, a few senators came up with some issues that they were concerned about regarding the human trafficking. And as you remember, 13 is the age that a person is first commercially trafficked. There are 900 people sold for sex in Nebraska per month multiple times. Fifty percent of the people sold are African-American, even though they only make up 5 percent of our population, and 60 percent are nonwhite vulnerable minorities and foster children. The younger the child, the greater the profit. This creates incentives to recruit and my intention is to attack the market. So I met with the senators, Senator Schumacher, Senator Chambers, Senator Hilgers, and the Attorney General; and we have worked to find common ground. The changes do not water down the bill, but they do clarify the intent. I passed out an updated fact sheet and they have the key changes from E&R. If you look at the fact sheet from the Women's Fund, you can make those...look at those differentials. First of all, Section 8(11) amends the definition of sex trafficking to include "without consent" as defined in Nebraska Revised Statute 28-318. This is important because it clarifies force, fraud, and coercion, which was an idea that I had to add because that's...I think that clarifies the bill and clarifies the intent. Force, fraud, and coercion, the definition for that...this is from the statute on without consent. "Without consent means: (a)(i) The victim was compelled to submit due to the use of force or threat of force or coercion or (ii) the victim expressed a lack of consent through words, or (iii) the victim expressed a lack of consent through conduct, or (iv) the consent, if any was actually given, was the result of the actor's deception as to the identity of the actor or the nature or purpose of the act on the part of the actor; (b) The victim need only resist, either verbally or physically, so as to make the victim's refusal to consent genuine..." So we're referring back so that there is an understanding of the difference between prostitution and trafficking because a prostitute, there is consent and not in trafficking. Also we added back "knowingly" because Senator Chambers had pointed out that he felt that was necessary for felony and I agreed that that was important; and we removed both uses of the word "recklessly" in the bill. Additionally, AM1175 also removes Section 9(3) of the previous version. Senator Schumacher expressed issues with this section as it related to solicitation. So to clarify it, I removed the entire section and added solicitation as a part of the current definition of trafficking just to add clarity. We do not differentiate between the traffickers and the buyers. Then we removed the separate penalties that differentiated by, quote unquote, use of force. [LB289]

PRESIDENT FOLEY: Excuse me. Excuse me, Senator. (Gavel) Members, please come to order. Please continue, Senator. [LB289]

Floor Debate  
May 05, 2017

---

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Since all sex trafficking is by definition force, we didn't...I realize that we did not need this additional differentiation. So it will be up to the judges to differentiate if something is clearly heinous and that will add to the number of years. So I trust the judges with that ability to use discretion according to the crime. Additionally, sex trafficking of an adult is now a Class II penalty. You can refer to the fact sheet on that. Sex trafficking of a minor is a IB felony, no matter...and again, I've not separated between coercion and force because all of it is coercion and force. So most importantly, I want you to realize that there are no penalties in this bill that carry a mandatory minimum with the addition of this amendment. That's the art of compromise. And I am not a fan of mandatory minimums and many of us on this floor are not. But we've been able to keep the penalty strong and to change it so that we didn't have to use the mandatory minimums. The IB penalty is a higher classification, has a higher range of penalties than a IC and a ID, but it does not have the mandatory minimum that those classifications carry. So then you look at half of the sentence that's given because of the way we figure out good time. So we creatively amended the mandatory minimums out while keeping with the intent to crack down on traffickers. And for the legislative record, I want to send out a loud and clear message to traffickers, to purchasers, to law enforcement, to judges. We are no longer going to accept the despicable sale of human flesh for commercial profit. This is sex via force, fraud, or coercion. This is it. We're drawing a line in the sand. We expect law enforcement to understand this and we expect the judges to understand this. Did you say time? [LB289]

PRESIDENT FOLEY: No, Senator. You got 4 minutes. [LB289]

SENATOR PANSING BROOKS: Oh, okay, sorry. We will now be protecting our children and our most vulnerable people in this state. You know, women were spearheading a lot of this movement, just like they spear-headed the drunk driving laws and with the Mothers Against Drunk Drivers. And I want to thank the groups that have been so significant in working on this, including the Women's Fund and Voices for Children and all the different groups that have worked on this so wholeheartedly. This has been supported significantly by Attorney General Doug Peterson. I want to thank him for his commitment, since day one when he was elected, to work on this and to make sure that we send the message that Nebraskans had better watch out. If you're going to buy sex, you better be dang sure that those people are not trafficked. You better be dang sure that it's not a child because these penalties are increasing. And even though we have changed them from the original penalties in my bill, they are still significant. And if you know people who like to go out and engage in this activity, you better warn them that they're going to be made an example. We have adjusted the mandatory minimums, but we're sending a message loud and clear that we are resolute to stop this crime and eradicate this scourge in our community and our society. Thank you, Mr. Lieutenant Governor. [LB289]

Floor Debate  
May 05, 2017

---

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. There are no members in the queue. Senator Pansing Brooks, you may close on AM1175. Oop, excuse me. Senator Hilgers. [LB289]

SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. Just briefly I wanted to commend Senator Pansing Brooks for the hard work she put in, bringing this bill in the first place. And I know she worked very hard with Senator Schumacher and others between General and Select as she committed to doing. I was very happy and proud to be part of those efforts. I think the amendment is a good one. And it goes to a very important goal, and I think this is going to make a big impact in our community. So I want to thank Senator Pansing Brooks for her effort. And I encourage everyone to vote green on AM1175 and the underlying bill. Thank you, Mr. President. [LB289]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Chambers. [LB289]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Pansing Brooks knows that when it comes to certain things, I am a perfectionist. But when I look at what this bill is designed to do, the issues that are being raised and addressed to the extent they are, I swallowed hard and I'm going to agree to follow the lead that has been provided. I had made comments about the Attorney General's involvement and such things as that. None of that is coming into play. Sometimes when you're building a house, you cannot build all of it at one time, so you lay the foundation, you make sure that it's firmly based, then you can build on it. There are some changes I would like to see. Maybe when a time comes, I will not necessarily see the need. But for right now, I'm supporting the bill; and there will be other comments that I'll make as certain types of amendments are attempted. But at this point, I'm on board. And I'll let it go at that. Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Pansing Brooks, you're recognized to close on AM1175. [LB289]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Again, I just want to thank Senator Chambers for his efforts, Senator Schumacher, Senator Hilgers, and the Attorney General and all the groups that have been so diligent in working...the Nebraska Criminal Defense Association for all their help. And with that, I hope that you will vote for AM1175 and vote LB289 to Final Reading. Thank you. [LB289]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Members, the question before the body is the adoption of AM1175. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB289]

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

Floor Debate  
May 05, 2017

---

ASSISTANT CLERK: 38 ayes, 0 nays on the adoption of the amendment. [LB289]

PRESIDENT FOLEY: AM1175 is adopted. Mr. Clerk. [LB289]

ASSISTANT CLERK: Senator Morfeld would offer AM1331. (Legislative Journal pages 1365-1368.) [LB289]

PRESIDENT FOLEY: Senator Morfeld, you're recognized to open on AM1331. [LB289]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, this amendment is very simple. It takes my bill, LB394, completely out of LB289. After talking with some of the different stakeholders, particularly some of the domestic violence groups, I think that this bill might have some unintended consequences. So I want to take it completely out of LB289 and then study it more over the interim to make sure we're all on the same page. If you have any questions, I'd be happy to answer them. Thank you. [LB289 LB394]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Debate is now open on AM1331. Seeing no members wishing to speak, Senator Morfeld, you're recognized to close on your amendment. He waives closing. The question before the body is the adoption of AM1331. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB289]

ASSISTANT CLERK: 30 ayes, 1 nay on the adoption of Senator Morfeld's amendment. [LB289]

PRESIDENT FOLEY: AM1331 is adopted. Mr. Clerk. [LB289]

ASSISTANT CLERK: Mr. President, nothing further pending on the bill. [LB289]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB289]

SENATOR WISHART: Mr. President, I move to advance LB289 to E&R for engrossing. [LB289]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB289 advances. Proceeding on the agenda, General File appropriations bill, LB578A. Mr. Clerk. [LB289 LB578A]

ASSISTANT CLERK: LB578A introduced by Senator McDonnell. (Read title.) [LB578A]

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

Floor Debate  
May 05, 2017

---

PRESIDENT FOLEY: Senator McDonnell, you're recognized to open on LB578A. [LB578A]

SENATOR McDONNELL: Thank you, Mr. President. LB578A is the appropriations bill for LB578, ground emergency medical transport. I'd like to note that while there is a need for an A bill, but the cash fund is fully funded through an outside revenue source, there will be no negative fiscal impact to the state. There will be no negative fiscal impact to the state. I ask you to please vote green on LB578A. Thank you. [LB578A LB578]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Debate is now open on the bill. Senator Chambers. [LB578A]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have a question I'd like to ask Senator McDonnell if he would respond. [LB578A]

PRESIDENT FOLEY: Senator McDonnell, would you yield, please? [LB578A]

SENATOR McDONNELL: Yes. [LB578A]

SENATOR CHAMBERS: Senator McDonnell, a question that I've always wanted to ask and you're the best person I can think of to ask it. Would you respond? [LB578A]

SENATOR McDONNELL: Yes. [LB578A]

SENATOR CHAMBERS: Why are we all here? [LB578A]

SENATOR McDONNELL: We are here to work together as 49 individuals, coming from different backgrounds with different experiences, to try to help every person in the state of Nebraska be the best version of themselves. [LB578A]

SENATOR CHAMBERS: I told you he was the one to ask the question to. Thank you, Senator McDonnell. [LB578A]

SENATOR McDONNELL: Thank you, Senator. [LB578A]

PRESIDENT FOLEY: Thank you, Senator Chambers and McDonnell. Senator Krist. [LB578A]

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

Floor Debate  
May 05, 2017

---

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. We're at the end of the day and I just want to take this opportunity to ask you all to search deep in your souls--and this is a very serious request--and make sure that you pay attention to the override vote that will come on Monday in the fact that Senator Wayne will be bringing to us an override for a veto. I don't take those veto overrides lightly. I take them very seriously. I've made several of them and I've averted several of those in my career. But this truly is a civil rights issue. It truly is an incentive to reduce recidivism. It truly is the right thing to do. There are already so many restrictions on people who leave our penitentiaries and our jails. It is the right thing to do. So over this weekend, if you are on the fence and if you would like to be convinced, call me. If you're on the fence and you would like to be...get all the information, both positively and negatively, call Senator Wayne because he is the expert. But it will be a request from Senator Wayne to override the Governor's veto on the voting rights for those who have served their time and returned to our communities, hopefully with a clean slate to start over, a second chance. Thank you, Mr. President. [LB578A]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Riepe. [LB578A]

SENATOR RIEPE: Thank you, Mr. President, colleagues. I would ask Senator McDonnell if he would yield to a question. [LB578A]

PRESIDENT FOLEY: Senator McDonnell, would you yield, please? [LB578A]

SENATOR McDONNELL: Yes. [LB578A]

SENATOR RIEPE: Thank you, Senator McDonnell. I had intended to do this off the mike, but it got moving and I wasn't in the Chamber. Can you confirm with me that there was an agreement from the Lincoln fire chief that will pay for this appropriation amount? [LB578A]

SENATOR McDONNELL: Yes. And I have it in writing. [LB578A]

SENATOR RIEPE: You do have it in writing. Okay. For the actual cost or is it a specific dollar amount? [LB578A]

SENATOR McDONNELL: I will pass it out after I read it. [LB578A]

SENATOR RIEPE: Okay. [LB578A]

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

Floor Debate  
May 05, 2017

---

SENATOR McDONNELL: "...the city of Lincoln/Lincoln Fire and Rescue would like to extend our offer of covering the design and programming costs to include the potential \$15,000 expenditure for the Nebraska Department of Health and Human Services. Thus the result will be a 'zero cost' to the state as originally intended." [LB578A]

SENATOR RIEPE: Thank you. Thank you. Thank you, Mr. President. [LB578A]

PRESIDENT FOLEY: Thank you, Senator Riepe and Senator McDonnell. Senator McDonnell, you're recognized to close on LB578A. He waives the opportunity. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB578A]

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill, Mr. President. [LB578A]

PRESIDENT FOLEY: LB578A advances. Items for the record, Mr. Clerk. [LB578A]

ASSISTANT CLERK: Thank you, Mr. President. Notice of committee hearing from the Education Committee and from the Health and Human Services Committee. New A bills: (Read LB512A and LB289A by title for the first time.) Interim study resolution LR130 by Senator Groene. That will be referred to the Executive Board. The Committee on Enrollment and Review reports LB644 to Select File with amendments. Amendments to be printed: LB632 by Senator Blood and Senator Krist to LB233. (Legislative Journal pages 1368-1370.) [LB512A LB289A LR130 LB644 LB632 LB233]

Finally, a priority motion. Senator Kuehn would move to adjourn until Monday, May 8, 2017, at 9:00 a.m.

PRESIDENT FOLEY: Members, you heard the motion to adjourn. Those in favor say aye. Those opposed say nay. We are adjourned.