

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-fifth day of the One Hundred Eighth Legislature, First Session. Our chaplain today is Senator von Gillern. Please rise.

von GILLERN: Please join me in prayer. Romans 8:28 says, And we know all things work together for good for those who love God and are called according to his purpose. So regardless of whether we feel like we're winning or losing, regardless of whether we achieve our personal or group goals, regardless of whether we stay through the evening or go home early, regardless of health challenges, financial challenges, family or personal challenges, you promise, Lord, that you will use all things for good to those who love you. This morning, we come to you trusting that despite what we may see with our eyes, despite fleshly victories or losses, despite overwhelming challenges before all of us, you have the big picture covered. Your plans exceed our plans. We jointly declare today that we trust you and we submit to your plans over our plans. Let us put your agenda before our own and strive to do our best to serve you today and every day. Give us the energy, the stamina, the will, the courage to do all that you have called us to. Nothing more and nothing less. In Jesus' name. Amen.

KELLY: I recognize Senator Hansen for the Pledge of Allegiance.

HANSEN: Colleagues, please join me in the Pledge of Allegiance. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

KELLY: Thank you. I call to order the seventy-fifth day of the One Hundred Eighth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

CLERK: There's a quorum present, Mr. President.

KELLY: Thank you. Are there any corrections for the Journal?

CLERK: Mr. President, Senator Cavanaugh would correct the Journal on page 1385: strike the comma after "Walz."

KELLY: Senator Hunt, please state your point of order.

HUNT: I object to removing the comma in Senator Cavanaugh's motion.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: Senators Hunt, Cavanaugh and the Speaker, could you please approach? Speaker Arch, you're recognized for a point of order.

ARCH: Point of order, Mr. President. I would like a ruling from the Chair on whether attempting to correct the Journal from the floor is an appropriate method for correcting the Journal.

KELLY: Senators Cavanaugh and the Speaker, please come forward. Members, the point of order was to ask whether or not the Journal can be corrected from the floor. It's my ruling that a member of the body attempting to correct the Journal with a motion from the floor is not allowed. While Mason's Manual in Section 700(1) states that it's an inherent right for a legislative body to correct its Journal, Section 700(7) also states that were the chief legislative officer is authorized to correct the Journal, the record with any corrections by the chief legislative officer is to be accepted as the true record. Additionally, Mason's Manual in Section 699(1) outlines the manner of correcting the Journal through the presiding officer inquiring if there are any corrections with the implication that the inquiry is to the chief legislative officer. Alternatively, Section 699(2) outlines that responsibility for the Journal corrections may, quote, be assigned that responsibility to a committee, the Journal clerk or another officer. Finally, Rule 1, Section 18 of the rules of the Nebraska Unicameral Legislature directs that the Clerk of the Legislature shall keep a journal of our proceedings. By rule, the body has authorized the clerk to keep the Journal, and it's his or her responsibility to make those corrections. This directive is in line with Mason's Manual Section 700 and Section 699. Corrections are not a motion from the floor but rather the responsibility of the clerk to make corrections. Certainly, members of the body may alert needed corrections to the clerk, but a correction would not be a motion from the floor. The record of the Legislature or the daily Journal is not to be subject to changes voted upon by the body, but must be an accurate recording of the proceedings of the Legislature. Senator Wayne has ruled-- or, moved to overrule the Chair. All members may speak once. No member may yield time or ask questions of another member.

CLERK: Motion to overrule.

KELLY: Senator Wayne, you're recognized to open on the motion to overrule the Chair.

WAYNE: Thank you, Mr. President. And thank you for the detailed outroom. A couple of things here is, one, somebody from outside this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

body is making a ruling on our procedures on how we, how we govern, and I don't think, one, we have ever abrogated or lost the right to debate the rules, debate anything in-- one, to, to give our Journal blanket guidelines to-- blanket right to just never correct it. In fact, every morning we ask for, any corrections in the Journal? Once there is a motion on the floor-- any correction to the Journal?-- that can be a record vote. In fact, you can call for a record vote at any time. Therefore, if it's a record vote, we have the right, inherent right, to keep that Journal-- or, keep that record. If somebody objects to a correction, if somebody objects to a correction, then that is a debatable motion. One, we've already set precedent this year with that. But two, we vote on it every time. Now, while it is true we give the clerk the authority, if that authority did not come before this body-- and we actually do it every day, where we say, is there any correction to the Journal-- then I would agree with the ruling here, but that's not the case. Every morning, we start with a vote by unanimous consent on whether or not there are corrections to the Journal. If there is a vote, a possibility of a vote, it is a debatable motion on the floor. That is just 101 Mason Manual. And I think that's just 101 of how the body works. If there is correction to the Journal and we say "record vote," it is a vote. That means we dictate what goes in there and it's a debatable motion. To say that it's not, then why do we vote every morning? And we have a historical practice since 1970s of doing this. So we're saying the practice has been wrong for the last 50 years? I don't believe so. While it does, in Mason Manual, say in Section 699 that the clerk may correct the Journal, it does also outline how the body can correct the Journal. So I do think it's relevant. I do think the body can. If we want to, one, allow another branch of government to dictate how we do things in here and make a ruling, that's fine. This is our opportunity to overrule. Two, we've already done it and nobody raised a point of order before when we did it in this-- set in another past, past practice. But lastly, it's just fundamental votes. If every morning-- and you can go up and ask the clerk-- if every morning we can do a record vote on correction of the Journal, which we can, then it is a vote. It is a motion before this body. That's just the facts. If we get to vote on it, we get to debate it, period. There are only certain things that are nondebatable, which are specifically listed in our, our, our rules, like a motion to adjourn, motion to sine die. Those are not debatable. Nowhere in there does it say corrections for the Journal are not debatable. If it's debatable, it is a motion. Therefore, it can be done. And if we want to prolong, prolong this, I would, I would dare somebody to ask me a question and then have the next objection be that we can't ask questions. Yielding time and asking questions are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

two different things. We can have an overrule of an overrule of an overrule, and we can do overrule until we get to noon today. Thank you, Mr. President.

KELLY: Thank you, Senator Wayne. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. And good morning, colleagues. I rise in support of the motion to overrule the Chair and agree with the take that my friend, Senator Wayne, has put forward in regards to his analysis and reasoning on this. I also wanted to lift and reaffirm a couple of additional key points. The Chair's ruling in regards to the Speaker's point of order is out of step with our past practice in this regard. And the rules-- and I-- the other reason that I think that it's important to lift precedent and past practice is because we're required to in our very rules that we adopted unanimously. So here's how the rule-- the structure of the rules kind of cascade in terms of our analysis and interpretation. One, if there's a rule on point, we utilize it. We also then look to tradition, custom and usage, and that's particularly why precedent is important. And then finally, if there's any ambiguity, then and only then do we turn to the Mason's Manual. So, number one, I want to acknowledge that, from the Chair's very ruling where he started with the Mason's Manual, that's out of step with what our rules require. Our rules require we utilize our rules, our custom, usage and tradition, and then finally defer to Mason's Manual if and only if there is ambiguity or question. So there is none because we have taken this up in our pattern and practice under our existing rules, including just last week when Senator Wayne brought forward identical motions before we commenced on the budget debate. And those were taken up as appropriately and in line with our past practice. So the presiding officer knows, even just last week, we had adhered to our existing custom and usage under our existing rules. And so now to change course, to change precedent and to start with Mason's Manual, it's a violation of our rules on its face and it also flies in the face of past precedent, including one established and reestablished just last week by Senator Wayne in regards to before we commenced on the budget debate. So I think that record speaks for itself and is credibly clear. Now again, colleagues, you can dislike the outcome of where we have been previously or where we have been even last week, but the way to address that is not to start creating new precedent from the floor and allowing the presiding officer to do so. I think let's also state what's painfully obvious to everyone here-- the long treatise excerpted from the Mason's Manual by the presiding officer wasn't just brought forward on the spot. So this is a well-orchestrated effort to undercut not only our rules but also our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

precedent to achieve a goal. Whether it's gutting bills, whether it's stacking committees, whether it's changing precedent, whether it's changing rules without regards to a public hearing, here we are again, out of step with our rules, our traditions, our custom, tradition and usage. And why? For no other reason than an exertion of pure political power. Because they can. Because they can. Because they can today. And that's wrong. We have the rules set forward to protect our rights as individuals and to protect our rights as a collective. If you disagree with the rules, then you should have brought forward changes. We had a robust public hearing that was attended by hundreds of people. We put forward modest changes to our rules this year--

KELLY: One minute.

CONRAD: --and we did it together. But our rules say our rules control, our custom controls, and then only do we go to Mason's. The presiding officer started with Mason's. That's a contravention. Our rules and our tradition are clear. We have the right to correct the Journal, and we have done so by custom and tradition throughout the, the legislative session, including just last week. I urge you to overrule the Chair. And I would be happy to ask Senator Wayne any questions in regards to how his motion was taken up last week if he would so yield.

KELLY: That's out of order, Senator.

CONRAD: Point of order.

KELLY: Senator Conrad, please approach. The point of order is ruled out of order. Senator Erdman, you are recognized to speak.

ERDMAN: Thank you, Mr. President.

Speaker 4: I got the call in.

ERDMAN: Shall I proceed?

KELLY: Senator Cavanaugh, please approach. Senator Erdman, please proceed.

ERDMAN: Thank you. I appreciate it. I was going to do a point of order on your ruling on your statement, Mr. President, when you said, Senator Wayne, you can open on your motion. That's an incorrect statement. There is no motion as far as being opening on. And I went through this yesterday pretty extensively. I read it real slow so everybody can understand it. Overruling the Chair is not a motion that one gets to open and close on. We went through that. Section-- Rule 2,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

Section 10 speaks about a motion that you open on and then you get three times to speak and you can yield to others and answer questions and you get a close. That has absolutely nothing to do with overruling the Chair. There are seven very small words that you need to understand completely in overruling a Chair: no member may speak more than once. That's very simple. Even I can understand that. No member can speak more than once. So we say to Senator Wayne, you can open on your motion. When you say, open on your motion, then you would also conclude that he gets to close on his motion, which is not true. So all of these things we're doing this morning are dilatory. We all know that. Very simple. Very easy to figure out. This is dilatory. So I don't want to drag it out and overrule the Chair on allowing someone to speak more than once on overruling the Chair. And Senator Conrad talks about changing the precedents. I'm sick and tired of hearing about the precedents. Nothing is a precedence forever because that was something other than that when you did it the first time. So if we decide to do something different, we decide to do something different irregardless of the precedence. [INAUDIBLE] weigh heavily on the fact that we've always done this or this is a precedent-- that's crazy, all right? Follow the rules. So if Senator Wayne gets to speak twice, I will then stand up a point of order to overrule the Chair. Thank you.

KELLY: Thank you, Senator Erdman. Senator Hughes would like to recognize the physician of the day: Dr. Pat Hottovy of York. Please stand and be recognized by your Nebraska Legislature. And Senator Ballard has some guests in the north balcony: seven 12 graders from Parkview Christian in Lincoln. Please stand and be recognized by your Nebraska Legislature. Senator Cavanaugh ruling-- the ruling on your point of order was that it was out of order if I did not make that on the record. Senator John Cavanaugh, you're recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Well, so I rise in the support of the motion to overrule the Chair. We're getting a little thick in the objections and overrules and things, so I'll try to get back to where we originally were, which is that there was a motion to amend-- correct the Journal. There was an objection, and then it was ruled out of order. The Chair went-- either did some incredibly fast research or was provided some external information in anticipation of this debate. And I would again point out the same things that my colleagues, Senator Wayne and Senator Conrad, have pointed out is that we are a wholly autonomous body separate from the other branches of the government of the state of Nebraska. We have our own authority that's invested by the constitution of the state of Nebraska by our rules and by the statute of the state. And then we are individually elected by the members of our districts to represent those people and not those

other branches of government. And so we have to make our own decisions in those constraints. We have a rule book that everybody can see. It's this hunter orange, hunter safety orange rule book. And it does, as Senator Conrad pointed out, set a hierarchy of how we're supposed to follow rules, which includes the rule book itself, our practice and procedure and then Mason's Manual. And as Senator Conrad correctly pointed out, we recently reaffirmed the practice and procedure to allow for a correction to the Journal from the floor and an objection and that that is a debatable motion. We did that within the last week or two. So it's a very recently reaffirmed practice and procedure. If you get to that point, you do not go to the next step of analysis, though I would point out you can read things any way you want. And I did get the opportunity to pull up Mason's Manual while we've been having this conversation and look at Section 699 and Section 700. And it does say that, in approving the Journal, the usual procedure is for the presiding officer to inquire if there are any corrections-- which our presiding officer does-- and there was a correction that was submitted and an objection to it. If any are suggested, they are made providing there are no objections. Providing there are no objections. There was an objection. I heard-- Senator Hunt. She sits right in front of me. She objected very clearly. I think there was no mistake. If there, if there are no corrections and there is no further corrections, the presiding officer may say, there being no corrections or no further corrections, the Journal stands approved. No particular form of approving the Journal is required. So Mason's doesn't specifically speak to this point. It says that there is a method for asking for corrections and correcting it without objection. But it doesn't say if there's an objection that that shall not be taken up by the body. It doesn't specifically say that we wouldn't have a discussion about it and that we wouldn't be able to vote on it. So in light of the fact that Mason's doesn't speak specifically to the point, in light of the fact that our rules first go to our pattern and practice, in light of the fact that we have recently established that our pattern and practice is to allow for a, a change from the floor and it-- and an objection and discussion of that, I think the appropriate thing is to do what we've done, which is to have that conversation about that correction and not divert from those rules. As Senator, Senator Erdman, I think attempting to point out, that precedent's only precedent until you change it. But the reason to change precedent is not, I don't like it. That is not an argument for changing the precedent. You can change the rules because you don't like them, but you can't change the precedent. And Senator Erdman, I know you've read this rule many times, but--

KELLY: One minute.

J. CAVANAUGH: Thank you, Mr. President-- there is a point in-- for overruling the Chair, it does say that members can only speak once unless by leave of the Legislature. Now, you can interpret that any way you like, I suppose, in the way that-- most favorable to your position. But pattern and practice has established that, in motions to overrule the Chair, those who make the motion get an opportunity to open and close. So by leave of the Legislature in pattern and practice, we have allowed for that to be the interpretation of how a motion to overrule the Chair proceeds. So if you want to read the letter of the rules, you got to read all the letters. So again, I rise in support of the motion to overrule the Chair. And if we get to it, I would probably have questions about whether we should amend the Journal as was suggested by the other Senator Cavanaugh. So if you want to take a look at the Mason's Manual, I can probably print out the sections for anybody who wants to see it if you don't have access to it. But I've got it on my computer here for you. Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Blood, you're recognized to speak.

BLOOD: Thank you, Mr. President. I stand in support of overruling the Chair. And I'm enjoying this conversation, but I am going to take an opportunity to talk on something else since we each only get one turn to talk. I have a bill, LB413, which is a military families bill, that has full body support. That was originally to be amended into the bill that is first up today. But because of the filibuster, it's now not going to be heard. And then we asked the Governor's Office this morning if they would amend it into the TEEOSA bill because this is a priority bill for the Department of Defense. It is one of many of the interstate compacts that we have passed over the last seven years that have been brought to us by the military families office of the Pentagon. And we were just told that we are not also going to be allowed to amend it onto Senator Sanders' bill that she is carrying on behalf of the Governor. So I want our veterans and our military families that follow the Legislature-- and I know many of you do, especially in District 3, because we have more veterans than any other district in Nebraska-- is that we are here fighting for you. But unless you have certain privilege under the Governor's Office, either by party or favor, unless you are a committee chair and have favor with certain committee chairs, the chances this year of getting any good legislation through without that foundation is slim to none. And so I literally just canceled, before I found out that, that we were

turned down, a doctor's appointment for my son. You guys know that our family's been through a lot this year. I'm sorry. I apologize for that. And it's really frustrating to work your ass off every single day to try and get a good bill through and have people talk to you and smile at you and say, you know what? We're going to help you get that bill out, we're going help you get that bill through. And, you know, go take care of your family. But we can't take care of our family because we're babysitting here. I want you to think about how there's so much more than what's going on in here in many people's lives. We don't talk about it and we handle it. And sometimes we have to handle things for years, as in our family's case. So the next time you tell somebody no, you-- no, you can't help them, or yes, you're going to help them and you string them along for days, remember that this is not the only place that they have to be. Not all of us have the benefit of staying in a condo, an apartment or a hotel. We have to drive back and forth when we go till midnight and we sleep for four hours and come back here. We sleep for four hours and come back here. We are screwing over our veterans. We are screwing over our military families. And there's apparently nothing I can do. The Governor's Office made it clear they wanted to reach across the aisle, that the veterans are important and we want to do better when it comes to working together. This is the first time I've reached out to the Governor's Office, and my first communication is a no. We passed bills that didn't need to be passed this year, things that didn't need to be codified that would have happened with or without the legislation that wasted our time. We put forward bills that were controversial in front of bills--

KELLY: One minute.

BLOOD: --that could have easily passed. And now we have several weeks left and we've gotten little to nothing done. And you can point fingers and you can blame, but we're all complicit and we all could have done better. Thank you, Mr. President.

KELLY: Thank you, Senator Blood. Senator McKinney, you're recognized to speak.

McKINNEY: Thank you, Mr. President. I remember-- what was it, last week or the week before-- the same thing that Senator Cavanaugh attempted to do wasn't overruled and me and Senator Wayne were allowed to debate. That's the most recent precedence that we set in his body. And then now today, the Chair's ruling that it's out of order. I'm confused about how do we follow rules around here. One week, something is OK. And then the next week, it's not. I don't know if we should

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

have been provided with an update to the rules every week to say, you know, this week-- last week, these rules apply. But this week, these rules apply. We're flip-flopping on rules, precedent, what's right, what's not right. And it feels like it just depends on who starts a motion or is in the queue or whatever has happened or who, who, whoever is in the Chair. And I'm OK with people winning. But at what point do we win with dignity and grace? At what point do we win with, let's call it sportsmanship, you know? We tell kids all the time that play with-- play sports: if you win, walk off with respect. Don't do anything extra. If you're going to win, win. But you don't have to do a bunch of extra things that make your opponent feel less than or, or anything like that. These are principles that we as a society have ingrained in the minds of many kids that are playing sports today. But us adults, we're not acting with sportsmanship. We're not acting according to the rules. We're deciding when and when not to follow the rules because we don't like somebody that is trying to do something. And we wonder why society is the way it is. Because the principles that have been pushed to many generations under the older generations have not been followed. And that's why a lot of young people don't really listen to older individuals or seniors, because-- at many times in my life, and I, I would argue many people would say-- those who set the standards don't follow the standards. And that's why people are called hypocrites and things like that. So how can it be OK to debate the same, similar motion last week or whatever, but this week it's, it's a no? That doesn't make sense to me. Where, where are we at in these rules? I think every week we should start the week with a, with a Speaker's announcement that the rules are changed. And what we did last week might not matter this week because that's what's happening in this body, is that depending on the week, the rules are followed or not followed. Depending on who files the motion, the rules are followed or not followed. Depending on who asks for a call of the house, we might get it, we might not get it. And I'm not saying you have to like anybody that files any of these motions. But follow the rules. We haven't been following the rules, and we wonder why this session has been so chaotic and out of control to a lot of people and why things are happening and nobody really understands. We come in here every day and we don't know what's going to happen. That is literally what's happening with this session. Depending on the day and the week, the rules don't matter or they matter.

KELLY: One minute.

McKINNEY: It's chaos or not chaos. And that is a problem. It's a fundamental problem. And I'm not a supreme institutionalist, because this institution has not worked in the best favor of my committee for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

many-- my community for many years. But I will say, if we set rules, let's follow them. We should be following the rules. It shouldn't be, last week, this was OK to debate; and this week, it's not OK to debate. That doesn't make sense to me. And somebody needs to please get on the mic and provide some clarity how last week this was OK and this week it's not. Thank you.

KELLY: Thank you, Senator McKinney. Senator Dungan, you're recognized to speak.

DUNGAN: Thank you, Mr. President. Colleagues, I do rise in favor of the motion to overrule the Chair. And I think that this conversation we're having this morning is both substantive and actually really interesting. I would echo the sentiments that have been made by some of my other colleagues with regards to the changes with how we are conducting ourselves as a body that are happening, happening so quickly it's, it's almost hard to keep up. At, at the beginning of this session, we obviously had a, a large conversation about rules and rules changes and we talked about precedent and we talked about where we came from. But one thing that I think we heard over and over again was the importance of having rules that were clear so that we can all adhere to them. Just a couple of weeks ago, we had somebody try to change the Journal and then somebody object to it. And then we debated that, I believe. And so the fact that now we're going back on that is surprising. I think it's confusing. I don't really understand why it's happening, and I, I frankly disagree with that ruling. Respectfully, I disagree with the ruling of the Chair. And that's, that's why I rise today in support of the motion to overrule the Chair. And whether or not folks in this body agree with sort of why these things are being done or, or what the overarching point of these motions are, I think we can all agree that the rules are vital to follow and that without our rules, we're going to fall apart as a body. And one of the things that was drilled into my head during my new senator orientation was that part of the reason we talk so much about precedent and respect for the institution is not to do it just because it's fun, but because you never know when you're going to be the one who those rules protect. And you never know when you're going to be the one who needs the benefit of the protection that the minority sometimes enjoys through the, the process and procedure that we have here. And so I think we should be very careful when, when changing precedent. I did pull up Mason's Manual as well. I've had a chance to review that. And again, I would respectfully disagree with the reading by the Chair. It does say in Section 699 that Journals are usually corrected informally, saying the presiding officer directing the correction to be made when suggested. But if objection be made, a formal vote is

necessary for the approval of the correction or the amendment. Now, that means that if an objection is made, a vote has to be taken. When I've read through my rules and when I've read through Mason's Manual, the parts that I've, I've had a chance to go through, it's very explicitly stated when something is not a debatable motion. And I think Senator Wayne pointed that out in his intro here. It's, it's very clear in the rules if something is not debatable. And there's a finite or limited amount of things in our rule book that are not debatable motions, and it's always specifically stated. And so my reading of this is that, in the absence of a specific clause saying that it's not debatable, that it is, in fact, a debatable motion. The other thing I think that's important to note here is that a correction to the Journal and the subsequent motion to the objection of that is, in fact, substantive, right? This is not just a procedural motion. This is not a call of the house. This is not asking what the next steps are of how we're going to conduct ourselves. Somebody is trying to actually change the content of the Journal, saying that it is wrong, that it inaccurately reflects what was-- originally happened, and then someone else in the body's objecting to that change. And so that is a, that is a conversation about substance. It is not a conversation about procedure. And I believe that when we are having a substantive motion and a substantive objection, that that absolutely is open to debate. And, you know, to, to Senator Erdman's point, he was talking about whether or not there's a, a motion where one can open or close on an overruling of the Chair. Rule 1, Section 12-- he's right-- does specifically say, no member may speak more than once on that challenge. But it goes on to say, unless by leave of the Legislature. And so, you know, I think it's really important that we read rules as a whole. And I think this is something that we've touched on, not just on this rules debate, but on other bills that have been before the Legislature this year. We have to read things together. We have to read things--

KELLY: One minute.

DUNGAN: --as a whole. Thank you, Mr. President. Whether it's talking about the canal project, as Senator John Cavanaugh was talking about, reading that compact as a whole, whether it was the question as to whether or not LB626 does, in fact, have criminal penalties by virtue of the fact that it doesn't have a repealer. You have to read legislation as a whole. You have to read rule-- excuse me-- rules as a whole. And so I absolutely believe that, based on my reading of Mason's, this motion is substantive. It is debatable. And I do believe that our precedent has always been that, in fact, this is a motion where we can correct the Journal from the floor. And so I'd urge my

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

colleagues to join me in voting to overrule the Chair, respectfully. I simply believe that this is a conversation that we can and should be having as a body if somebody makes that motion. Thank you, Mr. President.

KELLY: Thank you, Senator. Senator Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. Good morning, colleagues. This has been an interesting learning experience. So, last week, Senator Wayne introduced a correction to the Journal. Senator McKinney objected, and it was a debatable motion and we debated it. This week, the Speaker asked for a ruling of the Chair, then-- and the Chair ruled it's not allowable. So now we are doing a motion to overrule the Chair. And when I was standing up at the front at the President's desk and Senator Wayne and I were standing up there, Senator Hunt, Senator-- Speaker Arch. And there was an interesting back and forth between Senator Wayne and the clerk. And I, I definitely felt like I was, like, in a beginner's class watching a master class debate on Mason's versus our rules. And I did not understand most of it. It definitely got into some real deep-cut lawyer talk. But what I did glean is that, like so many things in the law, it is, it is not clear and it is open for some amount of interpretation and-- which was made clear to me by the fact that the clerk has interpreted it one way and Senator Wayne has interpreted it in another way. And I honestly am not sure which one of them I agree with. I, I am-- to use Senator McKinney's term-- I think I am a bit more of a institutionalist, although I definitely understand that the system has worked to be a great disadvantage to Senator McKinney's community. But I am an institutionalist in that I really want to preserve the integrity of the Legislature. I am severely concerned that the ship is at the dock and getting ready to sail on that. And I feel like myself and so many others are holding on to those ropes that you tie up the boat at the pier. We're holding on for dear life and we are getting really severe rope burn in our hands as those ropes are just pulling through our hands. But we are there. We are at the dock. We are holding on as tight as we can. We are trying to keep this ship from sailing, and we need the rest of you to join us. We need you to join us in pulling the ship back to shore for the sake of the state, for the sake of the institution. We need you to join us. We need people in this body who don't agree with me on policy to stand up and speak about the integrity of the institution, the process and how we are not following it and how that is diluting the work. That is what is happening, colleagues. That is what is happening. This body and this administration has become so used to winning everything that when

something doesn't go your way, you blow Skittles up. You blow it up. You change the rules halfway through session. You change the way we do things. You undermine your own committee--

KELLY: One minute.

M. CAVANAUGH: --process. You blow things up. It needs to stop. It needs to stop. And to those that think that-- back to the LB574 debate that say, oh, if it fails, she's not going to stop. That's a lie. I am going to stop. I want to stop right now. There's nothing I want more in this entire universe than to stop. And everyone who knows me in this body knows that that's true. So if anybody says anything to the contrary, they are lying. They are lying. I am a woman of my word 100 percent of the time. They are lying. Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator DeBoer, you're recognized to speak.

DeBOER: Thank you, Mr. President. Colleagues, today is Senator Hunt's birthday. Happy birthday, Senator Hunt. That was a little bit of a less robust clapping than I would have hoped for. And, gosh, I think that, that makes my point a little bit. We are losing our ability to recognize the humanity in the people next to us. Several people I consider to be good friends have come up to me in the last couple of days and said, well, we don't agree on anything, but, but we can still be friends, as though they have to justify it to themselves because apparently there's some thought that maybe we couldn't be friends. Nebraska, your Legislature is blinking three times. We're not OK. And it is not-- it is, it is every single one of us in here. It's me. It's you. It's all of us. If you don't think this message is about you, it is. Every single person in here, we are failing everyone. Every one of us is failing. We are not OK. Everyone in here is not OK. The arms race is still escalating. And even if the one with the most weapons wins, what are the collateral damages? I'm not willing to pay the collateral damages for the people who are speaking on my behalf. Are you? Are all of you willing to pay the collateral damages? What is a legislator? What is a legislator? Is a legislator a person who just comes and pushes buttons? Because we could get trained monkeys to do that. Actually, we couldn't. They would cost the state more than we do, but we could get robots. Robots are cheap. We could get robots to do that if this is just about pushing buttons. They told me when I came in here that this was about relationships. And I concurred because, when you are in relationship with someone, you understand where they're coming from and why they're coming there. A man named Emmanuel Levinas wrote a book called Totality and Infinity. And in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

opening pages of that book-- which took me about a year to read-- he says that ethics is what he calls faciality: sitting face to face with a person who you might otherwise think is different than you, sitting face to face with that person, that other, and saying, who are they? And not asking your own brain to decide who they are, but listening to them speaking from themselves.

KELLY: One minute.

DeBOER: Somebody asked me why I came into this body. I originally came into this body because I had seen a kind of a meltdown like this. And I had that Emmanuel Levinas in my head and I said, we aren't listening to each other anymore. We're not seeing each other anymore. And I said, we got to do that. We got to listen to each other. We got to sit with each other. We're not even mixing socially like we used to. I can't know what your worldview is unless I sit and let you tell me. We have to get past the "us and them" and remember that we are a "we." We're a "we," colleagues.

KELLY: That's your time, Senator.

DeBOER: Thank you, Mr. President.

KELLY: Thank you, Senator DeBoer. Senator Moser, you're recognized to speak.

MOSER: Good morning, colleagues. Thank you, Mr. President. Good morning to all those who are at home watching this and wondering what's going on. So the correction to the Journal was the, as I understand it, an addition of a comma somewhere. So whether it was substantive I think could be argued. I think this is a, a time-waster, something to spend time. I don't think a lot of the senators really care about the Journal. Comments were made about winning and losing and that some are trying to win and some are losing. I'm not playing a game here. I'm not here to score more points than someone else. I vote the way I vote because what I believe, what my parents taught me, what my teachers taught me, what inspiration my faith gives me. Those are the things that drive me. Some mentions were made of relationships in the Legislature. I try to talk to everybody. You see me wander about. I try to pick up a little intel about what's going on in the body, and I, I talk to most everybody. Several senators have told me not to talk to them. More than-- three of them that I could think of. Don't talk to me. I don't want you to ask me about my family. And that's about the way it was delivered. Just like that. So I don't think you can treat others like that and then they expect everyone to clap for your

birthday. I've had numerous people come up to me in my district and ask what's going on and how I'm holding up and all this. I'm OK. I'm operating on my beliefs, on my standards, on the way I was raised, the inspiration that I feel. I'm frustrated at times, but I'm going to keep voting based on my beliefs and what I think we should do and what the residents of my district believe. We all represent 40,000 people in the-- in Nebraska, and not every district is the same, homogenous-- it's not-- they're not homogenous, necessarily-- not the same-- doesn't have the same standards, necessarily. Some are more progressive. Some are more conservative. But if I wasn't here, somebody else from my district would be here, and they would probably vote just the way I vote. So, you know. My conscience is clear. I-- somebody talked yesterday that they felt that the abortion ban and the gender-affirming-- affirmation bill could kill people. Since 1973, we've killed 200,000 babies in Nebraska. Thank you, Mr. President.

KELLY: Thank you, Senator Moser. Senator Clements, you're recognized to speak.

CLEMENTS: Thank you, Mr. President. Thank you for allowing me my one time to speak. And I agree with the person who suggests that only one per-- everyone should get one time to speak. The person who began this, I hope, does not get a chance to close and have two times to speak where I only get one. Regarding part of the rules that I see that we're discussing is on page 6, Rule 1, Section 19. The clerk shall prepare a daily Journal and the presiding officer shall call for corrections thereof. After corrections, if any are made, the Journal shall stand approved without motion. Corrections, if any are made-- I would add, by the clerk-- the Journal so stand approved with that motion. Doesn't say they're made by a senator. I think it would be helpful to clarify that. Last week, it's been mentioned that Senator Wayne did make a motion to correct the Journal. But as I recall, there was no one that raised a point of order to challenge his motion to correct the Journal. Today, when a motion was made to correct the Journal, there was a challenge to that motion. And that's the major difference I see today. Similar to if someone proposes an amendment to a bill that's-- may not be germane, if nobody challenges whether it was germane, it's added to that bill. But if someone raises a point of order and challenges it, it may be ruled not germane and thrown out. But if-- it's like today-- like last week, no one challenged his ability to make a correction to the Journal. But today, someone has. And I support the ruling of the Chair. I, I oppose overruling the Chair in this case. And the-- it's clear that the motion made this morning was also dilatory. We have other parts of our rules that do say that dilatory motions are a violation of our rule and should not

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

be allowed. And so for those reasons, I support the ruling of the Chair. Thank you, Mr. President.

KELLY: Thank you, Senator Clements. Senator Vargas, you're recognized to speak.

VARGAS: Thank you very much. I stand in opposition-- I'm sorry. I stand in support of the overrule of the Chair. I believe this is about preserving the integrity of the Legislature. And, honestly, the precedent that was set yesterday and even what Senator Clements mentioned, it's my understanding when, when Senator Wayne was trying to correct the Journal, McKinney did object to that. But more importantly, we've already set the precedent on how this goes. This is a departure from that. Now, I think we said this on the mic many times. This is happening not because you think it's dilatory, but because of time and because of the stage we're in and, and politics and because of the outstanding bills that are up and because of the new bills that are being added or resurrected, or however you want to, you want to describe it. That's the reason why this is happening. My concern is that we are changing the rules or changing the interpretations. And as a result-- or, they're being changed for us. As a result, this can have significant consequences on what's going to happen here for the next several days. I think we should overrule the Chair. I think we need to make sure we keep it precedent. The tools-- and I've said this before-- the tools are still in our toolbox to continue to do this work. Even when there's times where I have disagreed with the way that things have been utilized in terms of the rules, they are the way that we operate. And these determinations being changed on similar motions is affecting our faith in the rules. Whether we like the outcomes or not, they are what we agreed to and the terms of how we work together. And I'm worried that we are blurring those lines significantly. And I've said this to many people off the mic. People using the rules within the confines of this body, we allowed this to happen. We set the standard. So if we're going to change the standard or allow precedent or ruling to change the standard, that is going to undermine the integrity of the Legislature. So I support overruling the Chair. Thank you very much.

KELLY: Thank you, Senator Vargas. Senator Hunt, you're recognized to speak.

HUNT: Thank you, Mr. President. I would echo the very same things that Senator Wayne and Senator Conrad and Senator Dungan have said and what Senator Vargas just said too. And I also disagree with what Senator Moser said, that other senators would vote the same way he does

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

because he is following his values. He's acting the way his parents taught him to act, he said. I don't think that's true. I think that in the past, including his predecessor, senators would have voted differently because they put this institution before politics, because, because they put the work that they did here for the people who elected them ahead of relationships and personal preferences in this body. Because all of us are temporary here. We're not going to be here forever, but we want this institution to last beyond us. And that's why we have to stop chipping away at the rules and norms and customs in this body that make it what it is that's so great. I think that there is some anxiety among people who view themselves as leaders in this body-- you know who you are-- that, if Senator Cavanaugh, quote unquote, wins, if we kill, LB574 and we allow LB626 to stay dead, as it is, that then she wins. And if they win, you lose. But actually, if she "wins--" to take it-- to take your definition of that-- you all win. You get the rest of the session. You get up or down votes 25 on everything else. You get to actually, freshman, stand up and share your views and say something smart. You get consent calendar. You get gubernatorial appointments. You get 15 or so days of a normal session that you deserve, that the people of Nebraska deserve and that we need to have for productivity and the regular course of order. If this stops, you win, actually. We've been receiving a lot of emails from folks in the second house who are Nebraska Legislature rules enthusiasts. And I know that there's a large set of people out there who are kind of hobbyists and experts and really know a lot about the legislative history and the body and our rules. And the emails I'm getting agree with Senator Wayne and agree with Senator Conrad and agree with protecting the precedent that we have in this body according to rules and customs. I think that those principles have to come before our personal relationships, before our politics, before our party. And that's something that people in this Legislature have not yet had the courage to do. Thank you, Mr. President.

KELLY: Thank you, Senator. Senator Aguilar has some guests in the north balcony: 56 fourth graders from Jefferson Elementary in Grand Island. Please stand and be recognized by your Nebraska Legislature. Senator Arch, you're recognized to speak.

ARCH: Thank you, Mr. President. Since I called for the point of order on this issue, I wanted to at least summarize my thoughts on, on, on why and, and why I'm opposed to overruling the Chair. I want to talk about-- it's, it's been raised several times what happened last week when Senator Wayne, when Senator Wayne brought a motion to correct the Journal from the floor. Kind of reflecting on what Senator Clements said, that was debated, but it was debated because nobody raised a

point of order. And Senator Clements is correct when he talks about germaneness as an example of that. If people do not object, there is not an issue of germaneness. And so, and so in the same way, there was no point of order raised. It was allowed to be debated. After that, I went to Senator Wayne and I, and I mentioned-- and I told him that there were issues with correcting the Journal from the floor. We needed to discuss that. With all the, with all the rest going on, we did not have a chance to sit down and discuss that. But, but I saw very clearly that what happened there was, was not in order and-- from my perspective. And so that was one of the reasons why I raised, I raised the point of order this morning. As it relates to some other comments that have been made about not following the rules this session, I will tell you that this filibuster continues because we are following the rules. That's why. We are following the rules. We are allowing this filibuster to continue. And I have held to those rules. I have held to my February 10 memo. I have not gone back on that. And so it's not, it's not like whatever we choose in the morning we just decide to do that day. Absolutely not. But I will-- but we are pushing the boundary on our rules. We are testing these rules. We are challenging these rules. We are challenging our understanding of these rules. And to those who have talked about the integrity of this Legislature, that is what threatens the integrity of the Legislature, from my perspective. So we have to hold to what these rules say and what they mean. And there is a process for changing the rules, and that opportunity will come. But this particular ruling that the Chair ruled, I, I agree with. In, in our rules, which he quoted in Rule 1, Section 18, it says, the Clerk of the Legislature shall attend sessions, call the roll and keep Journal of proceedings. We have, we have given the responsibility of that Journal to the clerk. And we can make comments to the clerk when, when that announcements-- you know, do you have any announcements, corrections to the Journal, so forth? He makes those corrections to the Journal. And when, and when we have an issue with that, we go to the clerk and say, I have an issue with that. But I, but I agree with this ruling of the Chair. I would ask that you not, that you not overrule the Chair. Thank you very much.

KELLY: Thank you, Senator Arch. Senator Wayne, you're recognized to close on the motion to overrule the Chair.

WAYNE: Thank you, Mr. President. Colleagues, you know, I, I call balls and strikes on these rules, and so I'm going to tell you, I do think now, after extensive more research, this is not a debatable motion, but not for what the rule-- not the reasoning the Chair gave. I'm going to outline the, the reasoning. Section 187-- ironic, 187. Those who don't know anything about criminal law, I find that kind of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

ironic. [INAUDIBLE]. That list of-- a list of motions in Section 2 says "privileged motions," and it says, accuracy of the Journal and records of the house. That's Section 187 of the Mason Manual. So if you hop over to Section 176 of privileged motions, you'll see that they're not debatable. So-- and all those are listed as not debatable. So the, the rationale, I think how we got here, is incorrect, but I do think the end result is correct. So I do want to make sure that's clear. But what this does mean is you can file a correction with the, with the clerk. You can object. And it's a vote. We can take 50, 100 roll call votes before we get anywhere. So, yes. You-- it's not debatable, but it is a, it is a vote just like the call of the house. And that means we can have votes all day if we want to. So that is where I'm at. So with that, I'll withdraw my motion to overrule the Chair. However, I do want to raise a point of order on another issue after you rule on my withdrawing of that.

KELLY: It's withdrawn. Senator Wayne, you're recognized for your point of order.

WAYNE: Point of order. During the debate, it was ruled that you could-- it was ruled by this body that we cannot yield to a question. I believe that is incorrect. And Mason Manual clearly distinguishes between yielding time versus yielding to question. And I would love to have that conversation.

KELLY: Speaker Arch and Senator Wayne, could you please approach? Senator Wayne, you're recognized.

WAYNE: Thank you, Mr. President. And after discussions with everybody, I'm comfortable where we are. We will with-- I will withdraw my point of order at this time, Your Honor-- I mean-- Your Honor-- Mr. President.

KELLY: Thank you. Thank you, Senator Wayne. It's withdrawn. Mr. Clerk for items.

CLERK: Mr. President, new A bill: LB562A from Senator Dorn. It's a bill for an act relating to appropriations; appropriates funds to aid in the carrying out of the provisions of LB562. That's all I have at this time.

KELLY: Mr. Clerk for the first item on the agenda.

CLERK: Mr. President: LB705. First of all, pending was a motion to-- Senator Conrad had a motion to bracket, and Senator Machaela Cavanaugh had a motion to reconsider that vote-- excuse me. Senator Conrad had a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

motion to recommit, and Senator Conrad had a-- Senator Conrad had a motion to recommit, and Senator Cavanaugh had a motion to reconsider that recommit vote.

KELLY: Senator Cavanaugh, you're recognized for a one-minute refresh.

M. CAVANAUGH: Thank you, Mr. President. Last night, we had-- went to a vote on Senator Conrad's motion, and the motion failed. And I filed a motion to reconsider the vote.

KELLY: Senator Machaela Cavanaugh, you're next in the queue.

M. CAVANAUGH: Thank you, Mr. President. All right. So it's 10:22, 10:23. I don't know. We had 20 minutes, I believe, left on the bill when we adjourned last night. So this goes till 10:40. So, there we go. So part of the reason that I have a motion still pending on this bill is that there were several things added onto LB705 on Select File that I oppose. Also, it was brought to my attention that the committee amendment-- committee amendment. It was Senator Murman's amendment. It's not listed as a committee amendment, but it's the Chair of the committee and he's the-- it's his bill, et cetera. Anyways, the committee amendment also struck and changed part of Senator McKinney's bill that had been amended into the underlying bill previously. So-- and I disagree with that. So, there we are. That is why I have a motion to reconsider the motion to-- the vote on the motion to recommit to committee. So-- I've said this before. It's always kind of hard to get into that groove. Like, it takes, it takes a little bit of time to get into the groove. What am I going to talk about today? What am I going to do today? How am I going to talk about things? Am I going to talk about the bill? What am I going to do? And today, I'm still, like, processing and thinking. And I'm processing and thinking about how I'm going to talk about the institution. So, this morning we had a debate. I put in a motion-- or, not a motion. I put in a correction for the general-- Journal. Senator Hunt objected. Then the, the Speaker asked for a ruling from the Chair on whether or not we could do this. Then we had the debate on that. And ultimately, Senator Wayne made a motion to overrule the Chair and withdraw that-- withdrew that motion, but then wanted a ruling on whether or not we could yield to questions during that debate and withdrew that point of order. I bring this up because, yeah, I'm trying to take time. I'm being an obstructionist. 150 percent. 2,000 percent. Infinity percent. Yes, I am doing that. But I care about this place. I care about the process. And I appreciate us not voting on something that might be disruptive to the integrity of the institution. I'm still going to use the rules to the maximum capacity that I can. I'm still going to work within the

rules at every turn to take every minute that I can. But I am never going to try to dilute this place. It is that simple. What Senator Wayne did was an attempt to not dilute this place, to work within the rules--

KELLY: One minute.

M. CAVANAUGH: --to take the time to have the conversation this morning about the process, about the rules, but not to dilute it. And there has been inconsistency, to Senator McKinney's point. There has been inconsistency. But that's going to happen. I don't know that the inconsistency in how we have done things is-- I don't think it's intentional and I don't think that it's malicious. I think that it is the nature of the work that sometimes things happen quickly, and that can lead to inconsistency in how we are ruling on things, which is why it is important to slow down sometimes when we're making these rulings, when we're having these conversations. It's important to slow down and make sure we are being consistent. And as Senator John Cavanaugh said yesterday, we are not our worst mistake--

KELLY: That's your time, Senator.

M. CAVANAUGH: --or something like that. Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign legislative resolutions, LR115, LR116 and LR117. Senator John Cavanaugh, you're recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. I didn't know I was next. Well, I-- to clarify, I had said, we're not the worst thing that we've ever done. Just kind of a point of everybody makes mistakes and you have the opportunity always to do the right thing the next time. You know, it's the idea of redemption, which I'm sure a number of people around here subscribe to, either philosophically or religiously. But I appreciate the conversation about the rules. It's always fun to have a conversation about the rules and the actual kind of parsing the rules. And I, I certainly appreciate Senator Wayne's analysis of both Mason's and our own rule book. And I of course appreciate the clerk's analysis and consistency and knowledgeable-- knowledgeable-- knowledge? I don't know what the right word is. Knowledgeability? Whatever the right word is to just say how smart he is-- about the rules. And the problem we have is not so much that sometimes people that I agree with pursue a tact that maybe is a misunderstanding of the rules or is a misanalysis. I think it's fine to make an argument that you believe in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

that may be wrong. I mean, I've done it lots of times and I-- you all heard me get up here and say, make-- what they say-- you know-- wish Senator Dungan was here. There's a law school saying that is, an argument is forcefully asserted and plausibly maintained. And Senator Wayne does a great job at that, right? Where we make an assertion and you have to have an argument to back it up. You point to the law. You point to case law. You point to facts. You point to a rational analysis. As the Chair pointed to, the-- our rules and Mason's Manual. So you do all those things and you have to do it, you know, in a good-faith way, which is you have to have a good-faith basis to make that argument. And too often here we are diverting from precedent to get to an outcome that we prefer. And obviously, this place is getting more and more pressure to break the logjam to move forward. And, you know, we saw it early in the session with the change in the rules, which predictably did not change the situation here. We just went against our precedent and our history and our tradition and amended the rules middle of the session to prevent one tactic that was being used. And, of course, other tactics emerge. As to paraphrase one of my fellow senators, that the Legislature finds a way, that the filibuster finds a way. And it will continue. And the reason that the filibuster has continued and has maybe taken on more intensity is because of the continued, I guess, divergence from what is important to the people of the state of Nebraska. And so, you know, like I said yesterday, I hadn't talked in a while because I was trying to be-- work constructively off of the floor to find a way forward. And I did engage in those conversations. And a lot of them, a lot of hours trying to find ways to make this place work the way that we all hope it would, and was met with-- well, not a lot back, I guess.

KELLY: One minute.

J. CAVANAUGH: Thank you, Mr. President. So we'll see where this conversation goes. I think there's still more to talk about, the specifics of the rules. But I do support LB705 as it stands. And, thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Hunt, you're recognized to speak.

HUNT: Thank you, Mr. President. I'll yield my time to Senator Cavanaugh, Machaela Cavanaugh.

KELLY: Senator to Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. I will withdraw my motion.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: It is withdrawn. It is withdrawn. Mr. Clerk.

CLERK: Senator, first of all, I have E&R amendments.

KELLY: Senator Ballard, for what purpose do you rise?

BALLARD: Mr. President, I move the E&R amendments to LB705 be adopted.

KELLY: Mr. Clerk.

CLERK: Mr. President, pursuant to that, Senator Murman would move to amend with FA94 with a note that he wishes to withdraw and substitute AM1681.

KELLY: Senator Murman, you're-- without objection, so ordered. Senator Murman, you're recognized to open.

MURMAN: So AM-- good morning. AM1681 makes some needed corrections to the Enrollment and Review and that's how-- all it does, so I'll yield my time back.

KELLY: Thank you, Senator. Senator Linehan, you're recognized to speak.

LINEHAN: Excuse me. Thank you. Mr.-- thank you, Mr. President. And good morning, colleagues. I had ice in my mouth. So my understanding-- Senator Murman, could you yield to a question?

KELLY: Senator Murman, will you yield to a question?

MURMAN: Yes.

LINEHAN: There's some confusion, so I just want to see if I can make it less confusing. I'm pretty sure I can't straighten out all the kinks. But the original committee amendment, that's gone away now. And then you're-- this amendment is the one that basically just fixes things. Like, I think, Senator DeBoer, we had to add some language so we could pull down federal funds. And I think on mine, there was a little fix-it. So this is just a fix-it amendment. And most importantly, it doesn't do anything to affect Senator McKinney's bill that's in this bill that is about expelling little kids.

MURMAN: That's correct.

LINEHAN: OK.

MURMAN: It doesn't do anything with Senator McKinney's bill.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

LINEHAN: OK. Thank you. So I would ask for your green vote on this because it, it doesn't change anything substantive. It just makes the bill better. Thank you very much, Mr. President.

KELLY: Thank you, Senator Linehan. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. Good morning, colleagues. I rise in support of the amendment and appreciate Senator Murman and Senator Linehan's explanation thereof. I know we have a very limited amount of time left on this measure. And I think they did a good job of explaining some of the changes that were brought forward in response to fidelity to the committee's original intent and to ensure any technical changes that, that needed to be made as well. The other thing I just want to note and-- a new day, a new challenge, a new opportunity. So we went through another tough debate this morning. Fairly chaotic. Some hard feelings remain. But we, we have to keep moving forward. We have to keep talking to each other. We have to keep working together. We have to find and seek consensus wherever we can find it. And there's a lot of important measures to benefit public education in LB705. And I also just wanted to know that-- maybe it's a happy accident. Maybe it's fortuitous. This is Teacher Appreciation Week, folks. I know that because, as a mom of two elementary school students, I've helped in the past to organize teacher appreciation events. And we were talking on the way to school this morning about how we could honor our teachers this year in Riley Elementary because they're so dynamite and we don't get a chance to say thank you enough for their service. I also then was thinking about those that have teaching experience in our body-- Senator Walz, Senator Vargas and the passion that they bring for education and the experience and expertise they share with this body. I'm thinking about my mom, who is a lifetime public school teacher and instilled that love for lifelong learning in me. I am a product of public education, kindergarten through law school. And I'm thinking about my teachers in that little country school in Staplehurst that sparked so much love of learning, the incredible opportunities I had coming through Seward Public Schools and then at the university when I came to Lincoln in the '90s and, and attended law school at a public university as well. So I'm thinking about my neighbors. I'm thinking about my constituents who love our public schools and who pour in with their volunteer hours, with modest donations, who are doing hard work every single day in between working many jobs to help kids with homework. And I'm really proud of our public schools in Lincoln and across the state. I'm proud of the teachers that make them great. And I want to refocus just for a moment. Even when it's tough, on the important components

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

here to benefit teachers in Nebraska is part of this package. There's parts of this package I don't agree with, I voted against. But there's a lot in here to like. And that's how legislating works, even in tough years like this. We give a little. We find some common ground. We try to recognize priorities that are important to other colleagues and we try and put together something that resembles consensus to try and make a positive difference. I think the Education Committee worked very hard to do that with this package. I think that we are all aware of the session dynamics that are before us, which makes for a broader committee package than we would normally see. But trying to work in good faith to manage these different dynamics--

KELLY: One minute.

CONRAD: --I don't think we have a perfect product here, but I think we have a very good product. And we should never let perfect be the enemy of good. No doubt-- thank you, Mr. President-- we'll need to make perhaps some changes in the interim and bring some things forward in the 2024 session. And the other thing that I want to lay down a marker on is we, we have to take up, as a first order of priority, additional strategies like Senator Blood's measure in regards to addressing the teacher shortage. And we've got to take up measures that Senator Walz and Senator McKinney and Wayne have brought forward to address school nutrition and the overall poverty assessment in our school funding formula. Thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. I want to thank the committee staff. The committee staff for Education has been working-- he's been working his-- Jack has been working his tail off since last night to solve a lot of the problems that were existing on this bill. A lot of them. The Chairman of this committee hasn't spoken to me. That's fine. So, clearly, I'm not allowing this amendment to get up here for the Chairman. But, but I do appreciate that the committee staff worked really hard to address the concerns so that the essential work that needed to happen happened. Also, I appreciate Senator Linehan working on this and, and really helping bring this together with Senator Conrad and, and all the others. There's so many other people that were working on this overnight. But I just-- to be honest, Senator Conrad, Senator Linehan and Jack Spray got me to pull my motion. So, thank you. Thank you for working on this. Thank you for getting this up here and in, in shape to do what we needed done for this bill. And-- it's, it's important to understand what working together looks like. There

were a lot of things filed on this bill that I viewed as extremely harmful. And-- so you can think that, like, I'm just taking time because I'm taking time on everything, but I genuinely found the amendments filed on LB705 to be extremely harmful. And under normal times, under normal times, I probably would have filibustered this bill on this-- on Select File for those reasons. But like I said this morning, if LB574 had died or does die, I'm not filibustering anything at all. Not a thing. I am walking out. I am done. Senator Moser said that he doesn't vote for things for winning and losing or whatever. And that's great. I'm glad to hear that. I keep being told that people are going to vote for something because they can't let me win. And, colleagues, I am not winning. I am not winning. Not even a little bit. And even if you see me smiling, it is a fake smile. It is a facade. I am not happy. I am not enjoying myself. I am getting pieces of joy when my husband sends me pictures of my kids or artwork that they're doing for me, which is adorable and I love it, so please keep doing it, Nick. But that's it. That's my only joy. I'm not happy. I'm not winning. No matter how any vote turns out, I am not winning. I'm not. I take no pleasure in filibustering people's bills. Even people who I don't agree with on pretty much anything, I don't take pleasure in filibustering your bills.

KELLY: One minute.

M. CAVANAUGH: That's not who I am. I am doing everything that I am doing for a purpose, for a reason, and all of it is to protect kids. I'm just, I'm just smiling because I, I know that I'm getting a text message right now about the camera shot. I just know it for a fact. But that's fine. Yeah, I think we're at about cloture on this, so. I just was taking my full amount of time because we're almost to cloture. So, there we go. Thank you, Mr. President.

KELLY: Mr. Clerk, do you have a motion on your desk?

CLERK: I do, Mr. President. Senator Murman would move to invoke cloture on LB705 pursuant to Rule 7, Section 10.

KELLY: Senator Murman, for what purpose do you rise?

MURMAN: Call of the house. Roll call vote in reverse order.

KELLY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Request for a roll call vote. Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

CLERK: Senator Aguilar voting yes. Senator Albrecht not voting. Senator Arch voting yes. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Blood not voting. Senator Bosn Senator Bostar voting yes. Senator Bostelman not voting. Senator Brandt voting yes. Senator Brewer voting yes. Senator Briese voting yes. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements not voting. Senator Conrad voting yes. Senator Day. Senator DeBoer voting yes. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover. Senator Dungan. Senator Erdman voting no. Senator Fredrickson voting yes. Senator Halloran not voting. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt voting yes. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Kauth voting yes. Senator Linehan voting yes. Senator Lippincott voting yes. Senator Lowe voting no. Senator McDonnell voting yes. Senator McKinney. Senator Moser voting yes. Senator Murman voting yes. Senator Raybould voting yes. Senator Riepe voting yes. Senator Sanders voting yes. Senator Slama voting yes. Senator Vargas voting yes. Senator von Gillern voting yes. Senator Walz voting yes. Senator Wayne voting yes. Senator Wishart voting yes. Vote is 37 ayes, 2 nays to go under call, Mr. President.

KELLY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. All unexcused members are present. Members, the first vote is on the motion to invoke cloture. All those in favor-- a roll, roll call vote was requested. Mr. Clerk.

CLERK: Senator Wishart voting yes. Senator Wayne not voting. Senator Walz voting yes. Senator von Gillern voting yes. Senator Vargas voting yes. Senator Slama voting yes. Senator Sanders voting yes. Senator Riepe voting yes. Senator Raybould voting yes. Senator Murman voting yes. Senator Moser voting yes. Senator McKinney voting yes. Senator McDonnell voting yes. Senator Lowe voting yes. Senator Lippincott voting yes. Senator Linehan voting yes. Senator Kauth voting yes. Senator Jacobson voting yes. Senator Ibach voting yes. Senator Hunt voting no. Senator Hughes voting yes. Senator Holdcroft voting yes. Senator Hardin voting yes. Senator Hansen voting yes. Senator Halloran voting yes. Senator Fredrickson voting yes. Senator Erdman voting yes. Senator Dungan voting yes. Senator Dover voting yes. Senator Dorn voting yes. Senator DeKay voting yes. Senator DeBoer voting yes. Senator Day. Senator Conrad voting yes. Senator Clements not voting. Senator Machaela Cavanaugh not voting. Senator John Cavanaugh voting yes. Senator Briese voting yes. Senator Brewer voting yes. Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

Brandt voting yes. Senator Bostelman voting yes. Senator Bostar voting yes. Senator Bosn. Senator Blood voting yes. Senator Ballard voting yes. Senator Armendariz voting yes. Senator Arch voting yes. Senator Albrecht not voting. Senator Aguilar voting yes. Vote is 42 ayes, 1 nay, Mr. President, on the motion to invoke cloture.

KELLY: The motion to invoke cloture is adopted. The next vote is on the adoption of AM1681. All those in favor vote aye; all those opposed vote nay. Request for a roll call vote. Mr. Clerk.

CLERK: Senator Aguilar voting yes. Senator Albrecht voting no. Senator Arch voting yes. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Blood voting yes. Senator Bosn. Senator Bostar voting yes. Senator Bostelman not voting. Senator Brandt voting yes. Senator Brewer voting yes. Senator Briese voting yes. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh not voting. Senator Clements not voting. Senator Conrad voting yes. Senator Day. Senator DeBoer voting yes. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover voting yes. Senator Dungan voting yes. Senator Erdman voting no. Senator Fredrickson voting yes. Senator Halloran voting no. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt voting yes. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Kauth voting yes. Senator Linehan voting yes. Senator Lippincott voting yes. Senator Lowe not voting. Senator McDonnell voting yes. Senator McKinney voting yes. Senator Moser voting yes. Senator Murman voting yes. Senator Raybould voting yes. Senator Riepe voting yes. Senator Sanders voting yes. Senator Slama voting yes. Senator Vargas voting yes. Senator von Gillern voting yes. Senator Walz voting yes. Senator Wayne not voting. Senator Wishart voting yes. Senator Machaela Cavanaugh voting yes. Vote is 40 ayes, 3 nays. Mr. President, on adoption of the amendment.

KELLY: AM1681 is adopted. The next vote is the adoption of the E&R amendments. All those in favor-- request for a roll call vote. Mr. Clerk.

CLERK: Senator Aguilar voting yes. Senator Albrecht voting no. Senator Arch voting yes. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Blood voting yes. Senator Bosn. Senator Bostar voting yes. Senator Bostelman not voting. Senator Brandt voting yes. Senator Brewer voting yes. Senator Briese voting yes. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting no. Senator Conrad voting yes. Senator Day. Senator DeBoer voting yes. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover voting yes. Senator Dungan voting yes. Senator Erdman voting no.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

Senator Fredrickson voting yes. Senator Halloran not voting. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt voting yes. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Kauth voting yes. Senator Linehan voting yes. Senator Lippincott voting yes. Senator Lowe voting yes. Senator McDonnell voting yes. Senator McKinney voting yes. Senator Moser voting yes. Senator Murman voting yes. Senator Raybould voting yes. Senator Riepe voting yes. Senator Sanders voting yes. Senator Slama voting yes. Senator Vargas voting yes. Senator von Gillern voting yes. Senator Walz voting yes. Senator Wayne not voting. Senator Wishart voting yes.

KELLY: Senator, Senator Cavanaugh, for what purpose do you rise? State your point of order.

M. CAVANAUGH: Thank you. I don't believe we made a motion to adopt the E&R amendments.

KELLY: Could you approach, Senator? Senator Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. President. I apologize. I was incorrect. I withdraw my point of order.

KELLY: It is withdrawn.

CLERK: Mr. President, 41 ayes, 3 nays on adoption of the E&R amendments.

KELLY: The E&R amendment is adopted. Senator Ballard for a motion.

BALLARD: Mr. President, I move that LB705 be advanced to E&R for engrossing.

KELLY: Members, there's been a request for a machine vote. All those in favor to advance vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 39 ayes, 4 nays on advancement of the bill, Mr. President.

KELLY: The bill is advanced. I raise the call. Mr. Clerk for items.

CLERK: Mr. President, next bill on the agenda: LB583. Senator Hunt would move to bracket the bill with MO685 until June 2, 2023.

KELLY: Senator, you're recognized to speak on your motion.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

HUNT: Thank you, Mr. President. Would Senator Clements yield to a question?

KELLY: Senator Clements, would you yield to a question?

CLEMENTS: Yes.

HUNT: Thank you, Senator Clements. Did you ever-- so the last bill that we just did, LB705, did you ever take any time and speak on that bill? I don't remember.

CLEMENTS: Probably not.

HUNT: Why didn't you support the bill?

CLEMENTS: I asked-- I would rather not see 25 bills in one and there's some that I would rather not have in the--

HUNT: Which bills were you opposed to in the bill?

CLEMENTS: Also, the-- I asked the Committee Chair for a total of the fiscal note, where the money was coming from. Probably mainly the fact that I still am sitting here working on trying to find out where all the funding is coming from. And so that would probably be my main reason.

HUNT: OK. So Senator Murman wasn't able to get you information about how LB705 with the 25 bills in it that you say is going to be funded?

CLEMENTS: Yes. I asked late last night. I received a paper this morning and just came back from the Fiscal Office and was still trying to do some computations on the various fund sources. There were 2, 4, 6, 8, 10, 12, 14 lines in two columns. So I'm still not clear as to what the cost of this is in our budget.

HUNT: OK. Thank you. What, what bill-- so I'm not sure it's 25 bills. Do you know if it's 25 or is that an estimation?

CLEMENTS: I don't know for sure.

HUNT: OK. Which bills were you opposed to in that package?

CLEMENTS: I wouldn't have a comment on that.

HUNT: OK. Yeah. You didn't make a comment during the debate either, so I wanted to check. Thank you, Ms.-- Senator Clements. Senator Erdman, would you yield to a question?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

ERDMAN: Senator Erdman, will you yield to a question?

KELLY: I don't believe he's present, Senator.

HUNT: OK. Senator Albrecht, would you yield to a question, please?

KELLY: Senator Albrecht, would you yield to a question?

ALBRECHT: No.

HUNT: All right. Thanks, everybody, for clarifying your positions. I think it's good to get on the record and note that Senator Albrecht's not willing to answer a question, just as she wasn't willing to answer questions about her priority bill during her committee hearing, and that Senator Clements has a problem because there are so many bills put into this package. I think that's good to get on the record because it's important that we have some kind of precedent and some kind of record of how many bills we are packing into these packages, into each of these underlying bills. Given that this may give us some legal challenges down the road that-- of course the costs for that would be given to the Nebraska taxpayers. Or we could kill LB574 and never mind all that. On LB583, Senator Sanders' bill here, at the request of the Governor, to provide for foundation aid and special education supplemental aid under the Tax Equity and Educational Opportunity Support Act, TEEOSA. I'm a product of public schools. I went to Blair Public Schools. We didn't have any parochial schools or any private schools in Blair at the time, actually. So, basically everybody went to that school, which is a common experience in Nebraska. There are more and more private schools and parochial schools now than there were when I was a kid. And I went to a Lutheran church for preschool. I went to Joy Preschool in Blair, Nebraska. But I was raised Catholic and so-- I'm not sure why my parents picked that preschool, but, for whatever reason, they thought that was the best thing. And I had a really great time in preschool. My preschool teacher was amazing: Mrs. Schott [PHONETIC], Ronnie Schott. One of the things I remember most was her leaving the classroom for a little while one day-- which, like, I don't even know if a teacher could do that today-- but she left the classroom for maybe, like, five minutes or something and she came-- mind you, we're in preschool. What are we, like, three, four years old? She comes back in dressed as Johnny Appleseed, and we believed it was Johnny Appleseed. And she's talking about, I'm Johnny Appleseed. I'm walking across the country and planting seeds to grow trees, and here's how I cook with apples. Then we did all these recipes with apples and-- legit, for years-- maybe not years-- but at the time, certainly, we all thought that was really

Johnny Appleseed, which is, like, one of those moments of childhood magic that a good teacher can provide. And one of the things that was always a cornerstone of my education and all of us in Nebraska was lunchtime. And whether you're going through the line in the cafeteria or you're getting a sack lunch from home-- I had a sack lunch from home every single day. And any of you who know anything about my eating habits won't be surprised by this, but I ate the same lunch every day for 12 years, plus kindergarten, for 13 years. Peanut butter and jelly sandwich, some kind of fruit cup-- could be pears or peaches, could be applesauce-- a bag of chips, a small bag of chips. I went through different phases with the chips, which was the experimental and adventurous part. We could do Fritos, we could do Lay's potato chips or we could do Cheetos, but nothing else. And Cheetos were the only kind of chip I would accept that had any kind of flavor dust on it or something like that. Sometimes a granola bar. Sometimes a pudding cup, but usually that was it. And my mom had this rule in our house: no Little Debbie, no Hostess and no artificial sugars or, like, fake ingredients. I feel like my mom was this, like, early granola mom, like, before we-- almond mom-- like, before we had that, which is what we call that now. And anything that we were eating or consuming was either all natural, local, farmer's market or she made it, homemade. And one of the biggest frustrations for me with this and for my brother too, who's four years younger than me-- he's in the Navy and he works at the White House, which I can't believe because he's my little brother and I can't believe he got a job like that. But I love him so much and I'm so proud of him. We weren't allowed to have popsicles-- like, the flavor ice, the popsicles that come in the plastic tube that you can get, like, a box of 200 of them for \$5 or something. And I loved those. They were so good. And my mom would not let us have them because they had artificial flavor and sugar. And-- so we would go to our friends' houses and get that, get those flavor ice popsicles. But there was one exception in our house, and that was for Kool-Aid. And I don't know why my mom had this exception where we had to have this all-natural juice, everything all the time except Kool-Aid. Maybe it's Nebraska pride. Maybe she knows this is coming from Senator Halloran's district in Hastings. I don't know. Probably not that. But she had no problem with us having Kool-Aid. And I think in retrospect, it's because Kool-Aid is an activity. Like, you don't just peel the foil off the top and drink it. You have to make it. And my mom was always trying to figure out activities for us, things we could make to keep us busy. And we did do half sugar. You're supposed to put a cup of sugar in there, and we would do a quarter cup or half a cup. But we had a-- Velveeta cheese. Now, don't get on her about the Velveeta cheese. I don't know why she

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

had that. I didn't eat it. Wouldn't let me eat that. But we had an empty Velveeta cheese box in the middle drawer in our kitchen that was full of packets of Kool-Aid. And every time we went to gro--

KELLY: One minute.

HUNT: Only one minute? Thank you, Mr. President. Every time we went to the grocery store, my mom would let me and my brother each pick four or five packets of Kool-Aid to bring home. And that probably kept us busy the entire time at the grocery store, me and Matt, just looking at all the different flavors of Kool-Aid. There are some flavors that are rare that are not made anymore: Pink Swimmingo, the Great Blue-Dini-- which, when you pour it in, it's green. But then when you mix it up, it turns blue. And the activity of making the Kool-Aid and so many of these flavors that are no longer even available-- you can get them on eBay for hundreds and hundreds of dollars now because there are Kool-Aid collectors. But these are some of the memories that are such a cornerstone in my life from that public school experience. Thank you, Mr. President.

KELLY: Thank you, Senator. And Senator Sanders, you're recognized to speak.

SANDERS: Thank you. And good morning, Mr. President and colleagues. This bill, introduced on behalf of the Governor, was a product of the Governor's public school education finance working group that met three times between the Election Day of 2022 and the beginning of this year's legislative session. LB583 passed the Education Committee and was placed on General File on March 30. The bill then passed the General File on April 14 with an overwhelming majority of the body's support. I wanted to jump in the queue to give you a quick refresher on LB583. On General File, LB583 was amended with AM970 with a white copy that replaced the bill. Under AM970, this bill refuses-- this bill infuses \$300 million annually into the public school through two mechanisms. One-- first, the state ensures that 80 percent of special education costs are reimbursed to the districts. This funding takes place inside the TEEOSA formula. But as we discussed on General File, it does not offset other state aid until the third year. Secondly, we create foundational aid that sends \$1,500 per students to the prospective districts. This also is inside the formula until the third year, when 40 percent of these funds will be, be placed outside of the TEEOSA formula. This ensures that every school district benefits from LB583, equalized or unequalized. Additionally, there is a reporting requirement and protections against the double dipping with option enrollment benefits on top of the foundation aid. I do want to mention

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

that I have an amendment on the board today that fixes an error in the amendment we adopted on General File. Under AM970, a technical wording error rendered the special education funding inoperable. My AM1636 addresses that issue and makes other small changes to the reporting requirement efforts to clean up the language. I want to stress this amendment is vital to the bill's operationability and 80 percent of the special education funding. I look forward to the discussion today. I look forward to the introduction of AM1636 when it comes up. Thank you, Mr. President.

KELLY: Thank you, Sen-- Senator Sanders. Senator Conrad, you're recognized to speak.

CONRAD: Thank you so much, Mr. President. Good morning again, colleagues. I rise in support of Senator Sanders' measure that she has brought forward on behalf of the Governor. I so appreciate serving with Senator Sanders. By the luck of the draw or perhaps an unlucky aspect from her perspective, she and I have a chance to serve on both of our committee assignments for five days out of the work week. So we're on Education and Government Committee together. And I have long admired her leadership and her approach to governance and have deepened that appreciation when having a chance to work with her as a colleague firsthand on those, those key issues before Education and Government. So I added my name as a co-sponsor to this measure. And in light of the fact that, for many, many, many years, we've talked about the need to increase resources for our great public schools and to try and figure out a way to do more to ensure educational equity, academic success, keep an eye towards the understanding that every dollar that we invest from the state level helps to reduce reliance on local property taxes, which, of course, is another key perennial issue and public policy challenge in Nebraska. So trying to thread the needle to figure out how we can provide property tax relief, even though we don't levy property taxes on the state level, but also not diminish or hurt our strong public schools is a challenge that Nebraska has grappled with for decades and continues to grapple with. I think that there was a well-deserved sigh of relief when Governor Pillemer convened a school funding task force to take up these issues pre-session. And one of the key centerpieces to the education task force work, of course, is in Senator Sanders' amendment. And there are a lot of details to tease out. And I want to visit with her and others about the amendment that's filed so I have a, a clearer and better understanding of that. But from a topline, big picture perspective, the good news is this is about infusing more resources into public schools. The good news is this is about ensuring that the state does a better job, because our federal partners fall short, and ensuring

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

we're providing schools with the resources they need to, to help educate and meet the needs of students with special needs and in the special education realm. So I know that, of course, the devil's always in the details and, and we need to have a, a clear understanding of the technical aspects and the amendments that are filed there too. But just from, you know, kind of setting the stage for this debate at the outset, those are the two main components that I'm excited about in regards to Senator Sanders' bill that she's brought forward today: increased resources for public schools and a better investment, a better infusion of resources to help schools meet the needs for special education, which has been historically underfunded on the federal level and on the state level. So each dollar that we can move in that direction-- in both of those directions-- I think helps to improve our shared goals to ensure educational success and helps to lessen reliance on local property taxes. So, overall, I just wanted to set the stage for that. I wanted to thank not only Senator Sanders but the Education Committee for moving this forward. I wanted to give credit where credit is due. I have a significant amount of policy disagreements with Governor Pillen, but I appreciate his meaningful engagement with the Legislature. I appreciate that one of the centerpieces of his agenda this year--

KELLY: One minute.

CONRAD: --has been-- thank you, Mr. President-- has been to infuse more resources into our public schools with this measure and, of course, the corresponding Education Future Fund, which is part of the budgetary package as well, to ensure that we can stabilize education funding when the economy does meet an inevitable downturn and ensure that we learned the hard lessons from the past, that we're not starting out by cutting education when we hit hard times but we're building in an additional safeguard and to prioritize the resources for our great public schools. So, thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Walz-- or, excuse me-- Senator Walz has some guests in the north balcony: 14 fourth graders from Trinity Lutheran in Fremont, Nebraska. Please stand and be recognized. Senator Linehan, you're recognized to speak.

LINEHAN: Thank you, Mr. President. Good morning again, colleagues. I rise in support of LB583, Senator Sanders' bill and, of course, against the bracket. I-- we're getting a lot done today, and I think maybe because of other issues, we don't realize quite all what we've done. But I'm going to start-- and I'll be up my three times on this bill. I'm going to start with talking about the Education Committee.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

Chairman Murman, we've had a lot of long exec committees and we had a lot of hearings. And I told one of my colleagues this morning, when it comes to these issues, everybody is emotionally involved because we've all been students in school. Many of us have children who are in school or who have attended school. And some of us lucky ones now have grandchildren in school. So this-- you know, I, I remember the jokes used to be-- when-- I've been in politics-- around politics for 30 years-- really longer, but I don't like to say longer. It makes me too old-- there's nothing worse than being on the school board of a city council because it's closest to the people. And I think in today's world, the school board is probably the hardest one to be on. So back to our committee. I want to talk about it a little bit. We have Senator Murman, who's our chairman. We have Senator Albrecht, who is in my class, which means she's got one year left. And you have all that experience. We have Senator Briese, who's also in our class, who's been here-- he's now in his seventh year-- with all the experience. We have Senator Conrad, who's been-- eight years now going on nine years and her experience. We have Senator Sanders, who's been a mayor, has raised two kids, has a grandchild, and she's on our committee. And we have Senator Walz, who was Chairman of the committee for two tough years. And her heart's all in all the time. And we have Senator Wayne, who, before he was in the Legislature-- who's also in our class-- and before he was in the Legislature, served both on the Omaha school board and the Learning Community. A lot of history tied in there. A lot of things in the bills that we're doing today that we have been working on since we got on the Education Committee. Senator Walz is also in our class. So I guess the moral of that story is there's a lot of openings in two years on the Education Committee. So some of you who aren't on Education who want to be on Education should be paying very close attention tomorrow-- today on these bills. Now I'll go to the bill that's up there now. Governor Pillen has made a commitment-- and it started as Senator-- I think it was Walz. It might have been Senator Con-- I'm sorry. Senator Conrad mentioned-- he started with listening sessions before he was even sworn in. He heard loudly and clearly what we had heard for six years, that we don't trust the Legislature. We tried to work on that by not moving the levers up and down, but we couldn't overcome that. So Senator-- Senator-- Governor Pillen committed \$1 billion to the education trust fund. And Senator Clements, Chairman of Appropriations, carried that bill, and it's in the budget: \$1 billion to the education trust fund. And I didn't give Senator Clements a heads-up, so I'm not going to ask him a question. But the next time I'm up, if I'm-- he can hear me. I think it's not only \$1 billion this biennium, but it's \$250 million-- and I can't remember if it's for three or four more. So there's plenty of money

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

set aside to do this. So hopefully, at least that addresses the trust issue. And then we have the issue where we have way too many children. They're in public schools in Nebraska-- that we're getting some state aid. Everybody gets some state aid, but it wasn't very much.

KELLY: One minute.

LINEHAN: So the Governor has committed \$1,500 for every student in the state, regardless of what school district they're in. On top of that, we have, for the first time-- which we've also worked on for six years-- trying to get 80 percent special ed for every kid in the state. 80 percent. So maybe some of those youngsters who are problematic, some of those schools-- and I've heard this and so did Senator McKinney-- we don't have the resources, we don't have-- we don't know what to do. Hopefully, with 80 percent of your expenses being covered, we can fix some of those problems. That's the goal. And when I get up next time, I'll talk about some of the [INAUDIBLE] bill that we just passed this morning. Thank you, Mr. President.

KELLY: Thank you, Senator Linehan. Senator Hunt, you're recognized to speak.

HUNT: Thank you, Mr. President. I will withdraw this bracket motion.

KELLY: So ordered. Mr. Clerk for items.

CLERK: Senator, first of all, I have E&R amendments.

KELLY: Senator Slama for a motion.

SLAMA: Mr. President, I move to adopt the E&R amendments to LB583.

KELLY: That is a debatable motion. Returning to the queue. Senator Brandt, you're recognized to speak.

BRANDT: Thank you, Mr. President. Thank you to the Education Committee for your hard work on this. Like a lot of us in here, I attended both a parochial school and a public high school, a public university, all in the state of Nebraska and all good. You just can't say enough about it. The secret ingredient in this is to have good teachers. Doesn't make any difference if they were at the university, at my high school or at my parochial school. So, thank you to all the teachers out there that got us this far. This bill does two things, like Senator Sanders indicated. It will increase special education funding, that we refer to as SPED, to 80 percent. The effect of that will not go fully into force for two years. And then at that time, we will have 80 percent

inside the formula. I kind of like the TEEOSA formula. TEEOSA formula does two things: one, it determines need; and the second thing, it determines resources. And I think on the needs side, it is fairly accurate when it takes poverty and a 100 different elements and puts them together and said that this school district needs help. The flaw in the TEEOSA formula is on the resource side because, in Nebraska, we only use a sales-based approach to the valuation of the resource and the TEEOSA formula only takes the aggregate value of real estate in that school district as a resource regardless of what the income generation capacity of that is. And we've seen a lot of that action in our large cities, small cities and farms in the last 10 years. In Lincoln this last year, I've received a lot of emails-- even though I do not represent any of the city of Lincoln-- where their valuations have gone up 10 to 30 percent. That usually translates into taxes going up. And when you look at your tax statement, two-thirds of that tax statement goes to the local schools. So this bill would reimburse 80 percent of the SPED cost. Today, they get 46 percent. That's a tremendous increase. The second thing it does is it gives \$1,500 as a minimum payment to every public school kid in the state, which is sorely needed. I can tell you, in District 32-- that I represent-- we have 14 schools. 12 of them receive no equalization aid. Equalization aid is about 80 percent of all school costs. Because we receive no equalization aid, because the formula says our districts are very wealthy because of the value of our real estate, our property taxpayers bear the burden on that. This helps take a step in the right direction. It's roughly about 10 percent for most of my small districts. So, I want to thank all of our school board members like Senator Linehan had. This is a rewarding job and a thankless job at the same time. I remember my dad was on school board for eight years. And this is in the '80s. And you would get phone calls from a lot of people and a lot of things, and a lot of it wasn't about to say thank you for being on the school board. They were upset their kid got in trouble on the bus or they had a specific teacher that they didn't get along with or, god forbid, coaching. A lot of this in small town Nebraska is about a coach and the kids on the team or not on the team. So, thank you, school board members, for what you do. But most of all, I want to say thank you to the property taxpayers in the state for your support of our public schools. Without you, we wouldn't have the high-quality schools that we have in the state of--

KELLY: One minute.

BRANDT: --Nebraska. Thank you. Nebraska ranks about 49th in state aid to schools. This will help move us up the food chain a little bit. But Nebraska can be proud. We're about 25th in the nation on what we

invest in schools. And a lot of that goes back to our property taxpayers, not only in the rural areas, but also in our big cities. The people in Lincoln and Omaha spend a lot of money in property taxes to support their schools. I would urge everybody to support LB583 and encourage you to vote for it also. Thank you.

BRANDT: Thank you, Senator Brandt. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. Again, good morning, colleagues. The queue must have juggled a little bit. I thought I had a bit more time to dig into the amendment and-- have had an opportunity to visit just very briefly with Senator Sanders and her great staff in regards to how the amendment works and have had a chance to touch base with some educational policy stakeholders as well to just help me get a better understanding of it. But as I understand, Senator Sanders' amendment that's filed and will be taken up as a course of this debate, that, in essence, I, I think it's meant to be more, more technical in nature than substantive. And it has a host of different provisions to ensure it meets the policy goals related to providing more resources to all students, and particularly to address the disparities between equalized and nonequalized districts to try and make sure that when we do that lookback in regards to special education needs, that we are meeting that, that 80 percent goal in providing that reimbursement. There seems to be, I think, some clarifying and strengthening aspects related to the different reporting requirements, slight adjustments in terms of how the Education Future Fund works and an adjustment on certification dates to address just where we are in the calendar and otherwise. So, in essence, I really do think that this looks like a technical cleanup bill to try and get the money where it needs to go. And I think that is the goal that the Education Committee and the Governor's Office and members of this body have committed to on General File. And then this helps us to meet those goals on Select today through Senator Sanders' amendment. So the other thing that I just wanted to make sure that we were lifting up in regards to this very meaningful, important shift and change in terms of our educational funding policy is I think that we can all agree that this is a very, very important-- I was going to say first step, but that's-- that seems too small in terms of characterization-- that this is a, a momentous point in terms of our educational policy and funding policy. But I think that we're also clear-eyed about the fact that this isn't the end of the conversation. And we know from the robust debate that happened on General File, Senator Hughes, Senator Brandt and others have worked very hard to bring forward additional ideas to improve school funding and address property tax relief that are worthy

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

of additional exploration and consideration by the Education Committee and the body as a whole. We also know that we, we haven't truly, I think, gotten to the heart of ensuring that we're providing the necessary resources for equalization aid as well. And I want to be clear that we've had-- we started a more robust conversation in the Education Committee about how we can address poverty and equity more appropriately to provide a greater priority to that and Senator--

KELLY: One minute.

CONRAD: --Walz-- thank you, Mr. President-- has important legislation pending that I think the committee should take a hard look at in the interim and bring forward hopefully next year to adjust the poverty allowance. Senator Bostar, Senator Cavanaugh, Senator Machaela Cavanaugh and Senator Walz each have different components related to school nutrition and ensuring educational equity and student success and better health that we really need to figure out how to put our heads together to get a move on those as well. And we need to, of course, just have the recognition and understanding that the large schools in our urban centers are doing a great job and have very, very low cost per pupil in terms of how they, they educate our kids. So we're at the top of those lists when it comes to student performance. We're at the bottom of those lists when it comes to teacher pay and state support for education. This helps to address some of those issues that have been identified, and we need to continue the conversation after we--

KELLY: That's your time, Senator.

CONRAD: --move forward LB583. Thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Clements, you're recognized to speak.

CLEMENTS: Thank you, Mr. President. I stand in support of LB583. And as Senator Linehan mentioned, I had a bill this year to create the Education Future Fund, which is \$1 billion this fiscal year and \$250 million the next fiscal year. And the funding after that has intent language that we intend to place \$250 million per year into that. The Legislature cannot bind future Legislatures beyond the two-year budget cycle, so the amount of that bill is \$1,250,000,000. The funding for the provisions in this bill is coming out of that Education Future Fund, which does fund additional money for special education and foundation aid of \$1,500 per student and three other priorities-- three or four other priorities from that fund. And so I-- the reason

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

for the billion dollars up-front-- we're not spending that all at once. We're spending-- I think this is around \$300 million of expense of state aid, additional state aid. And the future fund makes it sustainable. There was a concern as to whether there would be funds in the future if the state promised to increase state aid. And so this is what the Governor recommended, to set aside \$1 billion and make it sustainable for many years. And so that-- just wanted to clarify that these provisions are going to be supported by the Education Future Fund that is in the budget. It's already taken out of what you see as money to the floor. It's not going to reduce the \$700 million you see as money to the floor. It's already been accounted for in there. So I urge your green vote on LB583. Thank you, Mr. President.

KELLY: Thank you, Senator Clements. Senator Fredrickson has guests in the north balcony: fourth graders from the Dual Language Academy in Omaha. Please stand and be recognized by your Nebraska Legislature. Senator Briese, you're recognized to speak.

BRIESE: Thank you, Mr. President. Good morning, colleagues. I rise in support of LB583. And I thank Senator Sanders for her work on this. And this really is a step in the right direction. Some suggest we're 49th in the country in the amount of state funding that-- excuse me-- the amount of education funding that comes from the state level. I think Senator Brandt alluded to that. I'm not sure if that number is correct, but we are truly pathetic in the amount of state funding that goes to some of our districts, and that's especially true in rural Nebraska, where many of our districts receive less than 10 percent of their funding from the state. My home district gets about 6.5 percent of their budget covered by state aid. You know, go-- compare that to OPS or some of the equalized districts and it's a night and day difference. Also, you go the other direction six miles down the road from my home district, and a local district gets eight-tenths of 1 percent of its budget covered by the state. And, and folks, that really is unconscionable. We talk all the time about reducing property taxes. Some insist the way to reduce our overreliance on property taxes is to increase state aid to education. Well, here's our chance to do it. It's time to step up and inject some fairness into the way we fund public schools in Nebraska. Thank you, Mr. President.

KELLY: Thank you, Senator Briese. Senator Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. I just wanted to say hi to the students. Senator John Cavanaugh and I are alumni from St. Joan of Arc. So it's really nice to have you all up there. I'm so curious how

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

you like the school building and the gymnasium and, and the chapel. So I hope you all are having a wonderful visit to the Capitol today. It was really nice to see you. Thank you, Mr. President.

KELLY: You've heard the motion to adopt the E&R amendments. All those in favor say aye. Those opposed, nay. They are adopted. Mr. Clerk.

CLERK: Mr. President, series of amendments, amendments to be withdrawn from Senator Sanders: AM1230, AM1229, AM1175 and AM1174. Mr. President, Senator Sanders would move to amend with AM1636.

KELLY: Senator Sanders, you're recognized to open on the amendment.

SANDERS: Thank you. And good morning again, Mr. President. Colleagues, today, I'm introducing AM1636 as a cleanup amendment to LB583. First, I'd like to thank the Policy Research Office for identifying an error in AM970, which will be adopted during General File debate. A small detail in the language of that amendment accidentally canceled out the special education funding increase. AM1636 fixes that error and brings the bill in alignment with the goals stated on General File. That is the main function of the amendment. Additionally, AM1636 makes changes to the reporting requirement that the body approved on General File. In addition to cleaning up the reporting requirement from AM970, this amendment today specifies that the Department of Education must annually submit a report to the Governor and the Appropriations and Education Committees. This report would detail special education expenditures and requested reimbursement as prescribed by LB583. This helps the Legislature and the executive branch keep an eye on both functions of this funding change, both on foundational aid and special education reimbursement. This also helps amend the reporting language to include, and I quote, other information as required by the department, unquote. This allows flexibility to make sure all relevant data can be collected. Additionally, the amendment changes the amount of foundation aid paid for by the Education Future Fund from 33 percent to 24 percent, thus eliminating any General Fund impact. Finally, the certification date is changed to accommodate the timing of the bill's potential passage. This amendment is necessary to carry out the special education funding reimbursement mechanism. I ask for your green vote on AM1636. Thank you, Mr. President.

KELLY: Thank you, Senator Sanders. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. And good morning, colleagues. Boy, I'm really getting my steps in this morning, and I'm, I'm grateful to,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

to have that movement and opportunity to engage with so many people who are, I think, interested and engaged in this important policy debate. One thing that I did want to lift up perhaps in terms of a cautionary note for us to think about into the future, and particularly in light if there were to be some economic downturns, which typically do happen on a cyclical nature. The question is usually just when we see a downturn and how deep that will be. But I want to make sure, as we commit to this path, that we're also thinking about kind of how our policy approach in Nebraska interplays with requirements on some of those federal dollars, and specifically in regard to the maintenance of effort that the federal law requires for us to, to draw down and, and to be able to utilize the funds that they provide for education funding as well. So once we set this bar, we have to be thoughtful and careful to not fall below this into the future and even if we do face an economic downturn in the near term, midterm or, or longer term. Because if we do fall below the commitment that we're making in regards to this local effort, this maintenance of effort, we could risk potentially some federal clawback in terms of educational funds. So I just wanted to make sure that people were starting to think about this as we establish kind of a new commitment to providing this local effort or this maintenance effort and how that interplays with existing federal law. Again, I don't pretend to be an expert on the matter. I am an enthusiastic student and learning more every day about the nuances in our education funding. But that's something that I just want the body to be clear-eyed about in regards to establishing this kind of new normal in terms of our state/local effort to support our kids, and our kids with special needs in particular. Thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Clements, you're recognized to speak.

CLEMENTS: Thank you, Mr. President. I support AM1636. The-- it's a technical correction to make sure that the funding is allocated correctly. Also, it does have reporting requirements for the Appropriations Committee and-- especially on the Education Future Fund, we need to track how it's doing to make sure it's sustainable. The previous bill that-- LB705 that was passed, the fiscal note that I received this morning, the detail on teacher recruitment was showing \$7,300,000, and \$6,500,000 in the first two years. But since then, I was told it's \$10 million the first year and \$10 million again the second year. And those-- the \$10 million per year will come out of the Education Future Fund on top of what this bill does. And-- so in 10 years, it's \$100 million. So I think it's important for us to be tracking the Education Future Fund so we can keep it sustainable and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

allocate general funds. The Education Future Fund is only funded by general funds and will be needed to make transfers to it if it is going below a level that looks like it's sustainable. And so I appreciate the insertion of reporting requirements on-- for AM1636 so that we can track the future fund and see that the thing-- the items that are coming out of it are not reducing it below sustainable levels. Thank you, Mr. President.

KELLY: Thank you, Senator Clements. Senator Lowe, you're recognized to speak.

LOWE: Thank you, Lieutenant Governor. As I was out campaigning-- gosh, it's almost been eight years ago now. Time does fly. The main thing the people talked about was reducing our property taxes. Out in central Nebraska, our property taxes had been increasing by 30 percent, 20 percent, 40 percent over the last several years during that time period. That's great because our property values were going up. The problem was we weren't selling, so we were just paying more for the land that we had already bought. That's because the cost to have schools. And it's been labored on our property owners to pay these costs. And when we came down here, we said, hey, we want to fix this. And what we found out was the, the schools didn't want the state involved because property taxes are pretty level. They go up a little bit at a time almost always. But state revenue rises and falls. And so with that would be-- the revenue for the schools would rise and falls and was hard for them to budget what we did down here in Lincoln. But it's still not fair for the property tax and the owners of property. Now you say, well, I rent. You're still paying property tax because that property tax is included in your rent. Hence, your rents are going up. I know this because I own several pieces of property. And I-- at one time, we could pay our property tax with one month's rent. It's gone up now to three month's rent, which means the income for me is down and I still need to pay the bank. So I need to raise rents in order-- so I can cover that. So with this new boost of money coming in from the state to help, it will help our property taxpayers and it will help the schools because they know, for a time being anyway, for the 10 years, this money will be coming in to them. And that will help the schools out. They, they can budget that. That's a good thing. So I stand in support of LB583 and AM1636 for our property taxpayers, for our renters, for our Nebraska people because this year we have the money and we're able to do this. Thank you, Lieutenant Governor.

KELLY: Thank you, Senator Lowe. Senator Murman, you're recognized to speak.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

MURMAN: Thank you, Mr. Lieutenant Governor. I too want to rise in support of AM1636 and the underlying bill, LB583. As Chair of the Education Committee, I really appreciate the work that the Governor and the committee during the interim did on coming up with these ideas on how we can better fund public schools and, at the same time, provide property tax relief. That is two big challenges that the Legislature has worked on in the past-- for a long time, past decades, and haven't made a lot of progress on. But this does-- this bill and the bills that go along with it in the Appropriations Committee and Revenue will go a long ways to improving the TEEOSA formula. As has been mentioned before, the two big changes in the TEEOSA formula is that \$1,500 per student will be paid from the state to all public school students in the state. And that's a big change because, right now, there's 244 school districts in the state and-- I don't have the exact number, but I think about 80 are equalized and the remainder school districts are unequalized. So the unequalized school districts receive no per student funding from the TEEOSA formula and almost no funding from the TEEOSA formula. But this will make it much more fair across the state. Every student will see that-- receive that \$1,500. And then the other big change is the 80 percent special ed reimbursement. And that's also an issue that's been worked on for decades. Right now, there's only 42 percent special ed reimbursement. So that will almost double the amount of special ed reimbursement available and make it much more fair to school districts and to students to get that 80 percent reimbursement. Special ed is, of course, is a very important part of our educational system. The stud-- many students receive special ed. And it is expensive for school districts to provide that, but they deserve a much-- the school districts do deserve a much larger reimbursement for what they do to help students that needs the special ed support. And as was mentioned before, Nebraska is 49th in the nation in the amount of funding that we provide from the state to schools. But that is a very misleading statistic because, because of our overreliance on property taxes, we do support our schools well. We're 25th in the nation-- or, approximately 25th in the nation in the amount of support we give to public schools. So, this bill will improve that. And with the good work that was done--

KELLY: One minute.

MURMAN: --by the Governor and the committee in the interim and then through the Education Committee and with the cooperation also with the Appropriations Committee with the guarantee of the Education Future Fund-- I think everything works together to provide a much improved

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

way in which we support the students that we have in our schools in Nebraska. Thank you very much.

KELLY: Thank you, Senator Murman. Senator Aguilar has some guests in the north balcony: 60 fourth graders from Starr Elementary in Grand Island. Please stand and be recognized by your Nebraska Legislature. Senator Briese, you're recognized to speak.

BRIESE: Thank you, Mr. President. You know, a couple of us-- several of us have mentioned the need for property tax relief and how, how this bill relates to that. When you're talking about property tax relief, when you're talking about using state funds to yield property tax relief, you know, you have several different options. You can send it straight back to the taxpayers through the original Property Tax Credit Fund. You can send it straight back to the taxpayers through the LB1107 credit. Or you can send it back to your schools and hope it gets to the taxpayers. And so from my standpoint, you know, the intent for myself and I think several others in here is that these dollars that we're sending back to schools do yield property tax relief-- ideally dollar for dollar. That's going to be hard to come by, but we would like to see that happen. And so we're going to need help. Nebraskans are going to need help from their local school boards and their school administrators to try to ensure that they do their best to ensure that these dollars yield property tax relief. And that is one of the reasons we have LB589. That's the 3 percent revenue cap bill that's contained in LB243 at this point to try to ensure that happens. But really, at the end of the day, you know, I would call upon school districts to recognize the intent really is for these dollars to yield property tax relief for everyday Nebraskans. And I think that's why Senator Sanders has a provision here in LB583 that was going to require school districts to report annually on the amount of tax relief, the amount of property tax reduction they have attained every year. And that's going to tell us a lot. That's going to tell us, did these dollars yield property tax relief? Are these dollar yielding tax relief? And I really thank Senator Sanders for including that provision in here. I think it's a key part of this bill. It's a very important part of this bill. And-- but, but again, I would call upon school districts, administrators, school boards to help us out in this endeavor. Thank you, Mr. President.

KELLY: Thank you, Senator Briese. Sen-- Senator Slama, you're recognized to speak.

SLAMA: Thank you, Mr. President. I rise today in support of LB583 and, of course, in support of the technical amendment brought by Senator

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

Sanders to secure the special education funding increase. Growing up in rural Nebraska, it really is an interesting experience, and it is unfortunate to see at times-- to see the negative impacts of how our state chooses to fund education. We say as a state that rural, agricultural-based districts that have more farmable land are somehow wealthier on paper and therefore better suited through property taxes to keep the lights on and the doors open at their schools. Anybody who's ever worked in agriculture knows that you might have value on land on paper, but when it comes to actual income that your operation is bringing in each year, it's not even going to be close. So you have a false sense of wealth on paper, paired with a lack of support from the state, with an assumption from the state that, good golly gosh, you can com-- you can almost entirely rely on local property tax receipts in order to run your schools. Now, what happens in our rural districts are we have a tension between the ag community and our schools thanks to an artificial weight from the state. And the tension is is that school board members who are just trying to provide basic services to their students-- things that aren't even, like, AP classes or dual credit courses or advanced learning for kids that are talented, just basically trying to meet their needs-- they're stuck between a rock and a hard place between their current levy and farmers who can't afford to pay more in property taxes. Property taxes are already absurdly high and putting an insurmountable amount of pressure on one of the largest contributors to Nebraska's economy. So you have ag leaders pushing back, not because they don't want high-quality schools for their kids and for their community members, but because they can't afford to foot the bill. Now, that stands in contrast to schools like Omaha and Lincoln and Millard who receive the lion's shares of the state funding in the school aid formula. At the core of this is our state has decided that we're going to value a kid in Pawnee City less than a kid in Papillion, the same kid in the same circumstances, the same background. We're going to give them less in state dollars if they're in Pawnee City, if they're in Papillion. We're going to give them less in state dollars if they're in Ogallala or Ord as opposed to Omaha. We decide the winners and losers on the front end for how we're funding our education system, and it's wrong. And if you want to really get to the core of why young people are leaving rural Nebraska, so much of it revolves around opportunities they have, economic opportunities they have, educational opportunities they have. And when you have a situation where the driver of the region's economy has a pressure against the school district and vice versa, you're not setting yourself up for long-term growth and success. And moreover, when kids are, from the start of their lives, not supported by the state as much as a kid who happens to live in a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

more populated part of the state, that doesn't set them up for success either. So I'm really grateful to Senator Sanders and to everybody on the committee who's worked towards LB583. This has been a long time coming. It doesn't get us all the way to where we need to be when it comes to funding for education. I would say the first step would need to be getting rid of TEEOSA altogether, simplifying the formula and moving forward that way. But this is a strong step in the right direction to providing our rural schools with the funding they need to give every kid a great opportunity to succeed. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. Mr. Clerk for items.

CLERK: Mr. President, amendment to be printed from Senator DeBoer to LB814. And a priority motion. Senator Clements would move to recess the body until 1:00 p.m.

KELLY: There's been a motion to recess until 1:00. All those in favor say aye. All those opposed say nay. We are in recess.

[RECESS]

KELLY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, do you have any items for the record?

CLERK: First, Mr. President, there's a quorum present. I have no items at this time, Mr. President.

KELLY: And, Mr. Clerk, first item on the agenda.

CLERK: Mr. President, returning to LB583, pending was a, an amendment from Senator Sanders, AM1636.

KELLY: Returning to the queue, Senator Bostelman, you're recognized to speak.

BOSTELMAN: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. I stand in full support of AM1636 and LB583. I think Senator Lowe and others have talked a little bit about the importance of it, not only to our schools but also on the property tax side so I want to read something from a constituent of mine that received last fall about property taxes specifically, but then I want to talk about the bill itself or the amendment. This is from an individual in a small community, a village in, in my district and it's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

specifically to property taxes: This, this past spring, a house in this village sold for way more than it was worth. This resulted in our lovely local tax office tripling my property taxes. I am 66 years old. I live alone. I am on SSI with a small part-time job to make ends meet. There is no way I can come up with the thousands of dollars they are now going to charge me next year. And, no, I do not qualify for Homestead Exemption Act [SIC]. I make just barely too much money. This is obscene. They have effectively just stolen my house from me. It may take a few years for the lien for back taxes to get my property sold, but that is what the end result is going to be. The entire manner in which they conducted this property tax increase must be changed. Just because someone else's house sold high does not give them the right to ruin half this village. Tripling taxes all in one bite is just greedy and wrong. I contested my valuation. They ever so graciously agreed to only a double tax increase. Sarcasm added. Let them assess these huge increases when a house actually gets sold. Part of the amendment and part of the bill that we're talking about is two things, when I go around and talk to, when I've talked with superintendents in my district and when they've emailed me about things is SPED funding and school board members. SPED funding is huge costs to our schools. And what we're doing with this AM and with the bill is provide 80 percent of that SPED funding to that school. That's huge. And in some cases that was the number one ask, if you will, number one comment from our schools was please help us here. Because the feds have fallen far short, the feds have not lived up to their stated obligation of providing the funding so it's a huge opportunity or a huge help to our schools, our school districts with this 80 percent of SPED funding. So this is something I think is, is very much appreciated, very much needed. And I applaud those who put this together to, to reach that agreement. The other thing that we talked about too is, is the \$1,500 per student. Right now, a large number of schools across the state receive no, no aid or very little. Some years ago, the school district that I lived in, when it come down to figuring up funding through TEEOSA, they actually owed, the formula says you owe us. That can't happen and that, that did happen. So I, I think the \$1,500 dollars is a move--

KELLY: One minute.

BOSTELMAN: --in the right direction, but I think there's much more we could do for all of our other schools throughout the state and my district. Those things, I think, are very important to us. There's other items within the bill that I think are very good. But I wanted to point out those two things and I wanted to point out the impact this has to, to those who live in our districts when we talk about

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

property taxes. I know there'll be more coming on that on other bills, but this is something that affects people where they live now. Can they afford the house they live in now? And I think these two, these two things I've highlighted will help our schools and also help our property tax owner-- our property owners and our property taxes across the state. With that, I yield the rest of my time back to the Chair. Thank you.

KELLY: Thank you, Senator Bostelman. Senator Holdcroft, you're recognized to speak.

HOLDCROFT: Thank you, Mr. President. I rise in support of LB583 and AM1636. First, I wanted to, to express my appreciation to Senator Rita Sanders for bringing forward this, this bill. And I also want to give a shout out to the Governor's Office also for helping coordinate this whole effort. As some of you may know, back in late November, early December, he brought together a broad range of individuals from, from the Legislature, from, from school administrations, you know, from the Governor's Office to try to come up with a plan to try and take the surplus and apply it towards education to reduce property taxes. And that's, that has resulted in really four bills which I'll touch on shortly, but a tremendous effort and that we've gotten this far along, I think, it has a really good chance of succeeding. I'm going to read first from the presentation, the PowerPoint presentation that Senator Sanders presented to us when she introduced this bill on General-- for General File. The first part of it was, you know, the purpose, LB583 was to provide foundation aid and special education supplemental aid under the Tax Equity and Educational Opportunities Support Act. That is LB583. It really has three parts. First, is special aid. It provides-- the state will now provide 80 percent of special education costs that will be funded and this additional funding will run through the existing TEEOSA formula. The foundation aid, which is the \$1,500 per formula student. Foundation aid will not follow a net option student. The years one and two will be 100 percent resource, and year three and every year thereafter will be 60 percent resource. And finally, there are, there are reporting requirements. Annually, there will be reports to the Governor, the Education Chair, and the Clerk on the amount of additional state aid that was provided and how much the property taxes were reduced. So-- and then finally, the orchestration of, of the related bills. And first, we start with LB681, which is Senator Clements' appropriation bill, which sets aside this \$1 billion upfront investment in the foundation and then which from there is applied the approximately \$250 million per year and the 80 percent special education funding. So that comes from Senator Clements' appropriation bill, which is proceeding nicely. And then the second

part of it is, is Rita's bill here, the one we're discussing now. And then the, the third one is Senator Briese's bill, LB589, which kind of puts, puts a cap and helps the, let's say, the school boards to do the right thing. So we're, we're giving money to, to the schools, to education and in, in return we would like the school boards to, to reduce their levies. And to do that, we have a soft cap of, of 3 percent. And, and, again, so these three bills kind of take the, the surplus that we currently have, put it into a foundation and apply it to education, which should result in, in property tax and, and we really need all three of these bills to pass pretty much the way they are. This will-- right now, and I get this quoted a lot, Nebraska is number 49 in the nation for state funding to education. This will move us from number 49 to around number 26 just through this action. And finally, another bill related is Senator Linehan's LB753, which creates the opportunity scholarship tax one which allows low-income families to send their children to a school of their choice--

KELLY: One minute.

HOLDCROFT: --and so I, I greatly also support that. In closing, I'd just like to read one email that I received actually from the Americans for Prosperity in support of this bill: On behalf of our activities-- activists across Nebraska, we urge you to support LB583, provide for, provide, provide for foundation aid and special education supplemental aid under the Tax Equity and Educational Opportunities Support Act. We strive to create an environment that works for all empowering people to earn success and realize their potential. This starts with education. Education is the key to success and the level of productive engagement individuals will have in our society. LB583 takes positive, positive steps in addressing the school funding issues we have been grappling with for years. LB583 incorporates the concept of foundation aid in the amount of \$1,500 per formula student which will assist schools who are currently--

KELLY: That's your time, Senator.

HOLDCROFT: Thank you, Mr. President.

KELLY: Thank you, Senator Holdcroft. Senator Hughes, you're recognized to speak.

HUGHES: Thank you, Mr. President. First, I have a note here. I'm supposed to mention how cool George is, huh? Oh, all right. I rise in support of LB583 and in support of AM1636, brought by Senator Sanders. On the campaign trail, I heard over and over again that our property

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

taxes in Nebraska are too high. I always said it wasn't a property tax issue, but a school funding issue. I remember I was knocking on doors in Shelby one afternoon and I was invited-- actually, it was like late afternoon, I believe, I was invited into the couple's home and we were talking about property taxes, etcetera. And as we're talking on the TV, one of, now, Governor Pillen's commercials came on the television. And in it he-- it was the, the round that he was making a point to mention that the support of schools and he was insistent that every school in the state needed some state funding. And I just-- I kind of thought to myself and had this conversation with the couple that if I would win my race for the Nebraska legislator, that I would be very excited to work with someone who truly believed that and here we are. I am thankful that we have this plan in place. Prior to this, I had served on the Seward School Board and had gone to many school conferences-- school board conferences, NASB, etcetera, and just saw it in our own schools. But the 80 percent funding of special education is a game changer for our schools. And when you really look at some of our smaller school districts, you know, one or two higher-needs special education students can really make a tremendous difference-- difference on the budget of those schools. And this way we are going to have the funding in place to cover that. I am also thankful for the \$1,500 per student. This will definitely be a bonus for the schools that are not equalized or who receive very little state funding. I think that there is still room for improvement with how we can fund our schools and I think we really need to address and look at that levy variation that goes on between our different school districts when you can have two school districts side by side and one is taxed at a levy rate almost double the other. But I know the Governor's Office is committed to continuing this conversation and I've had some talk about some interim studies this fall looking at-- into this issue, and so it's just really nice to have the Governor's Office backing of that. So that being said, I support this bill. This is very good for the state of Nebraska and will truly make a difference for everyone that lives in this state. Thank you, Mr. President.

KELLY: Thank you, Senator Hughes. Senator Jacobson-- one moment, Senator. Excuse me. Mr. Clerk, for a motion.

CLERK: Mr. President, Senator Slama would move to amend AM1636 with FA103.

KELLY: Senator Slama, you're recognized open on that amendment.

SLAMA: Thank you, Mr. President, and good afternoon, colleagues. I introduce this amendment to get a ten-minute chunk of time on going

into a little bit more detail on how Nebraska funds its public schools. I think it's important and it's not necessarily something I could have gotten to in five minutes so I decided to drop an FA. We won't get to a vote on it. I will withdraw it at my close. But I do think it is important that all of us just have some sort of a cursory understanding of how the school funding formula works, given that K-12 education is such a large chunk of our state's budget and such a critical piece of how Nebraska grows. So I, I found this article very helpful. It was published a week ago today on Nebraska Public Media, and it's entitled: Here's how Nebraska funds its public schools. It involves a lot of, quote, bells and whistles. This is from Elizabeth Rembert: Nebraska's funding system for its public schools has kept politicians, taxpayers, and educators arguing for decades. It's probably kept people confused for just as long. I, Nebraska Public Media's Elizabeth Rembert, will admit that I've been one of those people. As a native Nebraskan, I've been hearing the debate all my life about how the state pays for its public schools. But that's not to say I've been understanding it all my life. But then I decided I was tired of feeling like I was in the dark and asked some experts to explain the system. Larry Scherer was a legal consultant to the Legislative Education Committee that designed the current system way back in 1990. He said he didn't expect the framework to inspire more than 30 years of conflict. I did not anticipate, I don't think anybody anticipated, that it would be this contentious and as divided as it's been, he said. When I told Scherer I suspect that I'm not the only one who doesn't get it, he admitted it's a confusing framework. But he also said it's not impossible to grasp. It's pretty simple, Scherer said, with a lot of bells and whistles. To him it's simple, but let's dive into those bells and whistles to see for ourselves. What it takes to educate students: First, let's start with what it costs to educate students. Henry Milone, a fifth-grader at Ezra Middle-- Millard Elementary in Millard near Omaha, is a big fan of his school. The teachers are nice, Milone said. If we had a big test, at the end of the day we'll be able to get a second recess time. His favorite subject is math, where they've been-- where they are learning decimals right now. Milone describes what the classroom looks like. The desks are set up kind of in rows, but then there's just tables kind of everywhere, he said. And then up front there's a whiteboard and projector screen. All of those nice teachers, desks, tables, whiteboards, projectors are expenses that go into a bucket called basic funding. Connie Knoche was-- has worked in school finance at Omaha Public Schools, Lincoln Public Schools, and in the Nebraska state government. Now she heads up education policy at OpenSky Institute, a nonprofit think tank. She said basic funding pretty much

drives the school's costs. To calculate basic funding, Knoche said that a school takes all of its expenses and then subtracts things called special allowances. Special allowances are dollars that go to transportation, as well as programs for students with specific needs, like children living in poverty, kids learning English as a second language, and students needing special education. There were 18 of these in the 2023-2024 period. After those are subtracted from the bottom line, what you're left with, in theory, is what they need to open the doors of a school, Knoche said. And that would include lights, teachers, custodial, just everything that a school would have to do to open their building. Once the basic funding is set, that amount is compared to 20 school districts of similar sizes; ten smaller and ten bigger. All of those numbers are averaged and we then have a smoothed-out idea of what it takes to run a school on a per-student basis. But the students still have to get to school and we can't forget about programming like ELL and special education. Those special allowances, transportation and special services, are added back in as individual budget lines. So you have basic funding, and then you add on a host of allowances, Scherer said. And that comes out to be what your school district needs. So those are all expenses. Now, who's going to pay it? Urban example: To answer that question, let's make up a fictional school district. We'll call it Williams Public Schools, and we'll say it's in suburban Omaha. It'll help us understand what budgets generally look like for urban districts. Let's say basic funding, transportation, and special allowances at WPS add up to \$1 million, just for the sake of easy math. According to Scherer, the primary resource of every school district is property taxes. Schools in Nebraska rely heavily on local property taxes. As a result, the state doesn't spend a lot of its own revenue on education. By one measure, the cornhusker state ranks 49th in the nation for sending state tax dollars to schools. But back to Williams Public Schools, the local government bodies like county boards set local property tax rates. Here in the WPS area, we'll say it's \$1 per \$100 of property value. So someone living in a house valued at \$200,000 pays \$2,000 in property taxes. Generally, property taxes in urban districts cover about a third of the school's budget. So let's say it adds up to \$300,000. Williams Public Schools will also get some money from the state. State aid includes net option funding, income tax, special ed reimbursements, Knoche said. Every school district gets money from the state. Let's tackle net option funding first. What if your kid decides they don't want to go to Williams Public Schools, they want to go to Omaha Public Schools instead? You've already paid property taxes towards the Williams Public Schools district, not towards Omaha Public Schools. So then the state says, if you have more

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

kids coming to your school than you have learn-- leaving, then we'll pay you net option funding, Knoche said. Williams Public Schools gets another \$100,000 from net option funding. The state also gives districts a small part of residents' income taxes. That adds \$100,000 to the pile. Also, the state will chip in \$100,000 for special education programs. So far, we have \$300,000 from property taxes and \$100,000 each from income taxes, net option funding, and special ed. In total, we have \$600,000 of our million-dollar budget covered. Federal programs will throw in \$50,000, and other local service-- sources like motor vehicle taxes and public power district sales taxes will give us each another \$50,000. Now, we're at \$700,000 which still doesn't meet our costs of \$1 million. That's where the state aid is also support-- supposed to come in and smooth things out, Scherer said. Equalization aid: The state plugs a hole in the budget with something called equalization aid. Only 84 of the state's 244 school districts get it right now. But those schools educate about 80 percent of Nebraska students. The process of subtracting the available money from a school's needs and making up the difference with equalization aid is known as the TEEOSA formula. It's an acronym for the Tax Equity and Educational Opportunities Support Act, which Scherer worked on back in 1990. Often, once rural school districts get TEEOSA, they don't get any equalization aid. Why? The deal is they have so much property wealth, the state basically says, well, you can take care of those kids, Scherer said. Rural example: Let's make up a rural school district to understand why that is. This one will be Elizabeth Public Schools. Elizabeth Public Schools' basic funding, transportation, and special allowances will also add up to \$1 million, again just to make the math easy. This time the property tax is 50 cents per \$100 of property value. Notice how that's half the rate in the urban Williams Public Schools district. But in rural Nebraska, there are a lot of farmers and ranchers. Farmers need quite a bit of land to make an income, Scherer said. Whereas, the urban person can be making money without much property at all. That 50 cents adds up pretty quickly when you own millions of dollars of land. For lots of people, it's also got to hurt-- it's got to hurt when property taxes come due, Rebecca Firestone, OpenSky's executive director, said. It's a big bill that they have to pay in one chunk and there's no control over that number when land values grow. In rural districts, property taxes generally cover about 75 percent of the school budget. The state throws in \$200,000 from that option funding, income taxes, and special education reimbursements. We get \$50,000 from federal grants and local sources and we've added-- and we've funded our school, mostly through property taxes. There's no hole for the state to fill. What they get is a big fat zero on equalization, Scherer said. And that's because

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

there's a relatively low number of students compared to the property valuation. So there's a lot of--

KELLY: One minute.

SLAMA: --thank you, Mr. President-- so there's a lot of corn for every student. There's one more piece of the school funding puzzle that creates a bit of a twist. The state typically overestimates how much money will come from taxes on that corn or houses or whatever people own. That's because when the state estimates how much money will come from your taxes, it says you'll cough up money based on about 100 percent of your residential or commercial property's value. But when you pay property taxes on your house or business, you're paying taxes on anywhere from 92 to 100 percent of its assessed value based on where you live. It's similar for ag land. People pay property taxes on somewhere between 62 to 75 percent of assessed value. But when the state estimates the tax revenue the schools will get, it uses calculations based on 75 percent of the land's value. And I'll come back and touch on this on my next turn on the mic. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. Senator Jacobson, you're recognized to speak.

JACOBSON: Thank you, Mr. President. I rise in support of LB583 and I would also support AM1636 and FA103. I want to follow up a little bit of what Senator Slama just said as it relates to property taxes and what's happening in rural Nebraska. I've got ten school districts that are located within my legislative district, and then I get parts of other school districts that come into the legislative district as well. I can tell you that I've got one school district that's equalized. I got one that's equalized for the very reason that Senator Slama just stated. It's, it's land wealth within those areas. And, and the fact of the matter is, is that the value of the land and the income it produces do not run the same. Let me explain. Last year, we had a severe drought and we're still in one now. Ranchers were selling cattle because they didn't have enough feed, but that didn't change the property tax bill because the value of their ranchland has continued to go up. And the reason it's gone up is because people are buying land, because they're moving out of other investments and they're moving into something hard, a hard asset other than gold, and they're buying farm and ranchland. As Senator Slama put out-- noted in her comments, this is a situation where it's a factory. The land base that you have is your factory. You can't sell your factory if you're going to continue to operate. Ranchers need, need ranchland to raise

their cow herds, sell the calves, and that's their profit. Selling the calves from the cows that produce from the grass that's there in the Sandhills. Farm-- farmers, on the other hand, are raising corn, soybeans, and other crops. They've got the same situation, values are going up because you've got nonfarmers in many cases buying land, driving the values up. And I would tell you that we've seen an increase in commodity prices over the last few years because of shortages, but that all corrects itself. Give you an example. Last fall, you could sell corn right off the combine for \$7.50 a bushel. Today, if you look at futures for new crop, you're looking at \$5.50 a bushel, \$2 a bushel decline. Will that impact our property taxes? Of course not. Property taxes are probably going to be higher, even though the revenues are lower. Why is it that the school districts in rural Nebraska, because there's a land base there, that they have to pay for their students to attend public schools and that the state isn't picking up their fair share? LB583 is working to fix some of that injustice. By getting the \$1,500 foundation aid, by using the Education Future Fund to backstop that, we're finally taking the steps to properly fund our public schools and take some burden off the local property taxpayers. Whether they be house-- homeowners, farmers, ranchers, business people, property taxes are killing us. I knew this firsthand, but as I walked around and campaigned last summer, that clearly was the number one thing I've heard. And everyone is almost cynical about the fact that the Legislature is never going to do anything about it. Well, we are. The Legislature's been doing something on the bottom line by doing the income tax reduction, the rebate. But this is something on the top line because we can properly fund our public schools,--

KELLY: One minute.

JACOBSON: --thank you, Mr. President-- they're going to be able to lower their mill levy and take less on the top end from those property taxpayers. Our school districts across District 42, I am incredibly proud of all of our public schools. Go look at their track record. Go look at their report cards. They do a great job. But I can also tell you they're able to do it because it's funded by local property taxes. We need to make this more fair. It's time for our property taxpayers to get some relief. This bill will do that. Thank you, Mr. President.

KELLY: Thank you, Senator Jacobson. Senator Linehan, you're-- oh, excuse me. Senator Linehan has guests in the north balcony. There are 82 fourth-graders from Woodbrook Elementary in Elkhorn. Please stand and be recognized by your Nebraska Legislature. Senator Erdman, you're recognized to speak.

ERDMAN: Thank you, Mr. President, and good afternoon. I don't know that I could have done a better job of explaining how broken our current tax system is to all the conversations that have been heard on this bill. It's amazing that we continue to struggle trying to figure out a way to make us competitive with other states. And we very seldom even catch up with any one of our neighbors. What if there was a way? What if there was a way to move Nebraska to number one in school funding instead of 49? What if there was a way that we could move us to number one, the best opportune state for income tax, property tax, inheritance tax? What if we could do that? What if there was a way that we could put the taxpayer first instead of last? This is my example. Our current system, those who collect and spend the tax dollars tell you how much to pay and when to pay them. And so then we work on bills like this to reduce property tax, to reduce income tax, one we did earlier, to try to be competitive and it doesn't catch us up. Last Friday, I heard the governor from Iowa speak about what they've done on income tax and they're 3.9 and we're going to be 3.99, which does not put us ahead of them. So what if there was a method we could use to fix the broken tax system we currently have? And Senator Jacobson alluded to the fact that this solves some of the problem. But what if we could fix the whole problem? What if there was an opportunity for us to become the most opportunistic state to live in the nation? Just consider how many bills, if we fixed our tax system, how many bills would be eliminated? We wouldn't be here today talking about this. We wouldn't need to do this because we would have the most advantageous tax system there is. But we don't do that. What we do is we continue to put a, a Band-Aid on amputation. And I'm not saying that I'm not going to vote for LB583 because until we pass the EPIC option, this is going to be the best thing we have going. But I can tell you right now that we'll be back dealing with this again and again and again because we've been doing it since 1967. And it seems like that's what we like to do. So there is an option, there is a proposal that fixes all of these broken systems. It removes or eliminates TEEOSA. It makes it a subjective way to fund schools-- excuse me, an objective way. So what happens is, as Senator Jacobson alluded to, he has one school that's equalized. What if they were all equalized? And we have a proposal that shows how to do that. But for some reason, I'm not sure whether we like talking about taxes every year, but for some reason, we haven't gotten a lot of support for the EPIC option. But it is gaining support with the public. And so if you're interested in actually fixing the system, then you need to take a look at that, because what we're doing here won't fix it. May make it better, but it won't fix it. It is real peculiar to me that there is an option that you can consider, but you don't take the time to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

consider it. If you believe this is going to solve your property tax problem, Senator Bostelman, that lady that's losing her property, it won't. And those individuals who get homestead exemption may be better off than some others who don't.

KELLY: That's your time, Senator.

ERDMAN: Thank you.

KELLY: Thank you, Senator. Senator Lippincott, you're recognized to speak.

LIPPINCOTT: Thank you, sir. A lot of numbers get thrown around regarding education, and education makes up a great deal of our budget. Here in the state of Nebraska we spend, 38 percent of our budget goes toward education. As a matter of fact, the University of Nebraska, their budget is almost \$3 billion, \$2.8 billion out of a state budget of \$5.1 billion. That's a lot. Thirty-eight percent of our budget goes toward education. Now, let's look on the-- these are Nebraska numbers compared to the national average. This is interesting. The state capital in most states provide 45 percent of funding for your local schools in your hometown, 45 percent. The state provides 45 percent from the state capital. The local folks carry 45 percent of the burden. So 45 percent, 45 percent, and 8 percent, the federal government carries. But here in Nebraska, the state capital, Lincoln, we only carry 32 percent of the burden of the local schools. We're third from the bottom nationally. Thirty-two percent compared to the national average of 45 percent. The local people pick up 59 percent of the cost of schooling as compared to 45 percent nationally. We carry 59 percent locally. That's fourth from the top. So the state capital, we're third from the bottom, helping out the local school districts, and fourth from the top regarding the local people supporting their local schools. That's the status quo. That's what we have right now. The property tax rate on average here in Nebraska is 1.61. Compared to our neighbors across the Missouri, over in Iowa, it's 5-- it's 1.53. Kansas, it's 1.37. Nationally, it's 1.07. So our tax rate, our property tax rate, it's very high here in Nebraska. That's the point I'm trying to make there. And of course, we have the longest acronym in the world, the Tax Equity and Educational Opportunities Support Act, TEEOSO, that formula has been in effect since 1990. And I would agree with Senator Erdman that our entire tax system needs to be revamped. But as Rush Limbaugh used to say: We live in "Realville" so let's work with what we've got. And today-- and I certainly do support LB583 with Senator Sanders. So again, looking at these numbers, the average Nebraska home is worth \$200,000. In

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

property tax, that equates to \$3,200; \$3,200 you're having to pay every year in property tax. And we know that approximately 80 percent of that goes for schooling. So \$3,200 in property tax, whereas the national average in America is about \$2,100 for a home or property with the same valuation. That's a different of a \$1,100. That's quite a bit. Now, I took a look at my hometown of Central City and their local school budget is around \$10 million. Their levies are--

KELLY: One minute.

LIPPINCOTT: --0.97, so let's just call it 1.0. Make it real easy. The valuation of property is \$1 billion in the county, so 1 percent of that is \$10 million. The money that they would get from LB583 would provide them with \$2 million as opposed to right now they get \$120,000. So \$2 million is more, \$120,000 less, and \$2 million, \$2 million would put a major dent in the \$10 million school budget that they have. That equates to they should be able to lower property tax. Thank you, sir.

KELLY: Thank you, Senator Lippincott. Senator Slama, you're recognized to speak.

SLAMA: Thank you, Mr. President. Good afternoon again, colleagues. I'm going to return to discussion on this article I'm reading from Nebraska Public Media. It is a really helpful guide for those of you who just aren't as familiar with the school funding formula, which I don't blame you. It's a very complex system, but it is a good introduction since we are here this afternoon discussing that subject. So this is the article: Here's how Nebraska funds its public schools. It involves a lot of bells and whistles from Elizabeth Rembert on May 2 of this year. And where we left off is the paragraph that begins with: As a result, many schools have to rely even more on property taxes to make up that gap. Urban districts get less equalization aid than they actually need and rural districts get further away from seeing any equalization dollars. That's where it seems unfair to the rural side is that they don't receive this major source of income out of state aid. It's a big part of what's kept a lot of people riled up for a long time. Schools that don't get equalization aid think they should, Knoche said. And schools that get equalization think they're not getting enough, you should give us more. The debate has only gotten more scrambled as farmland values have skyrocketed, according to Firestone. The formula is working the way the formula is set up to work, she said. But things have gotten out of whack because land valuations have grown-up so much. And with population booming in Nebraska's urban and suburban areas, needs are quickly outpacing

resources in districts like Omaha Public Schools and Gretna Public Schools as more students pour into their classrooms. A new proposal in the Legislature suggests changing the entire system. Now we'll be able to follow that debate with a new understanding of the current formula. The big picture is we're trying to figure out how to do the best job at educa-- educating all the kids in the state, Firestone said. Tax policy and education policy are really about what we need dollars to deliver for kids. Now a big takeaway on this that I didn't realize or I might have realized it at one point but I didn't remember, was in addition to the inequality of saying that land ownership is a one-to-one direct parallel to wealth in a district, we're valuing residential and business commercial property at 100 percent of the residential or commercial property's value, when in reality the tax collections from those properties are 92 to 100 percent of that assessed value. Ag land, to really drive this point home, people pay property taxes on that somewhere between 62 to 75 percent of assessed value. But when the state estimates the tax revenue that schools will get, it uses calculations around 75 percent of the land's value. Now when your school district is leaning more heavily on that ag land that's valued between 62-- well, that's taxed between 62 and 75 percent of assessed value, you have that larger discrepancy and that larger falloff to where your education aid is not meeting your needs because we fail to accurately reflect how much this land is being taxed and how much that revenue is actually going to school districts. So on one hand, you have the increased pressure on Nebraska property taxpayers in rural areas to keep the lights on and the doors open at local schools, but you also have school districts that aren't receiving the tax revenues from that land that the state says that they're receiving. So that ends with all of our rural school districts facing shortfalls and what the state says that they should expect--

KELLY: One minute.

SLAMA: --thank you, Mr. President-- should expect to receive in tax revenues. And I'm not standing here saying that we should be funding our schools where every kid gets all the opportunities that are offered to students in Omaha Public Schools. If you look at the volume of teachers they have, the volume of options they have, a lot of that is thanks to the number of kids they have. I'm just saying, and I think a lot of my rural colleagues are saying, give our rural students a fair shot to succeed. They don't need the fancy projectors. We don't need the fancy whiteboards, but we need access to those advanced classes, those special services that, on a very basic level, help our students achieve everything that they thought was possible in their K-12 education and puts them in the best position to be valued members

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

of their community for generations to come. So I, I rise still in support of LB583 and Senator Sanders' AM1636. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. Senator Moser, you're recognized to speak.

MOSER: Thank you, Mr. President. Good afternoon, colleagues. The school finance has been-- the, the whole issue has been kind of convoluted. The state should pay for educating students and over the years we squeezed the schools so that they had to raise property tax in order to-- taxes in order to survive. State aid to schools wasn't keeping up. And this bill goes a long way toward putting state money into educating our students. And I think, you know, I think it's great. Part of the discussion was that TEEOSA is this terrible thing because not everybody gets it. But it's a little bit-- it's really an insurance plan to keep schools in business. If they don't have enough resources to pay their bills, TEEOSA helps fill in that gap. It's-- and without it, some schools would be in really big trouble. In my district, the biggest school district in the-- a school district in the district is landlocked and they have valuation of about \$2.5 billion and their levy is 1.227. So 1.227 percent times that levy is what they have for resources from property tax. One of the smaller schools in the district has almost half a billion in valuation and their levy is 0.69. So their levy is half of what the largest school district levy is. Their valuation is almost \$1 billion. The school in the middle has valuation of \$1.6 billion and their levy is 0.69 or almost 0.7 percent. So there's the problem. The property to tax is not equally distributed amongst the schools and when you use property tax to fund the schools there are going to be some inequities. And this largest school district in, in my District 22 gets quite a bit of money from TEEOSA. They have 4,000 students and somewhere around half of them are on free and reduced lunch. And so they have some issues as, as to the income level of the people in the district and that-- those students are a little bit more difficult to sometimes to work through the system. Sometimes they need extra attention to keep up with the rest of the class. So TEEOSA, while it is a dirty word, it's not a four-letter word, it's longer than that somehow, but it's not all bad and it keeps some school districts going. Even with this bill, TEEOSA will continue, but if you get per-student aid, it's going to reduce your reliance on TEEOSA and it'll shift some of the numbers around to help. With that, I was wondering if I could ask Senator Erdman some questions about his EPIC tax?

KELLY: One minute. Senator Erdman, would you yield to some questions?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

ERDMAN: I'd be glad to.

MOSER: We're kind of up against the time limit, but I'm trying to figure out, I've heard you talk about your EPIC tax, I don't know how many times. And, and I look at your EPIC tax and I would pay a whole lot less in tax, but I'm trying to figure out who is going to pay all the tax that I'm not paying?

ERDMAN: OK. Very simple, Senator Moser. Currently, our sales tax base is \$49 billion. When we remove all the tax exemptions, sales tax exemptions, plus we add the consumption tax on all things people consume, the base will go from \$49 billion to \$162 billion. And therefore, when you expand the base by three times, when you take that times the 7.23, you get exactly the same amount of revenue as you do now. So those people who will pay the difference are those people who consume things not only in our state but also people who visit the state.

KELLY: That's your time, Senators.

ERDMAN: Thank you.

MOSER: Thank you.

KELLY: Thank you, Senators. Senator Kauth, you're recognized to speak.

KAUTH: Thank you, Mr. President. LB583 creates a language for the Education Future Fund. This is going to be a \$1 billion initial investment. That is an absolutely mind-blowing amount of money to set that aside specifically for the education of our children. The next three years, there's going to be a subsequent \$300 million per year added to that Future Fund. We are in the absolute fortunate situation of being able to set aside money to save for our kids' future. And this Governor and this Legislature is able to do that. This is a historic commitment to our kids. There's also a provision in this bill to raise a special education funding. Most special education is funded at between 40 and 50 percent. That is not enough to do what needs to be done. This bill will raise that up to 80 percent. This is going to provide significant relief to our schools. I know Millard Public Schools is very, very pleased with that. There's also a \$1,500 per-pupil stipend that will follow the student. All of these provisions, provisions will help our, our schools lower our property taxes and that's what this is ultimately aiming to do. We're taking the burden off individual property tax owners. We're using the, the state funds that we have in historic amounts, and we're setting aside

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

money for our children's future. It's critically important that this bill get passed. And I'd like to yield my time to Senator Sanders. Is she on the floor?

KELLY: Senator Sanders, that's 3:25.

SANDERS: Thank you, Mr. President. Of course, I'm in agreement with 583-- LB583 and AM636 [SIC--AM1636]. It's a good bill. It's a bill that we want to keep clean. And, and hopefully, when we get to the vote here it will be a clean bill. And I have total respect for the Governor bringing this bill to me and the respect that he has asked for this bill to come out of committee clean, come through the votes clean. And that is what we are working on. And I yield my back-- my time back. Thank you, Mr. President.

KELLY: Thank you, Senator. Senator von Gillern, you're next in the queue.

von GILLERN: Thank you, Mr. President. Interesting listening to the conversation and how we're talking about TEEOSA a little bit now. Before we get to that, I do want to, as Senator Sanders graciously said, I do want to echo her comments in support of LB583 and the AM1636 and extend my gratitude to the Governor for making this historic impact on education and impact, positive impact on property taxes for all Nebraskans. And I, I get a little tired of hearing of how low Nebraska is ranked with state support for schools because we, we certainly have a different funding formula than many other states do. I think every time that statistic gets thrown out, it's an implication that we don't spend on public schools when, when we actually do. It's just that the bulk of our funding is through locally collected property taxes, and that's a little bit different than many other states. So what, what this bill will do will obviously change that dramatically and it'll provide additional funds for local school districts and, again, allow for property tax relief, which all of us will be, will be pleased about-- pleased to see. I do want to share a couple of facts here. A website that one of the senators pointed me to early on that's been very helpful for me understanding just about all things related to education. It's nep.education.ne.gov, and there's a page on there that has snapshots with data and information and statistics about every school district in the state of Nebraska. So you can pull up your home school district, you can pull up other school districts, you can find out what the, the student headcount is, the number of teachers, English learners, the rates of free and reduced lunch. And as we're talking about quite a bit in this testimony, TEEOSA funding and state support for each school district.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

The-- I've got a little bit of a unique situation, I, I represent three school districts in my Legislative District 4, all of whom receive TEEOSA aid. I represent OPS, Millard Public Schools, and Elkhorn Public Schools. All of those are covered in my district, my legislative district. So I just pulled up the statistics on those to see how TEEOSA impacted each of those districts. OPS, as we all know, receives the bulk or receives the highest percentage of their funding from TEEOSA of any district in the state. They receive \$64 million of their \$717 million overall budget. OPS also is unique in their demographic from any other school district in the state. OPS has a 69 percent free and reduced lunch student ratio. So obviously the, the number of students in the OPS district that need aid and the property values in that district are different than every other district in the state. The one thing that I do contest with OPS, their graduation rate is not commensurate with that funding. They unfortunately have a 71 percent graduation rate, which certainly is, is disappointing and needs to, needs to improve. Millard Public Schools receives \$26 million of their \$256 million total budget. They have a 90 percent graduation rate and a 25 percent free and reduced lunch population. And then lastly, Elkhorn Public Schools receives \$12 million of the \$115 million total budget, and they have a 97 percent graduation rate and a 9 percent free and reduced lunch rate. So, again, I, I represent districts that are a little different than some that have been described by other senators in the body today. And the TEEOSA funding, although not perfect and horribly confusing to understand, the basics are pretty simple, but getting into the depths of the formula can get very much in the weeds, but it's beneficial to the school districts that I happen to represent so I want to share that today. With that, I yield the remainder of my time to Senator Slama.

KELLY: Senator Slama, that's 52 seconds.

SLAMA: Oh, thank you, Mr. President. I can work with 52 seconds. I appreciate Senator von Gillern's perspective and his take being from a very unique position representing three of some of the best-funded school districts in the state. And I do appreciate that there are unique challenges in those school districts. I would pushback, however, on the sense that 69 percent free and reduced lunch is out of the ordinary for other school districts in Nebraska. I know I have similar numbers in several of my school districts. I don't have time to dig into that data, but certainly students in poverty is something that crosses the urban and rural divide, unfortunately, and we need to make sure both our urban and our rural students, no matter what their economic background, have a fair shot at education. Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: Thank you, Senator Slama. Senator Moser, you're recognized to speak.

MOSER: Thank you, Mr. President. Back to TEEOSA. Basically, how that works in, in simple terms is the school looks at their total costs and then they look at their total resources, what they can collect in property tax. And if there's a shortage there, they look to TEEOSA to fill that in. So if you don't have enough valuation in your school district times the maximum rate that you can charge, which the largest school in my district charges, then TEEOSA makes up the difference. And it, it makes a big difference in this particular school. And we-- my discussion with Senator Erdman there, I didn't start early enough in my speech, I was wondering if he would yield to some questions?

KELLY: Senator Erdman, would you yield to some questions?

ERDMAN: Yes, I would.

MOSER: OK. Back to your EPIC consumption tax. So the secret, you say, is to increase the base, what happens in the EPIC consumption tax model? Does property tax go away?

ERDMAN: Yes. And, and I don't know that it's a secret method, but expanding the base, Senator Moser, from \$49 billion to \$162 million [SIC] is the objective to get the same revenue we currently do. And the things that go away, the property tax goes away, personal and real, also income tax, corporate and individual, and--

MOSER: State tax.

ERDMAN: --and the most regressive tax of all, inheritance tax goes away.

MOSER: And then who would the Appropriations Committee be to dole out that tax once the state collected the consumption tax? I assume the state's going to collect it.

ERDMAN: Correct. They'll collect it just like they do the sales tax now. And let me, let me just state this so you understand the difference between a sales tax and a consumption tax. A sales tax is collected every time something sells and a consumption tax is collected once by the first purchaser who buys something for their consumption or a service they, they hire for themselves. And so what will happen is every local unit of government will submit their budget just like they do now according to the stipulations--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

MOSER: To the county.

ERDMAN: --we have in place for the statute requirements on 2.5 percent increase. They will send that budget to the county, the county will then forward that budget to the state. The state will then appropriate the money back to the county treasurer and the treasurer will distribute the money to the people, to the local units of government as they do now.

MOSER: So if I bought an existing home, I'd pay no sales tax, no property tax?

ERDMAN: That is correct, sir.

MOSER: If I built a new home?

ERDMAN: Yes, sir. If you build a new home, you will pay a consumption tax on the labor and the material. And in our current system you pay the sales tax on all the material that went into that home, but you never see it because it's included in the price. And so it's figured that in about two and a half years, paying the consumption tax on a new home in about two and a half years would be equivalent to paying property tax for two and a half years, and after that you would actually own your property once your mortgage is paid.

MOSER: The price of the lot, though, would not be included in the consumption tax?

ERDMAN: It is not, real estate is not. There's no consumption tax on real estate.

MOSER: What rate of consumption tax does your model predict?

ERDMAN: The Beacon Hill Institute has concluded that in '26 the number will be 2.-- or 7.23 percent. And in the proposal that we have introduced that we put in 7.5 because 7.5 is equivalent to about \$400 million cushion just in case the funding needs to be a bit higher. And so what we're offering for those local [INAUDIBLE]--

KELLY: One minute.

ERDMAN: --of government is an increase of 2 percent under their five-year average of their budget to make up for any inflationary costs that we may not have seen in the, in the first original example.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

MOSER: What about existing sales tax that's collected for local purposes, like counties and cities?

ERDMAN: All of those sales taxes are going to be eliminated. It's going to eliminate sales tax as well as those other taxes I just described.

MOSER: So would you pay them from the county's collection of consumption tax?

ERDMAN: There, there will be no, there will be no sales tax collected, Senator. And so the consumption tax will replace all those. And so if you're talking about an occupation tax, is that what--

MOSER: No, no, like the city of Columbus has 1.5 percent, I believe. Let's see, yeah.

ERDMAN: Yep, that's a local, that's a local--

MOSER: Yeah, they-- they're obligated for years. And so if you take that tax away they need to pay those bonds off somehow.

ERDMAN: Yeah.

KELLY: That's your time, Senators. Thank you, Senator Moser and Senator Erdman. Senator Holdcroft, you're recognized to speak.

HOLDCROFT: Thank you, Mr. President. I rise again in support of LB583 and AM16-- AM1636. And I just wanted, again, to compliment Senator Sanders on, on her bringing this bill forward and coordinating with the other senators to, to come to a, a, a position where we can take a surplus from our rainy day fund and apply it towards education and result in reduced property taxes. And one key piece of that is, of course, Senator Briese's bill which puts a 3 percent cap on the growth of education, the school board budgets. But there are-- but we have a particular issue in Sarpy County, the fastest growing county in, in the state of Nebraska with Gretna Public Schools, which is the fastest growing school district in Sarpy County, in that-- the growth and we're getting ready to build a second high school and, and we're expecting much, much growth in education and that puts a real burden upon the school budget. And Senator Briese and the Governor's Office have been working particularly with not only Gretna but also Bennington and Elkhorn Public Schools, who have the tremendous growth rate to be able to accommodate that in their budgets. So there is a 3 percent, but there's also a, a percentage that applies to increase that because of the growth of the student population. Also-- so that's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

been working with, with Senator Briese's Office and, and with the Governor's Office to try to come to agreement on that. So I would just like to continue, I didn't get a chance to finish my letter from the, the Americans for Prosperity. And this was actually written back on April 4, which was before the bill came before General. But I think it applies here as we are on Select. And again: On behalf of our activists across Nebraska, we urge you to support LB583, provide for foundation aid and special education supplemental aid under the Tax Equity and Educational Opportunities Support Act. We strive to create an environment that works for all, empowering people to earn success and realize their potential. The start-- this starts with education. Education is the key to success and the level of, of productive engagement individuals will have in our society. LB583 takes positive steps in addressing the school funding issues we have been grappling with for years. LB583 incorporates the concept of foundation aid in the amount of \$1,500 per formula students, which will assist schools who are currently significantly reliant on property taxes. In addition to the foundation aid, this legislation also provides for 80 percent of special needs funding to be covered between state and federal dollars. This is a significant commitment to education and one that should be commended. While we support LB583, our support is conditional. Remember, this comes from the Americans for Prosperity. LB583 is part of a larger package and must move forward as such. This has been proposed in a sensible manner and has long-term sustainability. It is for these reasons that we respectfully ask for your favorable support of a cloture motion and advancement of LB583. And, again, that was from the Americans for Prosperity. I have another email I'd like to read from a constituent: Dear Senator Holdcroft, I am emailing you to ask for your support of LB583 to support special education. We are in a crisis and need to ensure special education has adequate funding. LB583 is a critical step in that process and ensuring kids with disabilities have access to--

KELLY: One minute.

HOLDCROFT: --education. As we see schools across Nebraska struggling to support students, it's clear we need a change. LB583 increases state funding of special education to 80 percent. This is necessary because over the last 20 years the only department to have shortages every year is special education. While this is not new, COVID has really exploded the impact. Pre-COVID between the 2015, '16 and '17 school years, special education were 11 percent more likely to, to-- educators were 11 percent more likely to leave the classroom and 72 percent more likely to change schools than general education teachers. Now, it's clear those numbers are even higher. This issue will

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

continue to be problematic unless we act. Thank you for your consideration and I yield the rest of my time.

KELLY: Thank you, Senator Holdcroft. Senator Murman has guests in the north balcony, 22 fourth-graders from Southern Valley Schools in Oxford. Please stand and be recognized by your Nebraska Legislature. Senator Slama, you're recognized to speak and this is your last before your close.

SLAMA: Outstanding. Thank you very much, Mr. President. Good afternoon again, colleagues. I am the introducer of FA103 and I on my close at the end of my close will end up withdrawing that FA. But I do think it is important in a session where we've made a point of taking time to discuss issues important to us that we take some time on this because this discussion, like the other ones, it's about our kids and it's how our state is choosing to prioritize funding for our kids. And as it stands, cases in which our state is saying that we should fund kids more based on where their classroom happens to be located. So that's why I'm taking time on this bill. That's why we're having this extended discussion and talking in depth about how we're funding schools in our state, because there's a long history of litigation on this front. There's also a long history of kids, especially in rural areas, being shortchanged in their educational opportunities and property taxpayers being shortchanged in the pressure that's put on them to support our schools. So with that, I'd, I'd like to hop into another analysis of Nebraska's TEEOSA formula. This one's from the Platte Institute and it says: Nebraska's K-12 finance system lacks transparency and is too dependent on property taxes. Because all of us could get up here all day and talk about how property taxes are too high in our districts or how we're running into situations where landowners who happen to be wealthy are bidding up land to absurdly high prices and driving up the property taxes and valuations for all of their neighbors around them because they can and because they can pay that much for an acre of land, we can get up and share those stories all day. But at the end of the day, I think these academic analyzes really help drive home the point that our anecdotes and our, our stories, our personal experiences are rooted in the data. So Platte Institute: Nebraska's K-12 finance system lacks transparency and is too dependent on property taxes. This is from Christian Barnard, senior policy analyst, Reason Foundation: For decades, Nebraska's public school funding system has exerted major influence over the state's tax policy. In 1989, the state adopted the Tax Equity and Educational Opportunities Act, TEEOSA, in an attempt to alleviate disparities and property tax burdens and education funding between districts by having the state take on a larger responsibility in

funding public schools. However, in the last 30 years, this funding formula has become outdated and increasingly failed to rein in property tax burdens on school district residents, especially those in rural areas. Currently, Nebraska ranks third in the nation for the proportion of total K-12 public school revenues it derives from local revenue sources, trailing only New Hampshire and the District of Columbia. These local tax sources, primarily property taxes, comprise 59.5 percent of the state's public school funds in the 2019-2020 school year. This is a problem because it creates an education system that is too dependent on local wealth, leading to large disparities in education funding and tax rates. While implementing comprehensive school finance reform is a politically arduous process, Nebraska can't afford to wait. TEEOSA lacks transparency and doesn't fund students fairly. School districts in the lowest property wealth quartile received \$13,048 per student from state and local sources on average, while districts in the highest property wealth quartile received \$23,245 per student. Additionally, substantial increases in property assessments have rendered the current formula irrelevant for most of the state's rural school districts. The state residents' frustration over rising property tax burdens has caused policymakers to adopt the Band-Aid solution of increasing individual property tax credits to--

KELLY: One minute.

SLAMA: --partially-- thank you, Mr. President-- to partially offset increases in taxes for some property owners. And I'll come back to this article, and if anybody wants to yield any time, please feel free to. But I do think it's important that as we are talking about those school districts that don't receive equalization aid, it's equally important to talk about those school districts in my district. They're Auburn, Falls City, Nebraska City. Districts that receive some equalization funding some years, like \$5 million, and then the next year their school board is left with zero dollars in equalization aid and there is no way they can budget back. They're, they're not economists. I'm not an economist. There's no way you can predict that from year to year. So there's no way to budget for the long term in those school districts because you don't know if you're getting \$5 million from the state that year or zero dollars. So it's just as important that we stabilize funding for those school districts as the school districts that receive zero dollars in funding now. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. Senator Lippincott, you're recognized to speak.

LIPPINCOTT: Thank you, sir. Along with this position, we have-- being a legislator, we speak at all these different functions and talk about different topics and education is one that's definitely on people's hearts. As a matter of fact, I always like to tell people of the 6,000 doors that I knocked on during the campaign, far and above, the number one concern that everybody had was what's happening in our schools. And there seems to be a real breakdown on discipline and content in schools. And people see the news, the national news, and they hope that that is not happening in our local schools. And I'm very happy to say that in the 34th Legislative District, Hamilton County, Merrick County, Nance County, part of Hall County, we've got fantastic schools. But I am reminded of a saying that I heard Caspar Weinberger, the former secretary of defense for Ronald Reagan, and he said this very simply. He said: Competition is a good thing. When you have competition, you have quality that's high and you have cost that's low. Now we're talking about LB583 right now, we're not talking about school choice, so I don't want to stray too far off course here. But these are Nebraska numbers, these are current numbers. Currently, Nebraska spends \$1,000 a month over 12 months, \$12,000 per student per year. That's public education. Private schooling in Nebraska is \$3,700. So public school, \$12,000, private school \$3,700. If you want to break that down, elementary school is 3.2, high school is 7.2. But there's more elementary schools than high schools so, overall, the average is \$3,700 for a private school, public school, \$12,000, private school, 3.7. And if you homeschool your child, that's approximately \$1,000 per year. I figured out on my calculator that that is a lot less than the public school. So competition is a good thing. And if we look at test results, the test results, homeschoolers come out number one, private schools number two, and public schools last. Now I've gone to all the different schools, most of all the other schools in the district and visited with the principals and the teachers and the students and the superintendents. And I recently spent three hours with one of the school principals in one of the towns. We walked through the whole operation, elementary school, junior high, high school, poked our head in a lot of the classrooms, spoke with the teachers, saw the students, the other faculty members. And it is a first-class school in every dimension. There was peace and harmony. And it just, it was well-run. But we got into the superintendent's office at the end of our three-hour tour in the school and we were talking about issues that are in school nowadays. And he says here's, here's what happens, he says they'll have a student that colors, and I'm speaking figuratively now, that colors outside the lines--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: One minute.

LIPPINCOTT: --and the teacher says you need to color inside the lines. Well, and the student says, well, who are you to say where the lines are drawn? So they bring the parents in and they say your son or daughter has problems coloring inside the lines. And then the parents say, well, who are you to the administrator to say where the lines are drawn? We're having a breakdown in our schools as to what is right and wrong and that has caused a great deal of problems in our schools. I'm sure I've only got about 20 seconds left. I was going to ask Senator Erdman about his suggestion that we put "In God We Trust" in schools. We have no foundational source of truth in our schools and that is a problem. Thank you, sir.

KELLY: Thank you, Senator Lippincott. Senator Dover, you're recognized to speak.

DOVER: Thank you. I yield my time to Senator Slama.

KELLY: Senator Slama, that's 4:55.

SLAMA: Thank you, Senator Dover. And good afternoon again, colleagues. I promise you're probably getting as tired of hearing from me as I am hearing from myself. But I do want to finish this Platte Institute article. Senator Dover just gave me a look like he agrees with me. So I'm going to pretend like that didn't hurt my feelings. Platte Institute: Nebraska's K-12 finance system lacks transparency and is too dependent on property taxes. It's written by Christian Barnard, who's a senior policy analyst for the Reason Foundation. And, again, I'm going to these articles not because I'm trying to waste the body's time or disrespect our schedule, it's-- this is one of the most important issues that we're going to talk about in this session to me because this hits on property taxes, school funding, driving our rural economies into the future, and keeping our kids in the state of Nebraska. Because if they don't have great educational opportunities when they're coming up through the K-12 school system, they're not going to stick around in their hometowns. And I think our rural schools do an outstanding job of doing the best with what they have and our property taxpayers do yeoman's work in keeping those lights on and doors open. But this is about our kids and this is how we're funding schools. And we have a system right now that says that if you don't live in a certain part of the state you're not going to get funded as much as those kids who live in more densely populated areas. We are valuing some kids more than others in our state funding formula. And I think that's important to talk about, especially from

an academic perspective. So back to this article: However, the only sustainable solution in alleviating high property taxes in Nebraska is to reform the state school finance system. At the same time, state policymakers should also use this opportunity to adopt a fairer, more streamlined, and student-centered formula. The decline in TEEOSA's ability to fund school districts fairly and control property taxes began in the early 2000s. At the beginning of the millennium, most Nebraska school districts qualified for state equalization aid. Let me say that sentence again because it is so key to the evolution of TEEOSA and how it stopped working for rural Nebraska. At the beginning of the millennium, most Nebraska school districts qualified for state equalization aid. But in the 2019-2020 school year, the number of school districts receiving equalization aid was just 34 percent. In other words, two-thirds of Nebraska school districts today are almost fully reliant on property taxes to fund schools and receive no equalization aid from the state. Additionally, the local effort rate, the property tax rate school districts use to raise formula funds vary substantially across the state. The main factor that has driven most Nebraska school districts off the state funding formula is the skyrocketing values of agricultural lands. This phenomenon has driven a wedge between the state's rural and urban districts. On one side, the state's urban districts served most of the K-12 population and have a large proportion of low-income students. They are also less dependent on property taxes and receive the lion's share of state equalization aid. This constituency is primarily concerned with how the state funding formula accounts for student needs. On the other hand, the state's rural districts rarely receive equalization aid from the state and have, and have large property tax burdens. But they are also more highly funded in per-student terms compared to the city districts. Understandably, the rural constituency is more concerned with how the state funding formula imposes significant property tax burdens on the residents. No singular reform will address all the issues with TEEOSA. Reason Foundation partnered with the Platte Institute to create the Nebraska K-12 funding reform model, a new tool which allows Nebraskans to explore potential reforms to the state's funding system. And just an aside, I'd recommend everybody hop in and check out this tool. It is really an interesting--

KELLY: One minute.

SLAMA: --thank you, Mr. President-- an interesting analysis of how different reforms would impact our school funding system in Nebraska. State policymakers should consider forming a study committee with the goal of developing a better K-12 funding model. A politically viable proposal will likely include a permanent reduction in local property

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

tax reliance for K-12 funding, a transparent student-centered formula, and other elements that make the reform attractive to both urban and rural school districts. Modernizing Nebraska school finance system means adopting a model where taxpayers and students are treated fairly, regardless of where they live. State policymakers can get the momentum by going, going by forming a study committee with that concrete goal. And I, I do like this analysis because it gets to the core that TEEOSA, while it's been adjusted and tweaked over the years, has become an opaque model that doesn't serve our students, it doesn't serve our school boards, and it doesn't serve anyone living in our school districts in the state of Nebraska, especially in rural Nebraska. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. Senator Jacobson, you're recognized to speak.

JACOBSON: Thank you, Mr. President. I'd like to follow up a little bit more with what's happening in rural Nebraska, particularly the western part of the state. I know Senator Slama has focused a lot on southeast Nebraska, which also rural Nebraska, we're all seeing very, very similar things, you get into smaller communities. You've got smaller school systems, you're trying to spread those costs and it all ends up pretty heavily on the ag base no matter where you're at. I look out in my District 42 and, of course, I've got North Platte Public, equalized district, and then I've got the multiple counties around that are smaller school districts doing great jobs of educating our children. But they're also having to spread those costs that are out there and all the federal and state mandates in terms of teaching today. And they're having to get that paid for somehow. I would also tell you as you get it more in the rural areas, you run into areas where there's great travel distances. A lot of people say, well, gee, why don't they just consolidate the schools? It's easier said than done because you've got students that are living in areas, and so how far are they going to travel to get to school every day? I can tell you that there are areas in McPherson County, for example, where it's the smallest school district in the nation. Last year, I think they had 53 students in the school. But you've got students that are traveling 25 and 30 miles one way every day to get to school. And if they were going to go to the next closest district, it would either be North Platte or it'd be Stapleton. And you're going to be looking at another 30 or 35 miles in addition to the drive that they have now. So you're going to need to maintain those buildings in order to be able to provide some kind of adequate teaching opportunities for those students. And I might add, they do an outstanding job and their report cards reflect the job that they're doing to make that happen. So it's a critical part of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

what we're doing. I would also tell you that what Senator Holdcroft had mentioned what's happening in Sarpy County, he's right, Sarpy County is growing like fire. They're continuing to have to build new schools there. We're finding in western Nebraska that our, our schools are shrinking in size. And so the way we're going to need to do that is through economic development to be able to continue to, to, to, to load up those schools with students. We've got excess capacity and we intend to do that. And that's one of the things I'll be doing in the Legislature in terms of trying to promote economic development. With that, I'm going to stop and I'm going to yield the remainder of my time to Senator Slama.

KELLY: Thank you, Senator Jacobson. Senator Slama, that's 2:22.

SLAMA: Thank you, Mr. President. I'm grateful for this discussion and the amount we've been able to talk about school funding today. I, at the end of this turn, will be withdrawing my motion. I recommend that anybody in the queue, if you happen to hear what I'm saying, please feel free to remove your name from the queue and I withdraw my amendment. Thank you, Mr. President.

KELLY: It is withdrawn. Mr. Clerk, for items.

ASSISTANT CLERK: Mr. President, Senator Hunt would move to recommit LB583 to committee.

KELLY: Senator Machaela Cavanaugh, we understand you've been authorized to open for Senator Hunt.

M. CAVANAUGH: Yes, thank you, Mr. President. I wanted to say good evening because it's so dark in here. I was sitting in the lounge a little bit ago and it was-- I could hear thunder. So definitely a storm is brewing outside. Yes, I spoke with Senator Hunt earlier and she asked me to take on her motion to recommit to committee. So I said that I would happily do that. I wasn't aware that I was going to be doing it this quickly so I apologize that I'm not as well prepared as I had hoped. I know because I, I was listening, as I said, I was sitting in the lounge, I was listening to the debate and there was robust conversation around the current bill and tax policy and school finance and I was listening to Senator Slama read the school finance. It is still a struggle for me to fully understand but thank you, Senator Slama, for that. So it was one of the rare opportunities that I had to sit in the lounge and I thought I would take advantage of it and, and just sneak away for a moment. And it wasn't entirely empty, Senator DeKay and I were in there together, but listening to debate.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

So the lounge is kind of, like, exactly what you would think of in, like, an old movie. It's, like, big oversized leather chairs and green couch. The couches are green. And when I walked in the lights were off and so I asked Senator DeKay if it was OK because it was starting to get overcast and so I turned the lights on and the lights are-- well, anybody who's turned some light switches on in this building know that it's these, like, circle like buttons that you push one in and then the other one pops out. That's how you turn the lights on and off. And so I was turning the lights on and, and trying to figure out which ones. And there's a huge fireplace in there and I am curious when the last time that fireplace was used. It's beautiful. It's a beautiful fireplace. It doesn't look like it's been used in probably decades, but it would be interesting to know. And does, does the fireplace have-- like, does a chimney sweep come once a year and sweep the fireplace? I think there's a fireplace in both lounges, but I haven't been in that lounge for quite a while. So the lounge I'm talking about is the, I'm pointing in different directions. The senator's lounge is this way behind the Clerk and the cloakroom or the President's desk and the cloakroom and then hallway, lounge. And then all the way on the other side of the building is the Wherry Lounge, and that's the Supreme Court side. And I know that one has a fireplace because that's the one I've been sitting in. But I don't recall if our lounge has a fireplace, but I feel like it does. So whenever that lounge reopens, I look forward to seeing if it in fact has a fireplace. But if anyone knows anything about the fireplaces and when they were last used, I'd be curious to know. Our former Clerk was the longest-serving Clerk, I believe, in the country, Clerk of the Legislature, and I doubt he's watching because he probably has better things to do with his time. But, Patrick, if you are watching, has the fireplace ever been used in your 40-plus-year tenure in the Legislature? Because if anyone's going to know, maybe, maybe Carol or Dick knows, too, but, but Patrick, if you're watching, dying to know, burning question in your Nebraska Legislature, was the fireplace in the senators' lounge ever used during your tenure? Now the senators' lounge has very strict rules. Staff cannot go in there, staff is not allowed in. And when I was a freshman and I had Barrett, Barry was a baby, we call him Barry, Barrett was a baby, and I-- the times that I would have him with me I would take him into the lounge with me sometimes. And that was, you know, it's the senators' lounge, but he was essentially an appendage at that point so an exception was made for Barry. He, he got a lot of exceptions. He got to be on the floor, the actual floor, my desk was on the end here and so did try to keep him on the end, not, like, in the middle. I think I had him in the middle once because I was literally wearing him in, like, a Bjorn and I walked over to talk to

somebody. So I got, like, literal appendage at that point in time. But, yes, so one of the things that Senator Hunt was talking about this morning that really I found fascinating was her conversation about Kool-Aid and the Kool-Aid packets. I'm looking up Kool-Aid right now because, of course, Kool-Aid originates in Nebraska and all the different flavors. And I don't remember there being so many different flavors of Kool-Aid so-- and I definitely don't remember was it the wizard flavor that she was talking about or Houdini? Was it Houdini? Was that the name of the flavor? Anyways, I just love that she started talking about Kool-Aid this morning. Now I'm looking up what they've got. There's 22, pack of 22 flavors. What? I just know, like, the fruit punch and, like, lemonade. What are all the flavors? There's mango, grape, lemon-lime, strawberry, but what are the rest? Cherry, tropical punch, watermelon, strawberry kiwi, mandarin-- "mandarina" tangerine, mango, pink lemonade, orange, peach mango, green apple, strawberry, grape, raspberry, pineapple, Jamaica-- what is the Jamaica flavor-- mixed berry, and lemon-lime. They do not have the Houdini on here, so I would like to know about-- I'm, I'm just making up, I don't know, she said it was the Houdini Kool-Aid, blue Houdini. Oh, it is a thing. It is, it is expensive. You can buy vintage blue Kool-Aid Houdini. It's \$42. I love you, Senator Hunt, but I'm not getting you that for your birthday. Wow. Though, it is within the gift limit of \$50. "Purplesaurus" Rex, OK, wow, "rock-a-dile" red, retro jammers. OK, what are retro jammers? Are these just retro flavors? No, retro jammers is, like, an actual Kool-Aid, Kool-Aid flavors. OK. Oh, my God, this is-- I did not even know, I did not even know what I was missing in the Kool-Aid arena. Dinosaur Dracula. What? Oh, my God, my kids would love this. Where can I get these weird Kool-Aids? Not that they need the sugar. Sometimes I get cookies here, and if it's a day that I'm actually going home, I will bring them home with me. And then I always regret it, I'm, like, why did I do that? OK, pink "swimmingo" which has a picture of a pink flamingo, "rock-a-dile" red--

KELLY: One minute.

M. CAVANAUGH: --which has a crocodile with a guitar. This is amazing, great "bluedini", OK, that's the one that Senator Hunt was talking about. Changes colors, the great "bluedini" changes colors, cool, strawberry [SIC] fin, that's got a shark on it for the fin, "purplesaurus" Rex, guess what, it has a purple T. rex on it. So that one's, you know, a giveaway. Oh, my God, there's even more. Oh, they've got, like, the original and then the updated version. I love the original better. The cartoon drawings are, like, really awesome and clearly done, like, by hand and not digital. So that's really

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

cool. I think I'm about out of time so, man, Senator Hunt, thank you for turning me on to these.

KELLY: That's time, Senator.

M. CAVANAUGH: Thank you.

KELLY: Thank you, Senator Cavanaugh. Senator Walz, you're recognized to speak.

WALZ: Thank you, Mr. President. I rise in support of LB583. And the reason, or one of the reasons, I do is because in my mind we got it right. This time we got it right. And I'm not merely talking about the bill, because in politics I don't think you ever find a perfect bill. There's a cause for every or there's a cause for-- for every cause there's an effect. I'm talking about what happened prior to the bill ever being drafted. I'm talking about the approach, the thoughtful, intentional approach used by the Governor, the stakeholders, and legislators to listen to each other to make changes, to prioritize needs, to allow for local control, and to create a school funding plan that benefits education and property taxpayers. I appreciate, first and foremost, the opportunity for stakeholders to have a seat at the table, as well as the many listening sessions that occurred over the interim. Secondly, the fact that educating our kids remained the priority focus during those discussions. I do want to highlight the 80 percent increase in special education because this is something that is long overdue. We have had many advocates for people with disabilities asking for this increase. And just imagine, colleagues, the families' reaction to that increase, the fact that they were finally being listened to and finally felt like their kids mattered. So because of what took place prior to the creation of a school funding policy, we have a major bipartisan proposal before us that I think the majority of the body can agree to, and that, that's pretty amazing. It's a testimony of what can happen when we're thoughtful, when we take others' voices and expertise into consideration. I'm not going to go into the components of the bill because I think Senator Sanders and others have done a marvelous job doing that. I do want to say that I think it would benefit our students and our schools to at some point have continued conversations on poverty allowance and how we measure poverty, poverty in the formula, because it absolutely does cost more money to educate kids in poverty. In my home district in Fremont, we have over 60 percent poverty in our schools. So I would like to see continued conversations regarding, regarding the poverty allowance with more stakeholders and more input on that issue. Again, I want to thank Senator Sanders, and I remember talking to her about a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

month ago about this proposal, and she was saying how when she was asked to bring this proposal her first reaction was, uh-uh, I'm not going to do that. But, Senator Sanders, you have done a remarkable job bringing this proposal. Thank you. And thank you to the Governor and stakeholders for making education a priority.

KELLY: One minute.

WALZ: Honestly, honestly, I never thought I would say this about a school funding proposal, but this has been a little bit of a light in a very tough session. And I think it's all due to the fact that it was a thoughtful process. Thank you, Mr. President.

KELLY: Thank you, Senator Walz. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I rise in opposition to the motion and in continued support of Senator Sanders' amendment and the underlying legislation. I think that this measure, again, to reaffirm, is actually one of the most exciting measures before the Legislature this year and want to give credit where credit is due to Governor Pillen, Senator Sanders, the Education Committee, and all stakeholders who have come together to work on this piece. I think that this measure is elegant in design in terms of addressing long-standing concerns brought forward by our schools in greater Nebraska to have an increased infusion of resources to address what they see as inequities in the TEEOSA formula and to address long-standing concerns by all school districts about the lack of resources available to serve students in special ed and with special needs. So, again, no proposal is perfect and there are components perhaps in some of the technical aspects of this measure and as related to some of the other aspects in the property relief package that this is correlated to. I do think on the whole it helps to address very important public policy issues that are good for my district and good for the state of Nebraska. One thing that I wanted to just gently push back a little bit on my friend, Senator Lippincott, I know that there are members of the body who feel very strongly about, quote unquote, school choice and are deeply committed to utilizing their voice and their resources and the powers of this institution to increase resources to private school, to increase state resources to private schools, whether that's through vouchers, whether that's through scholarships, or whether that's through other strategies to build up charter schools or religious schools in, in Nebraska. That is their authentically held, legitimate political perspective in regards to how they approach education policy. I just

simply disagree. I believe that we have school choice that honors the rights of parents to choose the best course of action that's right for them and their family. And it also ensures that we do not have an entangled-- a, a needless entanglement between church and state in regards to these issues. Now I don't want to throw a firebomb into this thoughtful and positive debate about education funding, but I also didn't want to let some of those comments from my friend, Senator Lippincott, go unresponded to in the record. Because I think, unfortunately, it's very challenging to compare apples to apples when you look at overall cost to our schools and you look at just how they operate, for example. So perhaps some private schools may have a lower per-pupil cost to educate students, but you have to remember that private schools also are not required to educate all students. And public schools, sometimes the, the thing that's really driving their cost and driving their per-pupil cost could be providing services and ensuring an education for students with significant special needs and that really, really drives up the cost. It's also sometimes hard to get a dollar-for-dollar accounting--

KELLY: One minute.

CONRAD: --or audit in between private schools and parochial schools and religious schools. They're not subject to the same level of audit and transparency as our public schools are. So I appreciate and understand that my friend, Senator Lippincott, and others have a different ideological viewpoint in regards to advancing private education in Nebraska. I just wanted to make sure that where we can find common ground in consensus on investing in our great public schools we should maintain that North Star focus in this debate and we should just make sure that we have clarity in regards to the points of debate brought forward. Thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. Since I opened on Senator Hunt's motion, I'm assuming that I still just get two times to speak and a close? We act as though I am the introducer of the motion?

KELLY: Yes, if you're doing Senator Hunt's close, that's correct.

M. CAVANAUGH: OK. All right. That's helpful. Well, I guess if I'm not-- potato, potato, really, right, if I'm not doing her close then I get three times, that extra five minutes if I am doing her close, and I don't get that. OK. All right, math, it's my friend. OK, putting my

coat on, sorry, it got chilly in here. So apparently, and I haven't dug in yet, but apparently, thank you to Senator Blood, Pillsbury had a-- they tried to have their own cool drink mixes in the '90s as well. And I do plan on, on digging in on those. Theirs seemed like they might have had some racial undertones so there's that. OK. All right, so I'm looking at these pictures, and I do-- maybe this is the purist in me, I do like the original packaging better, but part of it is the original packaging is clearly illustrated as opposed to the digital packaging, which is fine, like, digital artwork is great, etcetera. But the original kind of reminds me of if, if you ever-- I remember going to the Disney store in the, I think it was in the Westroads Mall, and it's probably still there, I don't know, but the Disney store in the Westroads Mall and they would have in the cases, like, original prints of artwork from different Disney movies and they were on like a-- I don't know what kind of plate they were on, but just the process of how cartoons used to be made. Like, it would, it would take forever, like, years to make a cartoon-illustrated movie and now it takes months. And, and these illustrations just kind of remind me of that old fashioned way of doing illustrative artwork. If you ever see-- well, you probably see, like, the opening credits of, I think it's, I think it's on every Disney movie, but it's the whistling Mickey Mouse in black and white and it's flipping pages. Like, that's how, that is how cartoons and illustrations used to be made, is that it was like a series of artwork and just flipped really quickly to create the illusion of movement. And, it's closed right now, but if-- when it's reopened, the Joslyn Art Museum in Omaha has an artwork's section for kids. For kids, we're all kids, right, because I love to hang out there. And my husband and I would take our kids there all the time when it was open, but you [RECORDER MALFUNCTION] like, animation. They had like a little video laptop thing set up with a camera, and you could do still an-- still frame animation with, like, you know, kind of like Gumby style for anybody that doesn't know Gumby, the, the animated cartoon where it's like, you've got a guy and his hands are like this, and then you move them and take another shot and then move them and take another shot and move them and take another shot and move them and take another shot and then you do them quickly. And it goes like this. Like he's doing a karate chop. So, yeah, I hope--

KELLY: One minute.

M. CAVANAUGH: Thank you, Mr. President. I hope that when the Joslyn Art Museum reopens, that the artworks is still there. Or maybe it'll even be bigger at that point, which makes me think, when is Joslyn reopening? Also, there's the Luminarium, which is new in Omaha. I have

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

not yet been. It opened two or three weekends ago and it looks like it's a really cool space and I look forward to checking it out. I am sort of crowd averse at the moment. I spend a lot of time here around a lot of people, so in my free time I kind of want to be around not a lot of people, mostly just four other people that I live with, other people I want to be around. So I haven't been to the Luminarium, but maybe this summer after I've had some--

KELLY: That's your time, Senator.

M. CAVANAUGH: --some time-- Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Day, you are recognized to speak.

DAY: Thank you, Mr. President. I rise in support of LB583 and AM1636 and in opposition to the motion to recommit to committee. I wanted to continue the conversation. We're again talking about education today. And yes, I am thrilled to see that we are finally finding some solutions to the funding problem that we have from both perspectives in terms of how we are funding public education as a state, but also from the property tax perspective. But I want to continue to talk about the fact that funding is not the only thing that we have to start addressing relative to education in Nebraska. And until we start approaching education from a more holistic, student-centered perspective, we're still going to continue to have issues. I think Senator Walz's proposal to increase the poverty allowance would be one way that we could start working towards correcting some of those things. But I think that it's going to be-- it is incredibly important and it's going to continue to become more important for the education sector of Nebraska to address adverse childhood experiences. And obviously poverty is one of those. But there are many other things when it comes to adverse childhood experiences that affect a child's ability to get a quality education. Last night I had mentioned attending a luncheon, I believe it was last year, potentially the year before, for the Nebraska Children and Families Foundation, where Liz Dozier, who is the CEO and founder of Chicago Beyond and former principal of Fenger High School in Chicago, was the keynote speaker. And it was one of the first times that I had heard someone who was really taking justice initiatives and student-centered practices and implementing it into public education and in how incredibly effective it was in addressing some of the issues that we have in really struggling schools. And so I'm going to go back to talking more about her perspectives on how we can solve some of the problems within the public education system with a more holistic, student-centered

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

approach. When Liz Dozier arrived at Fenger High School, it felt like someone had dimmed the lights. At the time, it was known as one of the most violent and underperforming schools in Chicago. During Dozier's first year as principal, 300 arrests happened in the building. The school's dropout rate was 20 percent, and the graduation rate was just 40 percent. Each of my students was an infinite microcosm of possibilities, she shared, comparing their potential to stars in the night sky. But so many barriers were impacting students' abilities to be free, dimming the lights on their futures. Dozier started her time as principal, focused on structure and discipline, prioritizing policies and procedures. After a year, though, she realized the school wasn't seeing the changes it needed. Day after day, our students' ecosystems were subjecting them to repeated trauma, Dozier explained. A one-size-fits-all approach and tough-on-behavior tactics weren't helping the students so she made a shift. After Dozier's six years at Fenger High School, the 300 annual arrests became fewer than 10. The dropout rate fell to 2 percent and the graduation rate doubled to 80 percent. As one of the opening keynote speakers at the 2022 Cradle to Career Network convening, Dozier--

KELLY: One minute.

DAY: Thank you, Mr. President. --now founder and CEO of Chicago Beyond, shared what changed to turn the school into a bright spot. Here are a few of the insights she offered to the more than 500 changemakers gathered at the event in Chicago. In her first year, Dozier tracked a lot of data on her students. Across the StriveTogether Cradle to Career Network, data is a key component to building stronger communities, but it's critical to pause and reflect on what the data really means, Dozier, Dozier shared. And to her, that meant truly seeing each of her students. What was really in that data? How often has each of us really failed to see someone? At Fenger, we are missing some of our kids, widening the inequities, and creating more issues, she said. Using data effectively meant not just looking at the numbers, but seeking the story behind the numbers, the lived reality of each of the students at the high school. We changed the question from what's wrong with you to what happened to you, Dozier shared.

DeBOER: Time, Senator.

DAY: Thank you, Madam President.

DeBOER: Thank you, Senator Day. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Madam President. Well, apparently the fireplaces have never been used, but are operational. They are only for decoration presently. So good to know if the apocalypse comes and people have to flock here for shelter if they need to, we have functioning fireplaces. Why? If we don't use them and they've never been used, I don't know. But they're there. Maybe when this building was built, they planned for a future apocalypse and thought, we want to make sure people have a place to safely warm their hands and cook a meal. I imagine like a cauldron of, like, soup happening in the fireplace. The fireplaces are massive. Like, you can walk into a fireplace. They are ginormous. So I imagine, like, getting a rod and hanging it across and putting like a cauldron on it and just stirring with, like, an actual paddle, like a boat paddle stirring and making, like, a massive stew for all the people that are huddled. The huddled masses. The huddled masses. Give me your poor, your huddled masses. So LB583 establishes the Education Future Fund. Schools may receive additional funds, just reading through some, some things on this from earlier. All right. So we got AM1636 and the revised fiscal note. I don't have the original fiscal note, but the revised fiscal note is \$103,762,107 in FY '23-24 and \$134,933,956 FY '24-25. For school year '23-24 and each year thereafter, the Nebraska Department of Education will determine the supplemental special education allowance for each school district. The allowance will be an amount equal to 80 percent of the total allowable excess costs for special education programs and support services provided by the school district, minus the amount of the reimbursement received by the school district. For school year '23-24 and each school year thereafter, the total amount of equalization aid that is attributed to supplemental special education allowances will be paid from the Education Future Fund. All right. For school year '23-24 and each school year thereafter, net option funding will be the product of the net number of option students multiplied by the difference of the statewide average basic funding per formula student minus the amount of foundation aid paid per formula student. For school year '23-24 and each school year thereafter, NDE will determine the foundation aid to be paid to each school district. The foundation aid to be paid to each school district in each school year will be equal to-- equal \$1,500 multiplied by the number of formula students for such school district. Twenty-three percent of the total amount of foundation aid paid each school year will be paid from money appropriated from the Education Future Fund. For whatever reason, this just reminded me that it's May 10. If you live in Westside, turn in your ballot today.

DeBOER: One minute.

M. CAVANAUGH: You got to turn them into the Election Commissioner drop-off boxes. I turned mine in over the weekend. Also, Nick, I turned in our ballots over the weekend if you're wondering what happened to them. We had them on the refrigerator for a week, and I knew I was driving by a drop box, so I snagged them off. I made sure that he had signed the back of his before I took it because I didn't want it to be disqualified. But-- and I didn't-- I don't know how he voted for the-- it's Westside school bonding issue. But ballots are due today, so don't forget Westside residents. Yeah. OK. So I think just we're talking about school funding. I guess that's probably why I started thinking about a bond issue and the fact that your vote needs to be cast by today. It's an all-by-mail ballot process for the bond, for the Westside School bond and, which was very--

DeBOER: Time, Senator.

M. CAVANAUGH: Thank you.

DeBOER: Thank you, Senator Machaela Cavanaugh. Senator Day, you're recognized.

DAY: Thank you, Madam President. Continuing the conversation about working on reforming education and addressing the whole student from a student-centered perspective, this article about Liz Dozier, she said we changed the question from what's wrong with you to what happened to you, Dozier shared. From there, she and her team could better understand the students and their needs and better create strategies to address them. Truly understanding your data and the root causes of the challenges of your community can lead to shifting the way you look at your work. For Dozier, the shift had a profound impact. We were operating under the assumption that our students needed to be controlled, she said. The reality is that we, as adults, were the barriers to their freedom. As a collective of adults, we were the system that was standing in their way. When they let go of their assumptions, Dozier and her team began to see her students through a more nuanced and complex lens. This expansion allowed them to see the larger underlying issues behind the students' challenges at school, the overall ecosystem in which young people in the community existed. Our children are not problems to be solved. They are individuals who are in need of healing, in need of adults to step up and make, make different and better decisions in their best interests, Dozier shared. Her work shifted from its focus on policies and strict discipline. The school adopted restorative practices and implemented mental health and wellness resources, including group counseling and individual counseling for students and these changes led to results. Reaching

better outcomes involves more than the principal and teachers. It requires everyone in the environment that affects students. Dozier began bringing more people to the table, including coaches, counselors, janitors, secretaries, and more to build a holistic web of support. This holistic approach is important not just in day-to-day work, but for a longer term focus as well, including funding. The original intention of philanthropy is to be of service and to listen to the voices of the people we're serving, Dozier shared. In 2016 after her time at Fenger High School, Dozier launched Chicago Beyond, an impact investor that invests in ideas, individuals, and organizations. The organization takes a trust-based philanthropy approach to fight pervasive inequities. We need to maintain our proximity to communities and take our own egos and power dynamic off the table to truly show up in solidarity with the people we serve, she said. I feel like that quote would be important for everybody in here to understand. We need to maintain our proximity to communities and take our own egos and power dynamic off the table and truly show up in solidarity with the people we serve. So far, Chicago Beyond has invested close to \$50 million into ideas, individuals, and organizations to ensure that young people are truly free. Their work includes investing in larger systems like Chicago Public Schools and supporting hyper local organizations. When change seems daunting, Dozier reminded the Cradle to Career Network that change starts with all of us. Systems, after all, are made up of people and as the people, we truly have the power, she said. At Fenger High School, Dozier saw firsthand that wide scale change starts with small things, things like shifting discipline practices, creating a warm environment, and supporting students to graduate. Every single interaction--

DeBOER: One minute.

DAY: --how we-- thank you. Every single interaction, how we show up, it's the small things we need to pay attention to for our students, our young people, and our communities, Dozier shared. Change is possible, and it starts with the radical power of individuals to influence their environments and shape the future, Dozier said. We're in the midst of this revolution. The freedom of all of our children depends on each and every one of us. I will yield the rest of my time. Thank you, Madam President.

DeBOER: Thank you, Senator Day. And you are next in the queue.

DAY: Well, all right, then. So I also wanted to look at this Chicago Beyond philanthropy group that Ms. Dozier has founded and discuss a

little bit more about their philosophies and what they do. And they have something online that you can download for free. It's the Chicago Beyond Whole Philanthropy. It's a PDF about 24 pages. And I think it's a really fantastic read because it gives you an idea of just how deeply many of these issues are rooted when it comes to student behavior and academic success in the classroom. So with Chicago Beyond, they say, restoring the philanthropic sector's promise of equitable social change requires radically reorienting philanthropy around a mission of and practice of justice. Whole philanthropy is our approach to operationalizing this transformation. By honoring the context in which our work takes place and the human dignity and value of the people we work with, we hope to build a deep foundation of trust and solidarity with our partners to achieve our mutual aspirations for Chicago's young people. We hope this approach allows us to work more productively and joyfully with our partners in our joint pursuit of freedom. And Chicago Beyond works on many things. Even outside of schools, they have other justice and corrections-related initiatives that they're handling. But the main thing that I find really important about the work that they're doing is that no matter what they are working on, the dignity of the human being and the individual is always centered in every decision that they make because it is truly the only way to allow for success for each individual person. Our, our North Star is freedom, which requires liberatory consciousness to show up in this work in ways that are righteous and true for the communities we serve. Like many in philanthropy, we hold ourselves accountable for taking actions that exemplify our beliefs and working to construct viable pathways on that road toward freedom, especially for black and brown people. We recognize that all too often philanthropy falls short in constructing those pathways. Despite decades of defining the problem and implementing solutions, we are left with minimal, long-lasting results. It's tempting to attribute these failure-- failures to societal forces, especially given the growing awareness of how structural racism and inequality shaped and distort young people's lives. Excuse me, but as critiques of philanthropy underscore a sector grounded in charity rather than justice itself, a party to those forces. I'll yield the rest of my time. Thank you, Madam President.

DeBOER: Thank you, Senator Day, Senator Jan-- John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Madam President. I've appreciated the conversation we've been having about this bill in particular. I appreciate Senator Sanders' work on this and, of course, the Governor's interest in getting more money for education in the state.

And this does represent a pretty substantial investment going forward in education. I hope we can continue to maintain it because obviously the, you know, TEEOSA formula, which I know is very complicated and I appreciate the folks who have talked so far that have helped explain this to myself and to others who've been watching at home, but it's complicated. And it's, you know, came about a long time ago, I guess, in the '90s in the hopes of making sure that we were trying to match needs with resources and, you know, recognizing the differences, burdens of educating kids in different school districts. You know, obviously the school district that I represent, there's several schools that are within walking distance of my house. But in other districts like, well, Senator Brandt's district or Senator Briese's district, just folks I can see here, that the kids have to get bused long distances and there's not the density of kids. And so there's just differences in how you administer these different school districts. And I think that's what TEEOSA was attempting to recognize. I appreciate that the Governor is trying, over these years of evolution, TEEOSA has kind of shifted away from fully considering the burdens of those other school districts. And we had the unequalized schools and the equalized schools, and we set up competition between those two for resources. And this is, I think, a step in that direction of recognizing that we need to make sure we are providing some resources to every school in the state, because the state has an obligation to educate all the children in this state. And so I appreciate that about this bill and Senator Sanders' amendment. And so I would, I guess I would oppose the recommit motion and support the bill at this point. Thank you, Madam President.

DeBOER: Thank you, Senator John Cavanaugh. Seeing no one else in the queue, Senator Machaela Cavanaugh, you're welcome to close on Senator Hunt's motion.

M. CAVANAUGH: Thank you, Madam President. I stepped away so I didn't look up the Pillsbury flavors drink mix. But Senator Blood handed me this list. One of them is Freddy-- oh, freckle face strawberries, loud mouth lime. I just read those two because, first of all, they're the least offensive ones. And also they probably are the ones that best describe my personality or me as a person, freckle face strawberries and loud mouth lime. Yeah. So anyways, that started because Senator Hunt was talking about Kool-Aid earlier on the mic and her mom at the grocery store. And I like, props to Mrs. Hunt because taking your kids to the grocery store, first of all, is like, an endeavor that you never know how it's going to turn out, but just plopping them in front of a bunch of flavors of Kool-Aid and being like, you get to pick X number of flavors and then you do your grocery shopping while they are

just belaboring which, which flavor of Kool-Aid they want, you probably are going to end up with significantly less junk food in your cart and just a couple of packets of Kool-Aid. So that is genius and a method I would consider deploying. I try to avoid taking my kids to the grocery store because it stresses me out so much to have them in there with me because I've got my list. I want to get in, get the things that I need and get out. And if they're with me, it turns into an aisle-by-aisle negotiation. Like, what about this? What about this? What about this? Well, how about you just let me get this instead of this? I'm like, I didn't agree to either thing. I didn't say you could have that. So why would I agree to the other thing in lieu of that? Like, oh, I don't need to get the Oreos. I'll just get the Fruit by the Foot. No, I didn't say you could have Oreos. Well, I could get both Oreos and Fruit by the Foot. No, you can't have either of them. Like, this is actually how negotiations here go a lot of times. And I'm like, no, that was never, never discussed. I never-- we did not enter into this grocery store with the idea that you were going to get to pick out a treat or ten. And now you're negotiating for all these treats that I never said you could have. I'm just trying to get something for dinner. Chill out. So maybe I will deploy the Kool-Aid trick. My middle kid is an expert level negotiator, however, and she's also expert level gaslighter. And so I don't know that that would work. She can have oh, man, she would put this-- she would make people in this Chamber weep with her negotiation skills. She's certainly made me weep. She is relentless and will reframe any conversation to suit her needs. So, I wish I could, like, maybe just put a little earpiece in and have her tell me what to say. That would be entertaining on a lot of levels. There would be an increased conversation about unicorns, of course, and rainbows. She likes a good schedule. She's really big on schedules, wants to write it out, wants to write down the schedule. So--

DeBOER: One minute.

M. CAVANAUGH: Thank you. So actually started working on a schedule for the summer. Well, they're going to camp so we got that schedule, but just working on a schedule for days when they don't have camp or something like that, because she really likes to have a schedule. She likes to know what to anticipate, what's the next activity, what's the next expectation? She really likes expectations to be laid out for her. So I took a little time this weekend to start sketching that out and trying to think of activities, structured activities to have on those unstructured days. And I, you know, God bless teachers because that's all they do, is structure kids' days and make it enriching and educational. And, it's amazing to me how they do it and it is not my

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

strong suit and I am attempting to poorly do it when my kids are not in those structured academic settings. So I'm--

DeBOER: Time, Senator.

M. CAVANAUGH: Thank you. Call of the house, roll call vote.

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

CLERK: 12 ayes, 2 nays to place the house under call.

DeBOER: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Wishart, Frederickson, Bostar, Bostelman, McDonnell, and Wayne, please return to the Chamber. The house is under call. Senators Wayne and McDonnell, the house is under call. Please return to the Chamber. The house is under call. Senator McDonnell, please return to the Chamber. The house is under call. Senator McDonnell, the house is under call. Senator McDonnell, the house-- the house is under call. Please return to the Chamber. The house is under call. All unexcused senators are now present. So the question before the body is the motion to recommit to committee. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: 0 ayes, 44 nays to recommit the bill, Madam President.

DeBOER: The motion is not successful. I raise the call. Mr. Clerk, next item.

CLERK: Madam President, some items. Your Committee on Enrollment and Review reports LB683 as correctly engrossed and placed on Final Reading Second. Additionally, your Committee on Education, chaired by Senator Murman, reports LB413 to General File. And a series of conflict of interest statements from Senator Wayne. Amendments to be printed from Senator Wayne to LB814. New LR, LR133 from Senator Bostelman. That will be referred to the Executive Board; new LR from Senator John Cavanaugh [LR134]. That will be refore-- referred, referred to the Executive Board; and LR135 from Senator Brandt and others. That will be referred to the Executive Board as well. Concerning LB583, Madam President, Senator Machaela Cavanaugh would move to reconsider the vote just taken on MO684.

DeBOER: Senator Machaela Cavanaugh, your open-- or you're welcome to open on your reconsider motion.

M. CAVANAUGH: Thank you, Madam President. Colleagues, so yeah, I was talking about in my closing in the last go-round I was talking about taking my kids to the grocery store and structure. And how much structure our, our educators bring to, to children. It's much-needed, important structure. So we've-- there's so many topics. There's so many directions to approach essentially the same problem, the problem and the multifaceted, layered approaches that are necessary and need to work together. The problem is how do we care for our children? Our budget informs that, our education policy informs that, our public assistance policy informs that, our criminal justice policies inform that. How do we care for our children? Our healthcare policies inform that. And are we caring for our children in the manner which we believe is doing the most good? Where is the room for improvement? And how can we make those strides? So public assistance, our children who are living in economically unstable circumstances. When we invest in public assistance, we are investing in those children. When we are ensuring that children in low economic households have access to food, heat, housing, Internet, we are investing in those children. Are we doing the best job of that? We have all kinds of means testing required for our public assistance. We create a system in which parents who qualify for public assistance, It's basically a full-time job for them to maintain the paperwork and the hoops to qualify for public assistance, which leaves little to zero time for them to work to get out of their current financial situation. Could we be doing better there? Could we have more thoughtful policy around our public assistance? Absolutely we could. Why don't we? One thing that I have observed over the last five years and thought about as to why don't we have a different approach to public assistance is sort of a mental block for many individuals. And it's, it's different depending on your lived experience. We have people who maybe grew up in poverty and are successful now. And the mental block is, well, I did it so why can't you? Or we have people who did not grow up in poverty and had every opportunity to be successful and they were. And so they don't understand the obstacles. And because they don't understand the obstacles, there's an assumption that the people who are in poverty and can't get out are lazy when that is not the case. So I think if we really want to start to unpack how we can do better by children, we need to take a step back from our own prejudice, our own preconceived notions. We need to shake the snow globe and look at it differently. Since I've been here, I have had my way of thinking challenged numerous times, and I have had my way of thinking expanded in various

ways that I never would have anticipated. I have reframed how I view the role of government, the purpose of taxes, what it means to have thoughtful public policy. And I challenge you, colleagues, to reflect on that for yourselves. Have you grown in your views? Have you opened your mind to new ways of thinking? And I don't mean mine. I mean anyone's. Have you looked at the person who sits next to you in committee or next to you on the floor and thought about their way of approaching a problem and entertained it if it's different than how you would approach a problem? I think if we shake the snow globe up and we try things a different way, we can achieve amazing things. But when we go into our corner-- corners and we become tribalistic in the way that we approach every situation and every problem, we-- we're stuck. We are stuck. Madam President, how much time do I have?

DeBOER: 3 minutes.

M. CAVANAUGH: Thank you. Earlier today, there were comments about, Yeah, you told me you don't want me to ask about your kids and why would I? Blah, blah, blah. Yeah, I, I get it. I have said similar things. I feel very strongly about a very specific piece of policy, and it genuinely hurts my heart. It genuinely hurts my heart that people support it and that people vote for it. And sometimes that hurt is too much. It is too much for me to handle and I just want to tell everyone to go away. And sometimes I have and sometimes I've collected myself and gone back and been like, all right, well, I can't exist that way. So I'm going to approach this differently. But what I haven't seen, colleagues, and that doesn't mean it's not there, but I just-- I haven't seen others do the same. I haven't seen individuals who voted for LB574 really ponder the implications of that passing. Really ponder why am I doing what I am doing? Honestly, I haven't had many people talk to me about it off the microphone and I've talked about it on the mic. But that's not a conversation. That's not a one-on-one dialogue.

DeBOER: One minute.

M. CAVANAUGH: I've had very few people who voted for LB574 actually engage me in conversation about it, and I get it. I'm not super approachable on that. You have to be brave. You have to be willing to accept that I might not want to talk to you, but you also have to try and you haven't. And that is on you. If you wanted to talk to me, I assumed that you would. So this is where we are. This is where we are. And this is where we continue to be.

DeBOER: Time, Senator.

M. CAVANAUGH: Thank you.

DeBOER: Thank you, Senator Machaela Cavanaugh. Senator Day, you're recognized.

DAY: Thank you, Madam President. I've had this really fun thing for, like, the last week that any time I start talking at length, I start coughing and it keeps happening on the mic and it's kind of embarrassing and kind of gross. So I apologize in advance for me clearing my throat and coughing all the time on the mic, but I'm not sure what's going on. Maybe I could talk to our friendly doctor of the day over there but. Chicago Beyond: Traditional institutional philanthropy exacerbates the inequities it seeks to alleviate by operating in a way that draws sharp lines between givers and receivers, haves and have nots, appraisers and the appraised. At Chicago Beyond, we believe there is a practical alternative to traditional institutional philanthropy that can invigor-- invigorate the sector's ability to create this deep change. This approach requires shedding practices typical of charities and setting freedom as our North Star. The process which we call "whole philanthropy," is an expression of our founding commitment to do what is needed for Chicago's young people and a product of our intensive engagement with the ecosystem of people, organizations, and communities that work together to help young people thrive. As an approach to funding, whole philanthropy is recentring humanness. It is about doing away with the false dichotomy of us and them. It's about recognizing that we are in this together, fighting for, and envisioning true freedom for all. It requires interacting with our partners not in a paternalistic way, but as equals. Our model forges deep connection with our partners, seeks to rebuild ownership among those we serve, and unlock the abundance of collective and often untapped resources among stakeholders. As an antidote to the typical philanthropic power dynamic, whole philanthropy is grounded in justice. Justice is not an abstract state of liberation that exists out there. We enact justice every day. In each encounter with others, through every relationship we build, with every plan we make, our actions can restore or harm people and communities. Centering justice in this way challenges us as funders to fund-- to fundamentally change our assumptions and actions. Whole philanthropy is by no means the answer to the systemic problems that undergird philanthropy. We wrestle regularly with operating in this world while envisioning an equitable one. Whole philanthropy is an intentional practice of doing the best we can at each turn, with a fierce commitment to adapting and learning. At Chicago Beyond, making philanthropy whole is an ongoing journey. It is the orientation to how we approach everything we do. We are sharing now so that partners, our

peers, and others in our community can continue to challenge us and hold us accountable to this orientation so we can continue to do better for our young people and so we collectively can create the impact we wish to see. We must steady our feet, persevering on this new terrain. Why orientation. The instinct-- the instinctual way of working is attempting to make the world better by focusing on changing things external to us. For greater and holistic impact, we need to instead focus on examining and modifying our orientation--

DeBOER: One minute.

DAY: --to this work. Thank you, Madam President. We must see ourselves as key actors with power in the systems we are working in, actors that can ultimately upend and shift the very nature of the system. Key to this is recognizing when we change what we notice, we change how we see, we change what we do. This is our orientation, one that we strive to apply to everything we do. Consciousness and connectedness equals with, not for. Consciousness requires noticing and examining the perceptions, assumptions, and dynamics that inform our individual and organizational beliefs and practices. Being conscious requires us to see differently and bring awareness to our own biases and assumptions as well as our interconnectedness. Connectedness requires--

DeBOER: Time, Senator.

DAY: Thank you, Madam President.

DeBOER: Thank you, Senator Day. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Madam President. Woo! Loud. Do we readjust it? Thank you, Madam President. And again, I rise in, in the rare opposition to the reconsideration because I voted how I wanted to vote on the recommit. Sometimes I vote no on the recommit and yes on the reconsideration because the arguments are so compelling sometimes. But I was remiss. Last time I didn't-- Senator Conrad had brought up and mentioned that this was Teacher Appreciation Week, and I just wanted to make sure I had my opportunity to thank all of the wonderful teachers in-- that have, you know, shaped my life and have been there for me and for my kids teaching them to read because, you know, it's-- I try, but it gets very standoffish and nobody around here understands what it's like to be standoffish. But it is when you're trying to get your kids to do something they don't want to do, that can be a problem. But teachers are great at it. They know how to like kind of jujitsu or I don't know what that's called, judo. The one where you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

use your weight and their weight against them. That's like, I feel like how teachers deal with my kids at least. So I really do appreciate the, you know, in honor of Teacher Appreciation Week, I appreciate the teachers that are serving all of us in Nebraska. And that we need to focus more on making sure we're appreciating them in both, you know, the outward appreciation, but also in the monetary fashion. But I did also forget to mention Senator Bostelman had talked about earlier when we kind of began this debate about a constituent in his district who was being taxed out of their home. And, you know, property taxes, it was a big concern to people in the state of Nebraska and that was something that came up when I was knocking doors in my district, now three years ago. And, you know, folks who've lived in their homes for a very long time and the values keep going up, you know, the land value in particular in midtown Omaha has gone up on, as I always tell you guys, my lot is 100 feet by 50 feet, so very small compared to, you know, the math, Senator Brandt is always telling me, quarter section or an acre is a football field without the end zone, Senator Brandt always tells me. He's really good at the math when it particularly comes to pieces-- sizes of pieces of land and distances and things. But anyway, so folks talking about a lot of things like that. And so one of the issues that kind of became important to me and Senator Bostelman touched on it a little bit is home equity theft, which is what happens when somebody can't pay or fails to pay their property taxes and somebody else buys that tax deed at a county sale or auction, and then they have the right to take ownership of that property after three years and nine months. And they can do it through a judicial foreclosure, but they don't have to do that. They can otherwise do it through a tax deed. And so they then gain title to the property and they also gain all of the equity that's in the property. So if somebody gets price-- gets taxed out of their home and they fall behind on their taxes and they can't catch up and say they fell behind, say, \$6,000 and they own a \$60,000 home. And this company then takes title through the tax deed process and they get that windfall of \$54,000. So they're owed \$6,000 in those back taxes and things that they're paying for and accrued interest. There may be some court fees in there so really the windfall maybe is we'll say \$50,000 with all those costs in there. And that, that homeowner is then out. They, you know, their tax-- back taxes are settled, but they're out the equity that they put into that house over the years of purchasing the house, paying their mortgage and all of the other things, they're out all of that equity, all of that-- the savings that they put into that home.

DeBOER: One minute.

J. CAVANAUGH: And potentially-- Thank you, Madam President. --potentially thought about, you know, using it to sell that home for their retirement or something along those lines, [INAUDIBLE] downsize. They've lost all of that. And that's because of how unfair this tax theft home equity theft situation is. So we have a bill that would help fix that. It's in the Revenue Committee. I've heard that there's some talk about maybe some version of it fitting into a revenue package. So I'm hopeful there. But I have had neighbors in my neighborhood come and stop me on the street to talk about that bill. There's also a case in the Supreme Court, which I can talk about another time, but I'm going to run out of time here, that addresses this very issue out of the state of Minnesota. And the Supreme Court heard that case about a month ago, well, a little less than a month ago. So we may have an opinion this summer on that that would potentially invalidate the current Nebraska scheme. So but again, against the reconsideration, in favor of the underlying bill. Thank you, Madam President.

DeBOER: Thank you, Senator John Cavanaugh. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Madam President. So, yeah, I was talking about schedule of kids, structure, poverty, all the fun things. OK. So public assistance, talked about that. Another big thing about how we are caring for our children is criminal justice reform. Now, of course, there's criminal justice reform as it relates to juvenile justice and the preschool-to-prison pipeline or just school-to-prison pipeline and investments in education and programming do a lot to address that. But there's also just like intergenerational poverty, having a parent who's incarcerated is going to increase the probability that a child will be incarcerated. And so criminal justice reform and trying to reduce our prison population and recidivism, community corrections, community program, mental health, behavioral health, jobs, all of these things that we can do to reduce our prison population and keep parents in the home with their kids is going to reduce the likeliness that those kids will also be incarcerated. So criminal justice reform is really an essential piece of the puzzle when it comes to talking about how we care for our children. And in not doing criminal justice reform and not getting something substantially done on criminal justice reform, while also allocating the funds to build a new prison and not addressing anything about criminal justice reform, we, we are failing our kids. On a massive level, we are failing our kids. And I, you know, there's a lot of things to-- there's a lot of things to be proud of this session. There's a lot of things to be disappointed about this session. And one

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

of the things that I think is extremely disappointing is that in the amount of things that we will accomplish, it doesn't seem like we're going to accomplish criminal justice reform. And that should be a priority. People get on the mic and they talk about the humanitarian crisis of the conditions of the prison. But those same people aren't willing to come to the table and find a path forward for criminal justice reform, for sentencing reform, for allowing convicted drug felons to get access to SNAP. And so it's a "disconjointed" conversation. We can't be the good life if we're only the good life for some. We need to work towards being the good life for all. And that starts--

DeBOER: One minute.

M. CAVANAUGH: --with vulnerable populations, children in poverty, children who are surrounded by crime, substance abuse, or use, substance disorder, economic development, some pretty major things. We need to do more for our kids. We need to do significantly more for our kids. Do I have one more time, Madam President?

DeBOER: You have one more and then your close.

M. CAVANAUGH: Thank you, Madam President.

DeBOER: Thank you, Senator Machaela Cavanaugh. Senator Jay, [SIC] you're recognized.

DAY: Thank you, Madam President. Going back to discussing this philosophy that comes from Chicago Beyond, one of the reasons that I wanted to go through this and read it, obviously, it's related to education. Their perspective is now directly related to their thoughts on philanthropy and how it should work, and which stems from Ms. Dozier being the principal at a Chicago public school and how she transformed that school. But I think that one of, many of the core pieces of this philosophy are incredibly important to the work that we're doing in here. Having an understanding that the bills that we pass are going to affect people's lives positively or negatively is sometimes, especially this session, a concept that seems to be lost on some people in here. Understanding that I have the power as a policymaker to introduce and vote on bills that could drastically improve someone's life or cause them to suffer is sometimes lost in the conversation in here. We get so lost in our own ideological perspectives on legislation that we forget to see that there are people on the other side of our votes. Getting in proximity to the people whom your bills directly affect is extremely important. If you

vote green on a bill that directly causes suffering to a person or a family should cause you a great deal of pause. And if you don't think about it that way, then this is not the job for you. Understanding that at the end of the day, when I introduce a bill and put all of my effort into it, because we know how much effort it takes to get something passed in here, all of my effort into it, to get it across the finish line of a committee hearing, an Exec Session, three rounds of debate, how is that going to affect people's lives? Do you feel bad knowing that you voted green or introduced a bill that is going to cause great harm to many people in this state? And again, if you don't have the ability to feel bad or you don't care enough to feel bad, this is not the place for you. Some of you, I think, you don't care. You have a-- you have a bill that will-- that will cause direct harm and suffering to queer people, I think that's the point. That's not-- that's not a-- that's not a bug. That's a feature. You have a bill that will cause direct harm and suffering to people who understand that sex isn't just for reproduction,--

DeBOER: One minute.

DAY: --for some of you, that's not a bug. That's a feature. You want to cause people direct suffering and harm. But I know that some of you do care and some of you get pulled into the conversations that happen here, again, with the most extreme members of this body, and you get lost in the conversation. We have to start to understand that everything we do, every vote that we cast affects individual people's lives in a positive or a negative way, and that will forever be linked to you for the rest of your life.

DeBOER: Time, Senator. Thank you, Senator Day. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Madam President. I actually need to have an off the microphone conversation, so I'm going to yield my time to the Chair. Thank you.

DeBOER: Thank you, Senator Day [SIC]. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Madam President. So I was on my last time talking about the home equity theft, and I just wanted to make sure I got a little bit more chance to finish on that. So there's a case out of the state of Minnesota that went to the U.S. Supreme Court. I think it was April 23 was argued, and there was a lot of interesting conversation there. But the case in Minnesota, similar to what the

kind of hypothetical I described, this was a older woman condo. She missed a payment on her condo, had a couple hundred dollars back taxes due. And then this in Minnesota, they operate this as the county-- it's Hennepin County, which I believe is Minneapolis. And they ultimately took title to her, her condo, and sold it and captured all of the remaining equity in that condo on top of what she owed in back taxes and, you know, fees and things like that. And so they went to the U.S. Supreme Court and was argued and you can listen to the Supreme Court online if you are so inclined. And, you know, certainly be interesting. You can also listen to news stories about it. But there were a lot of good questions from the members of the Supreme Court about this functioning as what we call an unlawful taking, which is basically the government taking your property without you being entitled to due process. So they took it without really going through the process they should have to take it. So that's one of the arguments in this case. And so we're expecting a, well, we'll get a decision, we think probably in June is kind of how they do these Supreme Court Opinions. And just based off the questions, it sounds like they're, you know, potentially going to overturn the Minnesota Opinion and say that they can't do this in Minnesota. And so why is that relevant in Nebraska? Because we have a very similar scheme where, that I described earlier, which is some other entity can buy those tax deeds. And so we have an example out of Scottsbluff, which was kind of the mat, the numbers I, you know, described to you. And then there was, you know, since I brought this bill, there was an example out of Lincoln. There was an even more egregious one where there was several thousand dollars back taxes on something like \$120,000 property. But there's really no limit, you know, So if somebody misses one tax payment and this happens in instances. You know, those of us who have a mortgage, we pay our mortgage and that payment usually goes to your home insurance as well as your taxes, because obviously the mortgage company has a int-- interest in making sure that your house, if it burns down, you get the money back or that your taxes are paid so it doesn't get seized in this sort of tax situation. And so that's, you know, those of us, we'll say younger folks who still have a mortgage or paying a mortgage that way and pays for those other things. But you get to the stage in your life, generally a little bit older, and you've got your mortgage paid off, hopefully, and you might by a confluence of those events that you've for the previous 30 years not paid taxes directly, not realize that you have to do it, and so you miss it. So, you know, older folks who have a lot of equity built up in their homes are the ones that are most at risk of this happening to you. And that's just the scenario one of my neighbors laid out for me on the street was that they had an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

elderly parent who actually was an accountant and missed one payment, so missed, you know, paid half their year's taxes and they fortunately helped their parent out and realized it and went and paid it back. But in that scenario, there was-- it was unclear to them that they had missed it. And so they then could have-- somebody could have bought that and then come back a couple of years down the road and basically filed for a tax deed and gotten title to my neighbor's--

DeBOER: One minute.

J. CAVANAUGH: Thank you, Madam President. --my neighbor's parents' property. And that would have just been an oversight because of, you know, their confusion. But of course, if you don't have the money to pay it in that time, it becomes hard to get a loan, you know, even for a property you already own because it's at risk of asset seizure. And so banks are less likely to give a loan for you to pay those back taxes or pay off those titles. So there are problems with that. So attempting to solve this problem, we were trying to get out in front of it before the Supreme Court invalidates our system. Because it's entirely possible if they do that I don't know what happens to our system if they rule against the state of Minnesota. But now, you know a little bit more about that. And I assume we'll be getting to a vote here on this bill. Thank you, Madam President.

DeBOER: Thank you, Senator John Cavanaugh. Mr. Clerk, you have a motion on the desk?

CLERK: I do, Madam President. Senator Sanders would move to invoke cloture on LB583 pursuant to Rule 7, Section 10.

DeBOER: Senator Sanders, for what purpose do you rise? There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 23 ayes, 3 nays to place the house under call.

DeBOER: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Armendariz, McKinney, Vargas, Slama, Wayne, Brewer, Hansen, please return to the Chamber. The house is under call. Senators Wayne and McKinney, please return to the Chamber. The house is under call. All unexcused senators are now present. Colleagues, the first vote is on the motion to invoke

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

cloture. There's been a request for a roll call vote. Mr. Clerk, please call the roll.

CLERK: Senator Aguilar voting yes. Senator Albrecht voting yes. Senator Arch voting yes. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Blood voting yes. Senator Bosn voting yes. Senator Bostar voting yes. Senator Bostelman voting yes. Senator Brandt voting yes. Senator Brewer voting yes. Senator Briese voting yes. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh voting yes. Senator Clements voting yes. Senator Conrad voting yes. Senator Day voting yes. Senator DeBoer voting yes. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover voting yes. Senator Dungan. Senator Erdman voting yes. Senator Fredrickson voting yes. Senator Halloran voting yes. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Kauth voting yes. Senator Linehan voting yes. Senator Lippincott voting yes. Senator Lowe voting yes. Senator McDonnell voting yes. Senator McKinney voting yes. Senator Moser voting yes. Senator Murman voting yes. Senator Raybould voting yes. Senator Riepe voting yes. Senator Sanders voting yes. Senator Slama voting yes. Senator Vargas voting yes. Senator von Gillern voting yes. Senator Walz voting yes. Senator Wayne not voting. Senator Wishart voting yes. Vote is 46 ayes, 0 nays, Madam President, on the motion to invoke cloture.

DeBOER: Motion carries. The next question is the vote to reconsider the vote to recommit to committee. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 0 ayes, 42 nays on the motion to reconsider.

DeBOER: The motion is not adopted. The next vote is on AM1636. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 43 ayes, 0 nays on adoption of the amendment.

DeBOER: The amendment is adopted. Senator Ballard for a motion.

BALLARD: Madam President, I move that LB583 be advanced to E&R for engrossing.

DeBOER: You've heard the motion, colleagues. All those in favor say aye. All those opposed say nay. The motion carries. LB583 is advanced to E&R for engrossing. Mr. Clerk, for the next item. I raise the call.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

CLERK: Some items quickly, Madam President. Your Committee on Judiciary, chaired by Senator Wayne, reports LB240, LB480 to General file. Additionally, amendments to be printed from Senator Clements to LB818 and LB814. Notice committee hearing from the Education Committee. New LR, LR136 from Senator McDonnell and others. That will be referred to the Executive Board. Returning to the agenda, Madam President, LB813. First of all, Senator, I have E&R amendments.

DeBOER: Senator Ballard for a motion.

BALLARD: Madam President, I move the E&R amendments to LB813 be adopted.

DeBOER: Senator Machaela Cavanaugh, you're, you're recognized.

M. CAVANAUGH: Thank you, Madam President. E&R is a debatable motion. And so the budget is, you know, this is a priority bill and Speaker, I'm sorry, Speaker Major Proposal so, so it works a little bit differently. Are we on LB813, right? LB813, OK. So there are-- so the, the, the Speaker gets to order the amendments and the motions on this and, yeah, so I have-- now, if I have amendments to E&R, ah, I see, I get it now. So I have a motion pending or an amendment pending. So that-- will that go on? Do we adopt E&R and then amend the E&R? I'm just-- I'm just ask-- I'm just talking out loud here to myself. I have a floor amendment pending and it's an amendment to E&R and so I don't know, do we adopt the E&R and then go to the amendment? I'm getting a head nod that yes, that is what we do. But E&R is a debatable motion. So here we are debating the motion. Here's my debate. I support E&R, generally speaking, I just have some amendments I want to make to it. So we adopt the E&R and then we've got some amendments to make to the E&R and, and we go from there. Oh, I see Senator Clements has amendments pending as well. His amendments are probably going to go before my amendments because his is an actual amendment and mine is a floor amendment. And generally speaking, my experience so far with the budget is that the Speaker has ordered the actual amendments before the floor amendments. I think partially it's because if you have an actual amendment drafted, you maybe have spent some time in it. It might be of substance and a floor amendment is generally not going to have as much substance to it because you have to write it on a motion pad. So there you go. Yeah. So here we are, E&R. All right. Madam President, how much time do I have left?

DeBOER: 2:35.

M. CAVANAUGH: Terrific. Well, got the goal of the last bill. Got it moved forward without anything getting attached. Kudos to everyone all around. Didn't attach anything to a bill. I remember now earlier Senator Hunt was asking about the first bill on the agenda and why some people didn't vote for it. And Senator Clements, I wanted to correct the record because you said that there was 25 bills in the package. You were close to correct. But according to the handout from Senator Murman on LB705, there are 21 bills in the package. I don't know if that four-bill discrepancy makes a difference as to whether or not that's too many bills to vote for in one package or not. But there are 21 bills in LB705, not 25. I still would say I agree with you, Senator Clements, that is a lot of bills in one package. But, you know, that's sort of the theme of this year, right, to just do a lot of things? So OK. So we got this is, oh, gosh, what is this-- is provisions change. Is this-- is this the debt-- is this a debt bill? This is the deficit, deficit spending. I'm like, debt, that's not the right word.

DeBOER: One minute.

M. CAVANAUGH: Deficit spending bill. OK. And there's a committee statement introduced by the Speaker, explanation of the amendments. The amendment reflects the Appropriation Committee recommendation for funding adjustments in the current FY '22-23. Please refer to State of Nebraska FY '23-24 and FY '24-25 biennium budget as proposed by the Appropriations Committee, 108th Legislature, First Session, published May 2023. All right. Oh. Beginning on page 73, it doesn't say this, but on page 73, I assume of the Martian, adjustment of current year '23, '22-23 appropriations, very detailed. Oh, thank you, Margaret. Detailed discussion of the committee amendments. The amendment contains the emergency clause. Cool. All right, There we go. There is an emergency clause. What? That means it takes effect immediately instead of 90 days or something after session.

DeBOER: Time, Senator.

M. CAVANAUGH: Thank you.

DeBOER: Thank you, Senator Cavanaugh. Senator Day, you're recognized.

DAY: Thank you, Madam President. I am going to go back to the larger conversation about understanding our jobs in here and continuing to discuss some of these philosophies that are put forth in the whole philanthropy concept from Chicago Beyond. So the next page reads, consciousness requires noticing and examining the perceptions,

assumptions, and dynamics that inform our individual and organizational beliefs and practices. Being conscious requires us to see differently and bring awareness to our own biases and assumptions as well as our interconnectedness. Connectedness requires engaging with all individuals and communities, as full and complete deserving of respect and engagement as humans, with not for results in a standing in solidarity with our partners. And they go on to talk about how this orientation shows up in their work. We try to apply this orientation in all that we do. At Chicago Beyond, one of the key goals for measuring the impact of our investments is our ability to hold ourselves accountable for our actions, for us to be conscious of the consequences of our actions. It also allows us to learn as an organization and shape our future strategy. The big impact question is how and to what degree have our actions created the conditions so that all young people, regardless of their zip code, have the opportunity to achieve their fullest human potential? Let's see, the details behind our impact philosophy. One, how we should measure impact. Prioritize what's important instead of searching for the perfect answer. Because we believe this work is incredibly urgent, lives are literally at stake. Instead of optimizing for the most comprehensive impact measurement, we try to prioritize sources of information that will enable us to learn and move quickly in response. Two, focus on the key questions to answer over the easy metrics to measure because we believe the most important insights are not always easily measurable. Instead of starting with the measures that are easy to count or countable at all, we try to begin with the questions that could show us how well we are serving young people, then attempt to answer them with the data available. Three, center voices closest to the work. Because we believe young people should be at the center of everything we do instead of only using our own perspectives and third-party observers such as researchers, we try to find authentic ways to center the perspective of young people and the people that work closest to them, such as our partners. Four, what we should measure. Our role in the context of an ecosystem of actors and historical conditions. Because we believe in assessing impact, we, not our partners, should be the object of learning, i.e. the ones being evaluated. Instead of summing the impact of the work of our partners or assessing partner performance as our own impact, we try to understand how, how our actions contribute to the impact we notice in the context of other actors. Five, both intended outcomes--

DeBOER: One minute.

DAY: --and unintended consequences. Because we believe positive intent does not automatically equal impact that meaningfully helps instead of

only considering positive outcomes, we try to consider the unintended consequences or costs of our actions, e.g. the cost in organizational time for an early stage organization to complete an investment proposal and change our behavior as a result, e.g. cocreating investment proposals with potential partner organizations. Six, the messy and complex. Because we believe human beings and the environments we live in are extraordinarily complex, instead of synthesizing our impact into a few clean key metrics, we try to consider the holistic, multidimensional impact of our investment, even if messy. Specifically, this means considering things like nonfinancial in--

DeBOER: Time, Senator.

DAY: Thank you, Madam President.

DeBOER: Thank you, Senator Day. Senator Clements, you're recognized.

CLEMENTS: Thank you, Madam President. It has been mentioned that this LB813 is the deficit bill, and that means that it's affecting this current fiscal year, 2023, which ends June 30 of '23. The details on that I believe are on page 74. Let's look here. In the, the Martian green book, yeah. Yes, it has 2023 adjustments for all funds and the total of that is on page 78, \$32,134,000. We discussed briefly before it's Health and Human Services has some IT software expenses. They had a claim for a contract termination. That was-- those were the main items in here as far as General Funds go. And let's see here. Oh, yes, Corrections needed \$24 million for employee salary increases for increase in pay, plus hiring additional several hundred more employees. And so those were the major items in this where agencies didn't have authority to spend as much money as they needed and they are needing it before July 1. And so that's what is-- that's the major highlights of LB813 and I encourage your support. Thank you, Madam President.

DeBOER: Thank you, Senator Clements. Senator Conrad, you're recognized.

CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I think Senator Clements did a great job of providing a top line overview of LB813, which typically is, well, not by number, but this measure is a typical part of the budget train where you have kind of a mainline budget bill, various constitutionally required salary bills. You have your cash, cash transfer bill, capital construction, and then a deficit appropriation. That's kind of a, a very cursory overview of

what the budgetary package typically looks like. So in looking at the, the budget adjustments in LB813, I would again not want to paint with too broad a brush. But typically the-- these provisions in this part of the budget bill usually are the least controversial in comparison to what's contained in a mainline or a cash transfer or even capital construction perhaps. These are really more about making some adjustments in terms of existing appropriations. And so it's good to have something perhaps that's less contentious than some of the other facets and features of the overall budget proposal. So because some of the key items listed in LB813 touch upon higher education, touch upon corrections, and touch upon housing, those were three areas that I was hoping to spend a little bit more time discussing and debating this afternoon and into this evening, because they're such critical components of the work before us in the Nebraska Legislature. So I just wanted to kind of flag my thinking in regards to those three main issues that are contained in LB813. I'm not planning to put up any amendments in regards to what's put forward in LB813 at this point in time. But I do think if we had some time together this evening and this afternoon, it would be good to have a broader and deeper debate record and dialogue about our approach to higher education funding, about what the implications for our budget, budget might be in regards to the Department of Corrections when we have a lack of criminal justice reform and a mass incarceration and racial injustice crisis in this country and in the state, and how that ends up costing the taxpayers significantly, including in the deficit appropriations. And then I wanted to talk a little bit about some of, I think the exciting adjustments in regards to providing more access and opportunity to expand affordable housing that I know my, my friend Senator Vargas and my friend Senator Briese have really been working diligently to bring a lot of leadership to those affordable housing issues this session. And many other senators, including myself, are appreciative and a part of those efforts. So, number one, I guess, we'll maybe just start on higher education. It's no secret to anybody that knows me, I am a proud alum of the University of Nebraska, including its College of Law. I would put my education at the University of Nebraska up against anybody's education any day of the week. I think not only does it provide an incredible set of educational outcomes, it was transformative in my life.

DeBOER: One minute.

CONRAD: Thank you, Mr.-- Madam President. And it also is an incredible value. Being a land grant university, we have an important obligation to ensure that high-quality public education, higher education, is affordable and accessible to all citizens. And typically, our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

budgetary approach tries to provide some equity and parity for how we treat higher education funding at the university, state colleges, and community colleges when it makes sense to, recognizing the importance of higher education in this state, which again has been a generational point of pride and should continue to be so. I would have liked to see in the mainline budget bill a greater emphasis on providing additional resources to our institutions of higher education to keep tuition affordable.

DeBOER: Time, Senator.

CONRAD: Thank you, Madam President.

DeBOER: Thank you, Senator Conrad. Senator Vargas, you're recognized.

VARGAS: Thank you very, very much, Madam President. A couple of items I wanted to talk about. So for some of those individuals that are not on Appropriations, I know Chairman Clements was sharing a little bit more about the process. We are making adjustments to this current biennium budget. And this is-- this is good education for the public and for members that are newer to this, which is going to be, as you're looking at the bills that you're, you're passing, as you're looking at items that, you know, different agencies are working on, this is our opportunity to address them. Sometimes different agencies come to us and tell us, look, we asked for too much money and we are going to claw back some of those funds because we don't need it. It's going to be unspent. So sometimes that happens in these deficit requests. Sometimes obviously, they're also asking for more money because of different issues on regards to staff, in regards to PSL, in regards to additional funds needing to go to different subject matter, which I'll talk about here in a second. And what's important about this is when we are making these adjustments, we are adjusting them. We're also affecting the base funding for a lot of these items, but they're pressing needs that come to us. And next year, if you introduce appropriations bills, there, there will be budget deficit requests that will be coming in the mid-biennium budget as well, keep that in mind, that we'll also be taking up that'll make adjustments to the budget that we pass this year once we get to that. And cross my fingers that we get to the budget, actually passing it through the last final round. But there's a couple of items that I want to make sure to call out because I think they're important. As Senator Conrad mentioned, we've had a need to better invest in our Corrections so we're making additional investments into the salary negotiations that were passed this year. Some of these were retroactive funds that we're putting towards it, has substantial change in the way that we've been

hiring. We had a lot of vacancies. If you're looking at two or three years ago, we would have about \$21 million in unspent carryover appropriations in our Department of Corrections in terms of salary, and we have substantially decreased that, been filling FTEs. The reason that's important is because it's not just for Corrections staff when you're thinking about officers. This is also for the mental health supports and behavioral supports and medical supports within the Corrections system. The other important thing that we do, which we also do in the mainline budget but we're doing here in terms of budget adjustments, have to do with the state colleges. It'll probably pain many people to hear that one of the issues that we had is many of our adjunct professors, even in our state colleges, were severely underpaid to the point where it was more lucrative for a, an individual to work at a Costco or work in a different company than it would be to teach a course at our state colleges. The reimbursement for what they're getting paid for the credit hours of time they're putting together was not making it competitive for people to actually be teaching in our state college system. It's something that we are addressing here in terms of the adjunct pay within the state college system for this year that's going to carry over into next year. But we increase that because we want to make sure that these institutions of higher education have the staff and the people they need to be able to educate our next generation workforce. As you mentioned, Senator Conrad, about the affordable housing, we have seen an increased demand in investing in home ownership and affordable housing. One of the things that we saw we increase in here is the ability to be able to utilize more cash funds. We've had more, more requests and more need of some of these carryover of contracts through the Affordable Housing--

DeBOER: One minute.

VARGAS: --Trust Fund. So increasing it by an additional \$10 million, make sure that we can actually get out the funds to necessary projects that are in contract across the state, which is incredibly important. And overall, the increases that we do for technology also within DHHS are incredibly important as well. Colleagues, I urge you to support this bill and I also provide this as education, we are continuing to do work to make sure that we are level setting with agencies to make sure they're fiscally responsible, telling us when they need more, telling them when we need less, cutting, cutting when we need to where we can be more effective and efficient. And I'm also hoping that the, the bill that we pass within the mainline budget, the language in the funding with making sure we're making government more efficient and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

doing some more of the audit processes will help us to save more money within our state budget here in the future. Thank you very much.

DeBOER: Thank you, Senator Vargas. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Madam President. I was standing here because I knew I was going to be next. And then I spaced out and didn't get all my wonderful documents up here, got my-- all my budget stuff, got the green Martian here, and it said page 70--something when I was reading the committee statement. Page 76, ah, page 76 in the Martian. Yes, it does have the Table 32. I remember I skipped over reading this on General File. I was reading page 75. I rolled on into page 76 and I was like, I am not reading this table, but it is kind of the substance of this bill. It breaks out what we got in this bill, LB813. So if people are interested and you've got the Martian, go to page 76 and it will break out like adjustments and funding sources. We've got it. So we got the agency; then the program; the issue like elections personnel that's under no surprise, Secretary of State; Treasurer training, that's under the Auditor; DAS purchasing assessment, that's under Education. Interesting. There's a whole bunch under Education; and then PSC, shift grain Department General Cash Fund. What is that? I'm curious. So then it has-- it has the agency, the program, the issue, then General Funds, Cash Funds, federal funds, Rev, reserve? Revenue? Revolving. Sorry. I was phoning a friend and they were telling me, but I am hard of hearing. And PSL, which I know stands for something with personnel. Yeah, I got a shrug, yeah, maybe. Sort of. You're on the right track. So the PSC, Program 54 which we could look up what Program 54 is under the PSC. Wait a second. Let's go to directory of programs. This is the program song. This is directory of programs. OK. So agency is Public Service Commission. Where is that agency? So it doesn't have the agency number. It has the program number but not the agency. No, wait, no. 14, jeez, cheese and crackers. Here we go. Program Agency 14, Program 54, page 120. I love a good index or this is not index. This is a glossary. Table of Contents. Glossary of Terms. Table of Contents. I love a good table of contents. I also love a good index and a good glossary. I love them all, all very useful. Once you understand how to utilize them, they are very useful. OK. Program 54, grain shift department General Funds. So--

DeBOER: One minute.

M. CAVANAUGH: Thank you. --Program 54 of the Public Service Commission, Agency 14, is the Enforcement of standards, common

carriers, program purpose. The Commission regulates service of the following industries: grain warehouses and grain dealers, household goods, goods, movers and trans-- passenger transportation. Oh, my gosh. Madam President, remember when we had that bill on goods movers? That was a real riveting one in Transportation-- telecommunications, automatic dialing and announcing devices. I am probably about out of time, so we'll come back to that and talk about goods movers on the next time.

DeBOER: Thank you, Senator Machaela Cavanaugh. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Madam President. And I just would like to point out, thanks to Machaela, Senator Machaela Cavanaugh constantly talking about the, what is it, the directory of agencies. Oh, she left. Well, she's over there somewhere. I don't see her. But anyway, I did get myself one. So you all have that opportunity to get things so you have more information, resources. But I actually wanted to talk a little bit. Senator Conrad was talking about college affordability. And I, well, first, I want to say I really appreciate Senator Vargas, member of the committee, getting up and kind of walking through some of the processes things and what some of these things mean. And that is helpful context for those of us who are not on the committee so I appreciate that. But I was-- last night I was talking about, you know, found a couple of these data sources that help put things in context. And I thought I would share the Midwest Higher Education Compact, again, from last night. So it's a, you know, that's-- we our members, the state of Nebraska is members and it's-- their website is www.mhec.org and then they have slash dashboard. And so I'm looking at net prices and this is the net price of one year of full-time enrollment for families with median household income. So this is the cost of one year of going to college and you can break it down by the whole country and you can see states and things. So I just did Nebraska and then every state around us. So in 2020, the cost of going to one year of a one, one year, four-year institution in the state of Nebraska is for median income family, \$17,713. And so that, they say here, that includes tuition, fees, books, supplies, room and board. So that's just basically the to-- whole package. So Nebraska, again, \$17,713. And then our surrounding neighbors, South Dakota, \$20,090; Wyoming, \$15,178. Where are we here? Missouri, \$12,958. So, you know, that's pretty affordable in Missouri. But then again, you have to live in Missouri so. Kansas, \$18,312; Iowa, \$18,948 and Colorado, \$20,305; and the national average, \$18,208. So the state of Nebraska is basically right on par with the national average. We're about a couple hundred dollars cheaper than the national average. We're more

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

expensive than Missouri and Wyoming, but actually more affordable for four-year institution than South Dakota, Kansas, Iowa and Colorado. So that's our four-year cost in the year 2020. Back in 2009, we were, basically, let's see, looks like we were only more expensive than Wyoming, so we've lost a little distance. But Missouri really, man, in the intervening 11 years, Missouri went from in-state tuition, \$15,205 to \$12,958. I'd be curious what they've done in Missouri to be able to shift that cost, that burden, I mean, because that's including inflation. So the actual cost is down, the dollar amount cost is down. But the, you know, obviously there's inflation, but everybody else, every other state has gone up in those intervening 11 years. So that's interesting. And then we have two-year cost-- two-year institution: Nebraska, \$10,933 in the year 2020; \$9,360 in the year 2009 so haven't gone up that much. And in relative to our neighbors, looks like Missouri is more affordable than us. We're about on par with Wyoming. We're on par with the national average again. And we are less expensive than South Dakota, Kansas, Iowa, and Colorado. So fairly competitive on both tuition, whole package tuition for both two-year and four-year colleges so.

DeBOER: One minute.

J. CAVANAUGH: Thank you, Madam President. But-- so Senator Conrad made me think about that, because, of course, we should continue to strive and obviously it's possible because we see our neighbor to the southeast, Missouri, who I, of course, was only making good fun at their expense by saying I didn't wanna live there, but that they're near us and they have been able to decrease the total package cost of tuition for their four-year colleges in the last 11 years. So being-- that might be something to look at and see how they achieved that. But I'll push my light and talk a little bit more about some other issues in this section of the budget. But thank you, Madam President.

DeBOER: Thank you, Senator John Cavanaugh. Senator Conrad, you're recognized.

CONRAD: Thank you, Madam President. Again, good afternoon, almost good evening, colleagues. I wanted to continue my thoughts in regards to higher education funding and before I have a chance to turn attention to components in this measure, in relation to corrections and in relation to housing. I, I guess just at the outset, I just want to be really clear and candid about why I was very eager to return to the Appropriations Committee after having served there for eight years in my prior terms of service. I really appreciated the opportunity to be able to impact so many different areas of public policy. I found it

incredibly informative and invigorating and very meaningful. But I also am proud to represent a community where the state's flagship university makes its home in north Lincoln. And so I have both City Campus and East Campus in my district. And not only was that institution transformative in terms of my life, it is critical in terms of the interests of my district and the Lincoln community as a whole and what I believe is a top priority for the state as well. So it's great to be able to have opportunities to provide leadership on education policy, including higher education policy, as a member of the Education Committee. But there's nothing that perhaps equates as much as being able to direct resources to set our state's priorities. And I really wanted to return to that work because I feel like there is not a significant emphasis on ensuring that our institutions of higher education have the resources that they need to keep tuition affordable. When we talk about tuition affordability for families that aren't struggling to make ends meet, the university, our state colleges, our community colleges provide an incredible value. And not only do they educate generations of Nebraskans and prepare them to be productive and engaged global citizens, but they also conduct incredible research and development and innovation across a host of disciplines to advance our understanding of our world and to bring new ideas, new materials, new products to our lives, to try and, and enhance our lives, our businesses in this state and beyond. And the return on investment from state investments to our institutions of higher education in terms of dollar for dollar, what we see as that return or multiplier effect is, is considerable. I think there is a disturbing trend in Nebraska and across our sister states where you see the trend lines, in my opinion, really moving in the wrong direction. You see an evisceration of General Fund support for institutions of higher education over a period of years. And that just puts more pressure on universities to make tough calls in terms of cutting critical research, critical programs, critical opportunities for learning and/or increasing tuition. And what concerns me most for my district and for working families across Nebraska is that every dollar that--

DeBOER: One minute.

CONRAD: Thank you, Mr. President. --that we aren't investing in higher education, that's going to put more pressure on tuition rates. And for some of those families that are making those tough calls and looking beyond graduation to figure out the next steps by not doing our part to be a strong partner with our university, we're becoming increasingly and dangerously close to pricing a quality, public education out of reach for a lot of Nebraska families. And that hurts

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

individuals and it hurts our shared goals towards building prosperity in the state of Nebraska as well, and limits our ability to draw down critical research and development dollars and to do more in our institutions of higher learning with innovation as well. So if you look at the trend lines, you can see they're moving in the wrong direction. I know that's more an aspect for the mainline budget, but it is touched upon in this deficit appropriation--

DeBOER: Time, Senator.

CONRAD: Thank you, Mr.-- Madam President.

DeBOER: Thank you, Senator Conrad. Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Madam President. I am so happy that Senator John Cavanaugh was looking at the LFO directory. I hope my love of these documents has become infectious. Oh, they're growing. They're populating on the floor here. Senator Raybould also has her directories. Anybody else have their LFO directory? This is exciting stuff, my goodness. OK. So let's continue on here. So that was the shift grain, increase PSL and aid to NUSF. So that is again the PSC and it is Program 686. Oh, let's see here, 686 is the universal fund so maybe you already know, but I'll read it anyways: to support and provide aid under the following programs: broadband adoption program, NTAP, telehealth, high-cost areas, and E-rate special construction matching funds. Cool. That's operations. And then there's the aid: provide assistance and reimbursement to vendors who meet stated guidelines and qualifications. We had a lot of conversation about that yesterday. Oh, refresh hardware. That's the DHHS. DHHS has got a lot. State claim payment, that is-- OK. So this is on page 77 of the Martian you can see the \$5.5 million in General Funds [RECORDER MALFUNCTION]. It's money put into the general funds and then taken out of the general funds. It's put into the general funds, then it's taken out of the general funds. Wonder-- so that does raise the question, this is for members of the committee. I-- actually I think I know the answer to it, but I'll ask it anyways. So this bill is just the transfer of the funds within general. The, the mainline budget is where we take-- but would we have to take the money out of behavioral health aid in this budget? This is a deficit bill. Thank you. Also love the jacket. It's crushed red velvet. It's amazing. And I'm cold, so now it also looks like super cozy. All right, thank you. That's very helpful. I'd say your name, but people will start thinking I'm talking about myself. Fiscal analyst whose name happens to be McKayla, spelled differently. But yeah. OK, so then we got state colleges, real

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

estate appraisers, health insurance costs, public accountancy. DAS, Microsoft license cost increase. DAS, technology fee network rate. DED, increase for Affordable Housing Trust Fund. Great. DED, increase for Site and Building Development fund. That is program 72-- or Agency 72. Agency 72, just-- that's not in-- this one only goes to 32. Goodness gracious. All right, Agency--

DeBOER: One minute.

M. CAVANAUGH: Thank you. Agency 72. Can I get to it fast enough? Who knows? The clock is on. Can she find the page in the table of contents? 72. I did find 72 and it is 603, which is on page 630. I'm racing against the clock here. I got there. Whether I can read it or not, it's just business development, total operations and state aid. I guess I got it under the wire. Whew. Wasn't that-- I mean, people say that this is must-see reality TV. And I would say that what we just witnessed right now in me using the table of contents in under a minute is the epitome of must-see TV. Thank you, Madam President.

DeBOER: Thank you, Senator Machaela Cavanaugh. Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Madam President. So I-- talking about the colleges and affordability on the last time on the mic. And that's we were talking about LB813 and I guess the E&R amendments. But part of it is state college adjustments to the three deficit items for the following General Fund appropriations expenses: adjuncts' pay \$423,515. I heard Senator Vargas talk about how we've had people who could make more money by being-- working at, you know, Costco or in retail than they could as an adjunct. And so people were choosing to do that. So, of course, we're not valuing-- we were not valuing people for the value they brought. And that was getting-- the response was exactly what you would expect. If you don't value people, they're not going to do the things you ask them to do. So I appreciate that we're working towards increasing adjunct pay, and that will help out. I-- as Senator Conrad said, she has the great honor of representing both the campuses here in Lincoln. I can't remember what they are. North Campus and East Campus? City and East? City and East, I guess. I've been to the ice cream store there, took my kids there once. It was a lot of fun. They had the sweet corn flavored ice cream, which I would recommend, actually. It's very good, surprisingly. But I have the great honor of representing the University of Nebraska, Omaha. Both it's Dodge Street campus and it's Aksarben campus. And I also represent the University Nebraska Medical Center. So I have two of our fine university flagship universities-- I guess not the flagship

university, but two of our state universities in my district. And a number of professors, both adjunct and otherwise, live in my district. And even more students and at the University of Omaha and medical students and folks doing their residency live in my district. And I have, I have talked about many times residents living on both sides of me in my neighborhood. So I specific-- I do appreciate us making sure that we're-- we are appreciating our faculty, adjunct faculty. And then we have insurance, \$176,000 and general inflation, \$735,604. I think that's an interesting one in light of what I talked about on the last time on the mic. General inflation, \$735,000 over one year, whereas I talked about the state of Missouri in the last 11 years has been able to, in face of inflation, go from \$15,205 to \$12,958 is the total package cost of four-year universities for their students. Which is, again, impressive. I haven't been able-- I haven't had an opportunity to look up and see why that is the state of Missouri has been able to decrease the total package cost. Which again, total package cost includes not just tuition, but fees, books, supplies, room and board. So did they figure out how to decrease the cost of room and board? Did they figure out how to decrease the cost of books? I doubt it. Did they figure out how to decrease-- decrease the cost of supplies? Probably not. Fees, I bet not. So it's got to be tuition or room and board are probably the two big ticket items that they figured out in Missouri. But again, in the face of inflation over 11 years, they've decreased the tuition cost. In Nebraska, on the other hand, our tuition-- total package has gone from, \$13,000 to \$17,000. So we've gone basically in the opposite direction. We passed, we crossed like ships in the night, the state of Missouri and the state of Nebraska for our total package in-- in-state tuition. And I last night when I was talking about on the NOG, the Nebraska Opportunity Grants--

DeBOER: One minute.

J. CAVANAUGH: Thank you, Madam President-- paid out of, out of lottery funds and the community college grants that we have, you know, folks who are much more likely to graduate in four years for community college, six years for under-- for four-year college if they have more financial support. And of course then graduate, increase their what they can provide for the state in terms of their economic-- contribution to the economic engine of the state and their broader contributions. Their ability to earn a living and all those things. So, you know, it's important that we make sure we make college affordable so people can, well, go to college if that's the right thing for them, and move on to a career in that-- in whatever they field of choosing is and contribute to our state. Thank you, Madam President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

DeBOER: Thank you, Senator John Cavanaugh. Senator Ken-- Conrad, you're recognized, and this is your third opportunity.

CONRAD: Thank you, Madam President. Again, good evening, colleagues. I just wanted to provide a couple of additional notes in regards to our approach and our vision for funding higher education in the state of Nebraska as reflected in the budget train that's before us with the, I think it's maybe LB813 through LB818. Have to go back and triple-check if that's the right array of numbers, but it's pretty close there too. So in the mainline budget, the Appropriations Committee decided to not fully fund the universities' requested increase, but did kind of forge a middle ground between what the Pilleen administration had put forward in regards to their budget proposal. So we ended up essentially with, I think, about a 2.5 percent increase to the university. And to be clear, that's better than 2 or better than 0. But we can't divorce that modest increase in state support for our institution of-- one of our most prominent institutions of higher education in Nebraska from a couple of key facts. One, we know that inflation and inflationary pressures really come to bear on the institution's budget as well. So they're grappling with inflation, just like state government, state agencies and families and businesses across Nebraska are as well. So that, that modest increase barely even keeps pace with inflation, which makes it ever the more difficult for them to carry out their important and unique mission. Additionally, generally speaking, as I understand it, that 2.5 percent increase in state funding equates rather directly to about a 5 percent increase in tuition for students in Nebraska. And again, knowing that a lot of families who are kind of struggling and on the edge and trying to make those decisions about where to chart their future in terms of higher education and their career, we know that by putting that 5 percent increase in tuition, that's, that's going to continue to put a lot of pressure on students who pay for college themselves and families who are saving to put their kids through school as well. Now, that being said, the university has developed a very thoughtful, very innovative, very exciting program called, I believe it, it's called Nebraska Promise in line, and well-aligned with their unique mission as a land grant university, to ensure access to higher education for families, I think making \$65,000 or less. I think that's the metrics for eligibility in the Nebraska Promise Program at this point in time. So that, that program has been widely popular. It has been expanded under Senator Carter's-- or President Carter's leadership and the Board of Regents. And I think that's something that's very exciting to my district, our community in Lincoln and the state as a whole. But I, I do just want to make sure that we're thinking about how these budgetary pressures

impacting higher education are being swallowed up by inflation. How that very, very modest increase does, in fact, directly equate to 5 percent increase on state tuition, which will hit a lot of families at the kitchen table and, and in their wallet as well. And this all comes, colleagues, at a time of unprecedented economic prosperity. There's no reason to take this kind--

DeBOER: One minute.

CONRAD: --of meager approach-- thank you, Madam President-- to funding our institutions of higher education, which are engines for economic development. And this isn't just my opinion. Bryan Slone at the Nebraska Chamber has spoken eloquently and powerfully and passionately about the importance the university plays in addressing our workforce challenges and being an economic driver and engine for the state. So I, I really am deeply concerned by the, the modest amount of funding for the university and higher education as a whole in our budget, but I am glad to see some increase. I am glad to see a tuition benefit for state employees to attend our community colleges. And I do hope that we can continue the conversation to ensure robust funding for one of the proudest institutions in the state. Thank you, Mr. President-- Madam President.

DeBOER: Thank you, Senator Conrad. Senator John Cavanaugh, you're recognized, and this is your third opportunity.

J. CAVANAUGH: Thank you, Madam President. I, of course I appreciate Senator Conrad's comments about the university. We apparently were two lovers of the public university system here in the state of Nebraska. You know, I think there's another senator that represents the other public university. And of course, there's public state colleges, community colleges, things like that that are higher ed, deserve some love as well. But I you know, I was sitting here curious-- curiosity about how Missouri had accomplished that decrease. And so I just Googled basically, how did Missouri decrease their tu-- college costs? And there's an article from July 19, 2021. Missouri Governor Signs Bill Removing Public College Tuition Cap. So, I mean, it basically sounds like they had a cap on college tuition. So maybe that was the answer. Missouri's public colleges will be able to hike tuition as much as they'd like starting in July 2022, after the state's governor signed a bill last week removing the cap. Currently, Missouri's public schools can only raise tuition on certain students to keep up with inflation or compensate for state funding cuts. The new law also includes other measures that affect higher education in the state, including giving college athletes the ability to profit from their

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

name, image, likeness. We've already done that here in Nebraska. So, yeah, it looks like it simply-- was simply that they were committed to not increasing tuition, which Senator Conrad just talked about, you know, the Nebraska Promise, which I think is an exciting program. You know, making sure that people can afford to go to college is a, is a big deal, right? We-- you know, college isn't for everybody. We want to make sure that everybody, you know, doesn't go to college just because they feel like they should, which is what, you know, we've historically done. And so I think we've gotten better at that. But we have a lot of great programs at our community colleges as well for people who don't want to go to a four-year college. And, you know, some people don't want to go to community college or, or a four-year college. And so that's OK, too. But we want to make sure for those folks who do want to pursue a four-year degree or two-year degree that they're able to afford that and that they don't become, you know, saddled with that debt for a long time. And so I always point out I'm-- I graduated from undergrad 20 years ago, actually, maybe even 20 years ago this week. What is this, is today May 9? I might have graduated 20 years ago today. I have to look that up. But anyway, still paying student loans. I'm still, still paying for my higher education because I borrowed money to go to college and I went-- again, I graduated 20 years ago. So when I went, my undergraduate degree cost \$19,000 a year plus room and board and things like that. And if you were to go to a similar school at this point, I bet you it costs \$40,000 a year. And so somebody goes and they borrow money for that and they're going to be in debt probably for the 20 years after they graduate as well. But anyway, those sorts of things obviously puts college out of reach of certain people for financial reasons. But if you managed to borrow the money to pay for the school, then you have to pay for that-- pay that back over those years. And of course, that prevents-- pushes you back in terms of when you buy a house. You know, I didn't buy a house until I-- more than ten years after I graduated from college. When you start a family. Again, didn't start a family until ten years after I graduated from college. It delays those sort of big milestones in life because you don't achieve that stability that you feel you know, you need or you want to make sure that you can afford that. And part of that has to do with the fact that college is expensive. And so we want people to buy houses. We certainly want people, if they want to have a family, to be able to do that. We want to encourage all of those sorts of things in this, in this state. And one way--

DeBOER: One minute.

J. CAVANAUGH: Thank you, Madam President. One way we can do that is to invest in our colleges. We invest in, in this particular section. We're investing in adjunct professors, we're investing in insurance. We're covering-- what's it called? Interest or inflation. But we're investing in these to make sure the-- our students going to our state universities are getting a high-quality education from both adjunct and regular faculty. I guess I don't know the word. But, but having an opportunity to get the high-quality education and trying to keep that cost within reach of all Nebraskans, so they can choose to go to university either in Omaha or Lincoln or Kearney or one of the state colleges. And they can, you know, get out of it without too much debt, keeping them from all of those big milestones in life. But so that's the answer, is Missouri had a cap on tuition.

DeBOER: Time, Senator.

J. CAVANAUGH: Thank you, Madam President.

DeBOER: Thank you, Senator John Cavanaugh. Senator Erdman, you're recognized.

ERDMAN: Thank you, Madam President. Good afternoon. I listened to Senator Conrad speak about the university and about how difficult it is with inflation and how they're going to have to raise tuition 5 percent. Man, that's terrible. I can't believe it. So let me give you a little information. The university's cash position on December 31 was \$275 million. The day that we made the decision on the 2.5 percent increase, that cash position had increased to \$292 million in about three and a half months. That half a percent that we give them above the 2 percent was about \$18 million. And they say they have to raise tuition by 5 percent. No clue why. I would assume that when you have that kind of cash infusion, but in three months, you ought to be able to sustain the current tuition you have. So don't feel sorry for the university, they're doing just fine. And they're going to have to make serious cuts. That won't happen. They don't need to. I wasn't in favor of giving them 2.5 percent. I thought with the cash infusion they had in that short of a period of time that they had been able to make it on 2 percent or less. But the committee decided to be 2.5, and so that's what it is. So all of you listening, don't worry about the university. They're going to be open tomorrow. There will be students attending. There will be teachers in class, professors. Everything's going to be OK. Thank you.

DeBOER: Thank you, Senator Erdman. Senator Dungan, you're recognized.

DUNGAN: Thank you, Madam President. And thank you, colleagues. I do rise to talk a little bit more about LB813. I have not had a chance to be on the floor as much this evening. I actually was meeting with a class from UNL, it's a class where they actually write some legislation and they propose it to you. And they had some really fantastic ideas. And I thought about going through some of those ideas right now, but I will hold off and talk a little bit more about LB813. But I am very excited about the future and some of the things the kids were proposing. Not kids, the people proposed to me. But I didn't get much of a chance to participate in some of the earlier conversations regarding LB813, and so I wanted to take a chance just to kind of talk about some of those things. Because it did spark a couple of thoughts that I had and some questions that I had with regards to what we're talking about here. So in listening to my rowmate, Senator Cavanaugh, go through some of the things that are part of the 2022-2023 adjustments, I opened up the "Martian Green" budget book here, and I went through some of that. And one of the things that's being talked about in here that I genuinely don't know has been discussed yet, but I wanted to bring it up, is the Affordable Housing Trust Fund. And so the specific appropriation or the, the difference in finances here says: an increase of \$10 million in cash funds for the remainder of the fiscal year to award additional contracts through the state's Affordable Housing Trust Fund program. The Affordable Housing Trust Fund was created in 1996, with it resembling its current form through LB864 in '97. It receives \$0.95 for each \$1,000 value or fraction thereof on grantor's executing deeds, referred to as the documentary stamp tax. Due to a higher than anticipated increase in real estate activity, the fund balance has exceeded its forecasts. In order to issue more housing contracts, the Appropriations Committee approved the department's deficit request to expand-- expend an additional \$10 million of its cash fund balance. The reason I highlight that is one of the things that we know is integral to not just retaining people in Nebraska, but I think also recruiting people, specifically young families, is having a wide breadth of housing available. And one thing that I know from speaking with developers and from speaking to people who work in the housing area is that you can't just have a single-faceted way of addressing the housing problem. You have to address it in various forms. And what I mean by that is we have to ensure, first of all, that there is affordable housing available. And in the hearings that we've had that I've heard, that I was privy to, there's always the question, what is affordable housing? I'm not going to get into the definition of that. But there are industry-defined terminologies of what workforce housing is, what affordable housing is. And then when you have that conversation of affordable housing, it

takes a step back. And I think when you talk to people, they say, yeah, but is that actually affordable? Can just people on the street actually afford a house? It's a larger conversation. Happy to get into that with-- a convo with anybody who'd like to talk about that. But we know that one possible solution to the housing crisis is creating more affordable housing. On top of that, we have to create more workforce housing, which falls into a different income bracket. And then, frankly, colleagues, we also just have to encourage more housing in general. Part of the issue that we see all the time with housing is that there's not enough of it. And if there's not enough of it, then the people who could potentially afford maybe some more expensive housing go in and they purchase the less expensive housing, thereby driving up the costs of the housing in the neighborhood around them. And that's one of the many reasons you start to see gentrification. And so one of the things that we've seen here in Lincoln is that there is an absolute necessity for more housing. And you're seeing an expansion of housing northeast, southeast, all around. And I hear the complaint--

ARCH: One minute.

DUNGAN: --sometimes-- thank you, Mr. President-- that there's not enough affordable housing. And I absolutely agree with that. So one thing that I think Nebraska did, which I applaud them for, back in 1996, was create this Affordable Housing Trust Fund. The problem is, if the Affordable Housing Trust Fund is not accessible, then the people who are actually trying to utilize the trust fund to build new housing can't actually get the benefit of the money that's being set aside. So one of the bills that I brought this year, I can't remember the number off the top of my head, to be honest with you. LB601? LB605? But it was a bill that did two main things. One, it opened up access to the Affordable Housing Trust Fund to community development financial instruments, CDFIs. And CDFIs, I can get into more of a definition of that in a second, currently don't have access, I don't believe, to get grants from the Affordable Housing Trust Fund.

ARCH: Time, Senator.

DUNGAN: Thank you, Mr. President.

ARCH: Senator Dungan, you are next in the queue.

DUNGAN: Thank you, Mr. President. And so this legislation sought to open up or allow CDFIs to apply for grants specifically in Lincoln at this point to have access to the Affordable Housing Trust Fund. And

then it also sought to infuse a certain amount of money into that Affordable Housing Trust Fund to be granted to the CDFIs. So the big question is, what is a CDFI? What is a community development financial institution? What it ultimately is, is it is a lending institution that receives certification at the federal level that is able to provide money either to developers who are attempting to create more affordable housing. It can help be a facet of the funding that they're trying to access there. Or CDFIs can also provide essentially unsecured microloans to individuals who need a little bit more help to bridge the gap in order to actually get a mortgage or be able to afford a house-- afford a house. Now, where that comes into play is we also know that historically there are certain populations that have been, through various practices, denied access to housing. And CDFIs are just another sort of piece of the puzzle of fixing some of that systemic inequity. What we know is that CDFIs have worked. We know that they provide that additional funding both to individuals as well as to the developers. And we know that they get large returns on the investment. So according to all of the experts that I spoke to here in Lincoln, if we were to fund, for example, a CDFI here in Lincoln and provide \$10 million for that, they anticipate and they estimate that at a minimum you're likely to see \$60 million return on that investment. And one estimate from somebody I talked to was \$90 million. And that's through various leveraging of that funds, and there's other various parts of it that I don't have to get into right now on the mic. But what I'm getting at is that CDFIs are an integral component in the affordable housing problem. Now, they're not just the solution. There is no silver bullet. If there was, I'm sure we would have done it a long time ago. But I do know that CDFIs are one of the many things that can be utilized to ensure that there is more access to affordable housing and to ensure that there is more affordable housing being built. Ultimately, I'm saddened to say there wasn't the money maybe this time around for my CDFI bill, and I understand there's a lot of things that didn't make the cut with regards to the budget. My, my hope is that we can continue to have conversations about providing access to the Affordable Housing Trust Fund for CDFIs, possibly continuing to work on creating that grant program. And so I do believe there's going to be options moving forward. But I wanted to take a moment, just because I had looked at that, to talk about CDFIs and affordable housing. I do want to applaud this budget for including in it, the larger budget, for including in it money for workforce housing. I know that Senators Brise and Senator Vargas have made it a main issue of theirs to pair in a nonpartisan, bipartisan effort to determine best ways to get more affordable housing. And going through this budget, despite the fact that I did have some questions about the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

way that some things were constructed, I was very encouraged to see that there was an investment in affordable housing and in sort of that, that, that bipartisan effort to make that happen. So kudos to the committee on making that happen. The other thing I wanted to touch on briefly before I run out of time here and before our dinner break, is the Department of Correctional Services is, I believe, also contained in LB813. There was a increase, it says here: in addition, the committee included \$12.1 million for costs related to salaries of employees, which is related to salary increases negotiated in 2021 for certain state employees at 24/7 facilities. So one of the biggest issues that we saw with DCS was a lack of employment. And the lack of having those, those jobs filled, as far as I understand it, stretched all the way--

ARCH: One minute.

DUNGAN: Thank you, Mr. President-- from COs and guards all the way across to mental health professionals and behavioral health professionals. And my understanding is that we still have-- I'm not going to call it a crisis. I don't want to alarm anybody. But we still have a lack of professionals working in DCS. But I do know that one thing they did to try to increase that employment was increase pay. And by increasing that pay, I do know they've started to abate some of that issue. People who work hard should be compensated for their money. Our state employees should absolutely be making living wages. They should absolutely have benefits. And so I want to applaud those state employees for being able to negotiate that pay increase. Surely it is going to make sure their lives are better and it's also going to make this place a safer state by virtue of the fact that our facilities through DCS are properly staffed. And so I just wanted to take a minute and--

ARCH: Time, Senator.

DUNGAN: --point both those out. Thank you, Mr. President.

ARCH: Senators, you've heard the motion to adopt the E&R amendments. All those in favor say aye. All those opposed say nay. The motion is adopted, Mr. Clerk, for items.

CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB282 as correctly engrossed and placed on Final Reading. Additionally, amendments to be printed from Senator Machaela Cavanaugh to LB243 and Senator Hansen to LB814. That's all I have at this time, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

ARCH: Thank you, Mr. Clerk. Senators, the Legislature will now stand at ease until 6:00 p.m.. When we, when we return, we will resume debate on LB813.

[EASE]

ARCH: The Legislature will now resume. Mr. Clerk, next item.

CLERK: Mr. President, Senator Clements would move to amend the bill with AM1692.

ARCH: Senator Clements, you are welcome to open on AM1692.

CLEMENTS: Thank you, Mr. President. This is an amendment to LB813, the deficit bill. The-- in the deficit is regarding the Commission for the Deaf and Hard of Hearing and their funding for-- let's see-- funding for interpreting American sign language in rural areas or for legal purposes. The way it's currently described says that it needs to be in-person. But they're being asked to go out to rural areas, where they could just as well, via Zoom call or a webinar, have their interpreter here in Lincoln and interpreting virtually, online. And so this simple amendment inserts virtual and-- or-- in-person or virtual. It's going to have after in-person, it adds the word virtual. And so the-- when we wrote that originally, didn't think about that, but the Commission for the Deaf and Hard of Hearing are talking about it's hard to find an interpreter that wants to drive a long ways just to interpret one brief item. So that is all it is, it's going to add the word virtual for interpreting in rural areas and for legal communication access. Thank you, Mr. President.

ARCH: Senator Machaela Cavanaugh, you're recognized to speak.

M. CAVANAUGH: Thank you, Mr. President. I feel like I'm about to sneeze. Sorry. I apologize. Thank you, Mr. President. So I appreciate Senator Clements explaining the amendment and, and bringing it. I think making that clarity is really important. We do have a need for telehealth, just generally speaking and making access to telehealth a little bit easier. But that's a little bit different when we need an interpreter and we're in those rural areas. And in HHS, we've heard this before, the issues of getting-- it's, it's expensive to have an interpreter. And you add the expense of that it must be in-person and, and it just really creates a barrier. And so, I appreciate the change. So it strikes or virtual and inserts or-- after person, insert or virtual-- in-person or virtual. So that is an important distinction and clarity. And if I may, for a moment, tie it back to the

serial/Oxford comma, because that, too, provides clarity. So thank you for that clarity, Senator Clements. So I probably will be voting for this amendment. And just looking up what role does an ASL sign language interpreter play for a patient and medical staff. Thought it's kind of interesting to maybe dig into that a little bit more. If I'm going to be talking, I may as well talk on topic, right? Or talk about Kool-Aid, but, you know, potato, potato. OK. So Massachusetts School of Pharmacy and Health Sciences, basic ASL for medical professionals. Patient care suffers when patients and medical professionals have poor communication. If language barriers between doctors and adult patients are not conquered, misdiagnosis and inappropriate treatment are more likely to occur. To provide effective and clear communication between medical staff and patients, a number of tools are available to assist medical professionals with providing effective communication strategies with their patients. While learning some basic ASL doesn't qualify you to be an interpreter, it does allow you to engage in controversial-- conversational communication with a patient and establish a personal, personal connection with them. Well, that's nice. There's a video that demonstrates a few ways-- a few signs that can help you get started with talking to deaf/hard of hearing patient. The signs in the video include where, hurt, hospital, allergy, feel, medicine, medical, history, calm, ambulance. These words can be used together to create phrases used to communicate and some other simple information to deaf patients and family members. Medical Science pdf. This link provides a pdf. Let's see what it is. So when I-- when my kids were younger than they are now and not speaking yet, at that age where they're verbal, we would do sign language in our house. Just some simple, basic signs-- more, water. Cookie was learned very quickly. And, and then--

ARCH: One minute.

M. CAVANAUGH: --thank you. And it helps to-- then, if you actually, which we did not do a good job of maintaining, but if we were to help-- to have maintained and expanded on learning sign language, it really would have helped in language learning, as well-- other language learning. It is learning a language. It is a language. But sign language helps be a reinforcement for learning other languages, because you can sign and say at the same time. So, just an interesting thing to think about. If you're teaching your kid how to say water in one language and you sign it and you use water in another language like agua and you sign it, it reinforces visually, the same meaning of two different words. So, you know, this does make me wish that--

ARCH: Time, Senator.

M. CAVANAUGH: Thank you.

ARCH: Senator John Cavanaugh, you're recognized.

J. CAVANAUGH: Thank you, Mr. President. I was very excited to get up and talk here because I appreciate Senator Clements' introduction. And so I looked up, you know, the section of the bill and everything. So this is AM1692, make sure I'm on the right one here. AM1692, yeah, strikes after in-person and inserts or virtual and after (2) and write in-person or virtual. So this is about the interpreters. Where were we here. The Commission for the Deaf and Hard of Hearing-- there's an included amount shown for this program, for FY '22-23, \$500,000 federal funds. The purpose of supporting in-person and then we're adding "or virtual" interpreting in rural areas and legal communication access. So that was the part that kind of jumped out at me, because this virtual thing has, you know, obviously taken off in the last three years. I guess. You know, I'd never heard the word Zoom before a little over three years ago, probably March of 2020. And now, it's become like the Kleenex of-- or-- you know, I don't know what other ones, but the appropriated term of Zoom-- of-- see, I just said Zoom-- of video broadcasting or whatever, a communication. And so, I-- my first experience wasn't with Zoom or WebEx, which is another one. It was court, going to court via Zoom or WebEx, which I'd never done before, probably, April of 2020. And that was-- courthouse shut down. We needed to continue going to court and things like that. And it seems like it's great, it's convenient. It was-- we allowed-- we were at a court hearing with a guy who was still at the McCook Work Ethic Camp. That was, you know, convenient. We didn't have to have the sheriff go out and get him, bring him back for the hearing, all those sorts of things. I've had folks who continue to, you know, they just take a few minutes off work to go to court and things like that. So it has great benefit, of course. And this program obviously recognizes that and says that we can provide these services in-person or virtually. So that's a good recognition, but the-- there is a concern when we start talking about going down the path of convenience. And so, the-- think about it in the court system, is always there's this opportunity to have a court hearing in a more efficient way, saves your, you know, saves your client time, money, saves the court resources, obviously, prevents people from spreading, you know, illness. All of those things are great. But there is good evidence to show that, in some instances, it's problematic. So sentencings, if you have somebody who is being sentenced for a crime, they're much more likely to get just a fairer resolution, which is, you know, fair [INAUDIBLE] determine fairness by what is just an appropriate sentence, given the person's, you know, personal factors, the

circumstances of the crime and the actual, you know, offense for which they are convicted. All of those things put together, you try and find-- the judge tries to find an appropriate sentence. There's good data to show all those things being equal, someone's going to get a, a longer sentence, so more time in prison if it's done virtually as opposed to in-person. And it's because we're all humans. We're essentially-- we're human animals, right. And so, we have some sort of I don't know what you'd call it, anthropological reason to be, perhaps, more compassionate with somebody in front of you, as opposed to somebody on a screen. And so there's concern about this, in the interest of a rush to efficiency, having our court systems go too much down that path of virtual court hearings. And so, there are some, I-- you know, I've, I've certainly done a lot of-- you do--

ARCH: One minute.

J. CAVANAUGH: Thank you, Mr. President. I'll push my light so I can keep talking about this, because this is a passion project of mine. But we can have certain hearings that you can do efficiently and those sorts of things, but we want to make sure we're not getting into a position where we are forcing people into the, you know, having these hearings repeatedly or having hearings that they wouldn't-- shouldn't otherwise have virtually. So there's a lot of different hearings, Senator Dungan could probably come talk about this when he gets up here, as well. Because he has probably even more experience, because he continued to practice more after I left than I did. But-- and I would-- Senator Machaela Cavanaugh has pushed her light. If she-- I could, I could continue talking about this if you wanted to let me. But anyway, so you have-- when somebody goes through the court system-- maybe, I'll wait until my next time to, to go through the whole how this works. But somebody, say they get arrested on either a felony or a misdemeanor and they go for an arraignment. In Douglas County, at least right now-- well, we used to, everybody would go in what we called Courtroom 50, which is the Douglas County jail and you'd have all the felonies--

ARCH: Time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

ARCH: Senator Machaela Cavanaugh, you're recognized.

M. CAVANAUGH: Thank you, Mr. President. Wow. I didn't realize that Senator John Cavanaugh was so passionate about this, but I would happily yield you my time, Senator John Cavanaugh.

ARCH: Senator Cavanaugh, 4:50.

J. CAVANAUGH: Thank you, Mr. President. I appreciate it. Well, it's just you kind of get me-- like, this is one of the things that I'm interested in. So, OK. You get arrested, somebody gets arrested, they get charged with a felony. They're in courtroom 50 Douglas County. Before the pandemic, so we'll say March 1 of 2020, that person would go in front of a judge in a courtroom with 100 other folks. They would read their charges. They'd-- the, you know, defense attorney might argue some mitigating circumstances about the individual. And the judge would say, you know, there's probable cause for detention. They'd set a bond. And that was all done in person. After the pandemic, it switched to video, because they had-- basically, people kept getting arrested, but they had to keep setting bonds. And so, then the judges were sitting in courtroom 22, I think, at the Douglas County Courthouse and the folks who were being arraigned, we call it, were in courtroom 50. And it was on a screen. And they had the judge in the courtroom. And you had lawyers, sometimes in their offices, at the early stages of the pandemic, on-- you had a county attorney in the office and public defender in their office and they were-- everybody was on screen. And so, he set those bonds. And what has happened now the pandemic has passed, as far as I know, in Douglas County, last time I was there, which was during the interim, Douglas County bond setting was still done on Zoom. So it was the judge was in a courtroom, courtroom 22. And courtroom 50 was all video. And that did allow-- that does allow for interpreters to Zoom in, which is kind of like what this is virtual, virtual interpreters. And that's been great. Because in the old days, you'd have to have the Spanish interpreter sitting there and he'd call up all the Spanish folks and go through those first. And then if you had some other interpreter, you'd have to bring in a special interpreter. Now they can do that on Zoom. They bring-- they just Zoom in that interpreter, say we're going to do that case. They do it and that interpreter hops off. So maybe that's, you know, saving us some money in those interpreter costs, as Senator Dungan has brought a bill to increase their pay. So those are efficiencies that we're getting by doing Zoom, right, doing virtual hearings. And there probably is some evidence that those folks, I would imagine, you could see-- maybe you could say they're getting their bond set higher. That's one stage where, you know, that impersonality of it. But then, you have other like, pre-trials and things like that, that go along the way. And you can do those over video conference and probably not have a lot of loss. But then you have evidentiary hearings, so a motion to suppress or, you know, something like that. And those are ones you probably want to have

in-person. And that's kind of what the statute currently requires. You have-- evidentiary hearing has to be in person unless waived by the defendant. And so there's been some, you know, attempts to encourage defendants to waive that, so in the interest of efficiency for the courts and things like that. But you want to have an in-person hearing, because when you're trying to determine the--

[TECHNICAL DIFFICULTIES]

DUNGAN: It's unfortunate that they're not afforded an attorney at that stage, but they have to teach themselves.

RAYBOULD: So I was really, truly impressed and dismayed that he also shared that seven of his fellow inmates were also exonerated of their guilty verd-- verdicts later on. And the presenter also talked about the state of Nebraska having a, a Supreme Court case, very similar individual, who was seeking that gateway to innocence, that opportunity to have his case heard again. But they talked about there's impediment in the state of Nebraska on the policy itself that we need a-- I guess the Supreme Court judges in Nebraska said that there has to be some type of legislative policy enacted, for the state of Nebraska to permit those to access what they call the gateway of innocence or gateway to innocence.

DUNGAN: Yeah. So this is one of those circumstances that I know we've talked about it in the Legislature this year on other subjects, where the court comes to some finding or comes to a ruling. And then, in their opinion, will sometimes include something to the effect of but we're doing that because we can't do anything else. It would have to be up to the Legislature to change this. And so, you know, one of the things they were talking about in that Nebraska case is this person argued to the Nebraska Supreme Court, I believe, this concept of gateway innocence. And again, I don't want to get too in the weeds about it, but it's this standard that's been adopted, I think, by--

KELLY: One minute.

DUNGAN: --thank you, Mr. President-- some courts, where the Nebraska Supreme Court said we cannot effectively proceed under that legal theory, because the Legislature doesn't allow it. Because our current system and structure of post-conviction relief does not allow that avenue to ultimately get your case reheard or get your case back before the courts. And so, they threw the ball into our court. And they said, it's up to you all to determine whether or not this gateway innocence is something that can and should be ultimately, I think,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

adopted. And that's part of what we're going to be talking about in our interim study is that this isn't about who's bringing the case. It's not about right or wrong. It's ultimately just about creating the framework within an act within which an actually innocent person can get their case heard before a court.

RAYBOULD: Thank you, Senator Dungan. It was an outstanding program, and I look forward to embracing more criminal justice reforms that allow people that are wrongfully sentenced to, to find a pathway to freedom. Thank you, Mr. President.

KELLY: Thank you, Senators Raybould and Dungan. Senator Day, you're recognized to speak.

DAY: Thank you, Mr. Lieutenant Governor. I would like to yield my time to Senator John Cavanaugh, if he wishes.

KELLY: Senator John Cavanaugh, 4:50.

J. CAVANAUGH: Thank you, Mr. President. And well, so I got a lot of, a lot of thoughts. You can tell this is one of my, like I said, it's one of my passion projects. So-- and Senator Lowe is over here talking about digitizing courts. And I-- so I want to be clear, I do really like the technology aspect of our courts. So just-- right now, I'm just trying to pull up the Supreme Court-- Nebraska Supreme Court case that Senator Dungan was talking about. It's one that I think they decided in September of 2020, if I remember right. But you can go on their website, you can pull up basically any cases, the Supreme Court opinions. They have Court of Appeals opinions, as well. You can read the advance sheets for those cases and it's great. They come out. They email them, you know, every Friday and so you can stay informed. You can look up things, old cases. So that digitization of all those records is fantastic. We have an online justice system that is-- has digital filings now, so you can file, you know, a request for hearing or other things from an entry of appearance from your laptop in your office. You don't have to go-- you used to have to go up to the window. You have to fill out a carbon copy, go up to the window to ask to have your client brought in. And, you know, if you were, say, in Omaha and you had an office in west Omaha, you would need to go downtown to file it. And you know, if you got close to the time, end of the day, maybe your client would not get to go into court tomorrow. So you can do it on a computer. Obviously, that increases access to justice and those things are fantastic, making it all work more efficiently. Then, of course, it's online. People can see it, prosecutor can see it, or whatever, the other opposing party can see

it. Courts can see it. And of course, then you eliminate what is one of my bigger problems, which is legibility of my handwriting. So by having it typed on a computer, that improves all of those sorts of things, makes the whole system work more efficiently. And then, of course, these record keeping makes it go a little bit better for appeals and things like that, as Senator Dungan was just sort of alluding to. So I was trying to look something up. I'm trying to remember exactly what it was that Senator Raybould had mentioned that made me think of something else that we talked about at the Innocence Project today. But I can-- I-- I'm sure I will come back to me as I'm talking about the other things I was going to talk about. So, you know, I've talked about this dehumanization and I-- you know, sometimes we say these things and people are like, oh, you know, we talked about this a lot. I mean, it's sort of in the academic, literal sense of dehumanizing, not that we're, you know, not in the, I guess, pejorative sense. Though, it is not a good thing, right? It's not good, good to dehumanize people, but it's-- certain things can have a dehumanizing effect, which when we are-- it's basically a disassociation, disconnection. You're, you're not, you know, the judge and the prosecutor and everybody is you're not connecting on a human level in the same way you do when you're in person. And so that is a concern. And so we've had in our court system a, a sort of a move forward. We had this opportunity, kind of a proof of concept, you know, a pilot program forced on us, with the pandemic, that allowed us to get a lot more, you know, technology into the courtrooms a lot faster and a lot out of necessity and a lot more trial and error in those hearings, out of necessity. And so that has allowed us to move the ball forward on those sorts of things. But what I'm cautioning, I guess, is that we don't overlearn that lesson. Say, OK, this-- say this is great. We can do it all now, we can do everything remotely. We want to make sure proceed with caution and say, we do not-- we don't have to do everything this way. We don't want to force people. And what I'm-- really, what I'm saying is--

KELLY: One minute.

J. CAVANAUGH: --thank you, Mr. President. The court should not change its rules and the state should not change its law to shift the burden to the defendant, to prove that they need a hearing in person. The, the-- it should stay their right to assert and say-- they can waive it and say in the interest of efficiency, I would like to get this hearing over with. I'd like to not have to come back from McCook. I'd like to not have to go from the, you know, be transferred to this county to that county. I would like to just do it via Zoom. That can be their right. They can waive that. But what I'm saying is that it

has to remain their right and not in the interest of efficiency, force-- they would say that it's up to the discretion of the court alone to make that decision. Because the courts, though I have great respect for a number of judges who I have worked with, they do make some decisions in the interest of expediency and efficiency, when it comes to some things like that. They say, well, I've only got--

KELLY: That's your time.

J. CAVANAUGH: Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Dungan, you're recognized to speak.

DUNGAN: Thank you, Mr. President. And colleagues, I got so excited about talking about the event that we had earlier today that I actually neglected to get into what I was originally going to talk about when I first stood on this. And so, I do rise, generally in favor of AM1692. But I do have, I think, some thoughts about it that I want to make sure we keep in mind, as we proceed. So for those who are actually paying attention either at home or in here with regards to which amendment we're on, this is AM1692, which seeks to add, as Senator, I think, John Cavanaugh talked about earlier, the addition of virtual to the E&R amendments, when it comes to an allocation of money or an appropriation of money for interpreters. So my reading of this is that it is making sure that here on page 18, line 2, the \$500,000 in federal funds for the purposes of supporting in-person interpreting in rural areas and legal communication access now will also include virtual. So I am generally supportive of access to justice measures. Right. When we talk about access to justice, we have an entire group of the Supreme Court that works on access to justice. And that generally means ensuring that individuals who either are indigent or maybe, aren't native English speakers, whatever it is, have access to our justice system. And one of the things that's key for that, which has been talked about, I think a little bit, now, here tonight, is ensuring that there is the technological access, as well. Right. So Zoom, being able to call in when they need to and then, specifically here, being able to access virtual court interpreters. And this is interpretation, not translation. The Supreme Court wanted to make sure that I, I made that clear the last time we talked about that. So this is not doing documents, this is literally interpreting spoken word. My hesitation and I just want to make this clear, is I have worked with both in-person interpreters and virtual interpreters. And despite the breadth of knowledge that those interpreters have, no matter how amazing they are, it is different. When you are working with an

individual who is an interpreter over Zoom, for example, there is that added layer of difficulty, not because of anything the interpreter has done wrong, but the technological aspect is problematic. And when I first started working in juvenile court, a number of years ago, there was a push to implement more technology with regard to detention hearings. So, let's say, juvenile gets arrested and then appears before the juvenile court for a detention hearing. There was a push to do those detention hearings digitally, via Skype, via Zoom, whatever it was back then. And the hesitation that we had was that, that lack of human contact is (a) going to create a different kind of ruling by the court and (b), it's actually going to potentially impede the ability of the attorney to properly interact with and talk to a client. So I want to put this another way. During the pandemic, we obviously went digital with a lot of court. And when you are in a digital courtroom, it's you, your client, the county attorney, the judge, the court reporter, the bailiff. You all have an individual window that's up there. And if you have an interpreter, the interpreter has another window. So you say something, you pause, the interpreter interprets, client listens, client talks, interpreter listens, interpreter talks back, so you have that sort of delay. It does become digitally problematic and difficult to get those things done the same way that you would if you have somebody in person. Now, obviously, the pandemic and other situations like that necessitate the use of virtual interpreters. And I'm absolutely in favor of allocating money for the use of

KELLY: One minute.

DUNGAN: --thank you, Mr. President-- digital interpretation services. But what I want to be very cautious of is getting away from in-person services when they are available and when they are accessible. And if we start to find ourselves in a situation where clients and attorneys are forced into digital hearings or forced into utilizing digital interpreter services, it's going to be very problematic, only because it can impede the actual representation of that client. And I want to be very clear. Those clients have a constitutional right to zealous and adequate counsel. So again, I am generally in favor of AM1692. I really appreciate the Appropriations Committee working on this. I understand they've worked really hard with me to continue to fund our court interpreters. And I'm appreciative of that. But as we move forward, I think we have to be cautious, with regards to further use of virtual or digital interpreters. Thank you, Mr. President.

KELLY: Thank you. Senator Dungan. Senator Day, you're recognized to speak.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

DAY: Thank you, Mr. President. I would like to yield my time to Senator John Cavanaugh, if he wishes.

KELLY: Senator John Cavanaugh, that is 4:44.

J. CAVANAUGH: Thank you, Mr. President. Thank you, Senator Day. So I, I appreciate Senator Dungan's perspective, as well. And this is you know, I think it's a really important part of this conversation. And again, I do agree. I appreciate the Appropriations Committee allowing or providing for the fact that we can do in-person or virtual translation services. So I-- and I do appreciate Senator Dungan re-- recentering the conversation on that, because, you know, sometimes we can get excited about talking about a topic and we start going further afield from that. And I say that because, when I started talking about this, you know, it kind of set the stage for a lot of you, talking about just how courts kind of came to this digital-- the digital frontier in our courtrooms and then how, you know, we've pushed it further. And one of the things my-- you know, tried to get to what my concerns are, which is we saw, during the pandemic, that, you know, we were pushing court hearings further and further down the road. You know, we push out trials, push out sentencing. So I think we went-- you know, we went almost a year without trials. And then, push out sentencings, push out evidentiary hearings, push out competency hearings, push out all these hearings, because we didn't have in-courtroom meetings. And some of those things just really needed to be done in-person, as I've talked about earlier, because of the dehumanization effect and the, and the being-- ability to appraise and judge somebody's honesty, veracity, all those things that you-- that a finder of fact needs to make a determination about when they're weighing evidence. But I know of examples of times where judges said, we need to get this case moving. Let's have the-- you can have this hearing on Zoom next week or you can have it in, you know, two months or something like that. And you know that-- then it puts the-- puts pressure on the defendant to say, rather than have a hearing in the way that they-- that their attorney advises them is the best and the way that they want their case to be presented, it's forcing them to have a hearing in a way that is, you know, maybe less-- that's going to yield a less favorable result for them. And, you know, and then they go through all this appeal process that Senator Dungan was talking about. If they ultimately are found guilty and they go and have an appeal and the weight of the evidence is going to be measured basically by giving deference to the judge for their assessment. So if they found the witness credible in whatever fashion that they had the-- heard that evidence, that that's going to stand. The judge's opinion of that's going to stand, because they were the one that was

there to observe it as opposed to reading it on the paper. Easier to appraise their veracity in person than it is on paper. So if we start-- the problem is you-- for somebody to agree to either sit in jail for two more months before they can have this hearing that they think may get them out or have it on Zoom, they maybe waive their right to have it in person. Then they end up having it on Zoom, doesn't go the way that they hoped it would. They end up getting convicted and they end up going to prison, but then they have-- do not have an appealable issue there, that has, you know, basically forfeit a right to how they're going to have their hearing. They didn't get to have their case presented the way they wanted it to. And so, that's one kind of microcosm of the risk we have, where we, where we over-implement digital or whatever, these types of hearings.

KELLY: One minute.

J. CAVANAUGH: Thank you, Mr. President. And so, going down this path of-- this becomes problematic. Of course, you know, it is useful. Like I said, the filings, you're allowed-- you can file probably, from vacation. You can file and you take your laptop with you and you go to whatever, Mexico, I guess, and you need to file something for a hearing, you can do that kind of work from there. So that, you know, helps, helps lawyers, helps the courts, helps clients get more access to the courts. It improves cost. And, you know, in theory, you can have a Zoom hearing, you can have a-- your lawyer could be from somewhere else or could be, you know, if your lawyer is out of town, doesn't mean you can't have a hearing, right, as long as the defendant agrees to that. So it does add those extra benefits to the opportunities for someone to get into court faster and not have to sit in jail if they are asking for a bond review. And you can ask for a bond review on Zoom. You can say, I want a bond review tomorrow.

KELLY: That's your time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Walz, you're recognized to speak.

WALZ: Thank you, Mr. President. And I have to apologize. I was off talking to somebody when Senator Cavanaugh was speaking. I wasn't sure if you had already talked about how digital services affect rural areas compared to urban areas. I have both in my district. And again, I apologize, but if you could talk about that, if you haven't already, I'd appreciate it, if I could yield him time.

KELLY: Senator Cavanaugh, you have 4:30.

J. CAVANAUGH: Thank you, Mr. President. Thank you, Senator Walz. I would love to talk about that. So the state of Nebraska is divided into different judicial districts. And different districts can set, kind of, court-specific rules. And so, we have, in Douglas County, we call it the Fourth Judicial District. And that's one-- we have one district court, separate juvenile court, separate county court. And-- but it's all the Fourth Judicial District. And you have-- I honestly, I don't know which judicial district Fremont is in, but you would encompass a few other counties. And so you might have separate rules that are established by your judicial district. And so, not everything is going to apply across the board because these different districts and the Supreme Court can promulgate rules for their district. But Douglas County, we've kept it pretty tight, in terms of what our court rules are for these virtual hearings and I would assume Lancaster is, similarly. But one of the reasons for that is we are more compact. Everybody, you know, in, in Douglas County for the most part-- I mean, our jail is walking distance from our courthouse. It's two blocks, I think. And so-- and they still-- they drive people back and forth. But all the-- that's all pretty compact there. And Douglas County itself is actually a relatively compact county, so there's not as much of a need for, you know, people having to come great distances. But in, in a district like yours or maybe, you know, a couple of the other even bigger districts or where the judicial districts get bigger and bigger, there is a lot more conversation about this move towards doing almost everything on digital. And like I said, there is the possibility of a benefit for everybody. You know, the parties-- I keep talking about criminal court, but you can have civil court too, where the parties, both plaintiff and defendant or the state and the defendant would agree that, rather than have everybody drive into Fremont, they can Zoom in from wherever it is they are. They'll save gas, they'll save time. The court doesn't have to, you know, set up the court and all that kind of stuff. And they don't have to find as much time, because the judge is just, just sitting at his-- their desk. And they just hit Zoom and then they could hit to the next Zoom hearing while people are in the room. So there's a lot of those sort of efficiencies and there is, there is a desire to do that, I think, in greater Nebraska. There's also the added complexity burden, whatever you want to call it, the fact that in our rural counties we are having a shortage of lawyers. And so this is another thing where, you know, I guess playing devil's advocate to my own criticisms, we'll say where virtual court can be a benefit. Because you could have a lawyer in Douglas County, Lancaster County, where there are a lot of

lawyers; they can zoom in to a hearing in Arthur County, where there might not be any lawyers. Right. And so, all of these rural counties that have either very few lawyers or are getting fewer and fewer lawyers as people retire, you might have the opportunity-- we might have the opportunity to continue to serve those communities from the legal communities of our cities, which, you know, saves money for travel time, of course. You know, because if a court-appointed lawyer is driving out from Lincoln to Arthur County, they might pay them for mileage, but saving--

KELLY: One minute.

J. CAVANAUGH: Thank you, Mr. President. So increasing access to the courts for folks in rural communities, increasing access to great, competent, qualified legal services. And so those sorts of things, making it so we have an opportunity to have more legal services available to folks in greater Nebraska. So there is that-- certainly that benefit. But I would always caveat that with and say that is a benefit to make sure that there are lawyers available. But the, the ability to ask for the hearing to be done on Zoom or to a-- not, not object to it, there's a difference-- there's a distinction between objecting to a hearing being on Zoom and affirmatively waiving a right to have it in person, should always rest with the defendant in a criminal case or the defendant in a, in a civil case. You know, the person whose rights are at risk, they should always have-- it should be their option to waive it being a in-person hearing. Because they may get the benefit from having a lawyer Zoom in--

KELLY: That's your time, Senator.

J. CAVANAUGH: Thank you, Mr. President. Thank you.

KELLY: Thank you, Senator Cavanaugh. Senator Vargas, you're recognized to speak.

VARGAS: Thank you very much. Colleagues, I was going to talk a little bit more about some of the different items that are in here to both provide a little better education. For those that have been following along, not only do we see some of the bigger items, but on page 76, this just goes to show you exactly how detailed we get into the, into the appropriations process when we're doing these adjustments. You're going to see a detailed list of every item that we did that was an, was an adjustment, down to additional funds for the Secretary of State for PSL, different education for Education Department, for Kronos, payroll rate increases for retiree payouts in the education system, to

increases for PSL or the ability to hire more staff within the Auditor's Office. One that I did not get to actually talk about the previous time was the funding that we, we included in these one time funds adjustments for the Department of Transportation funding. So this is essentially we were transferring these state funds to be able to leverage a federal match as a result of the Infrastructure Investment and Jobs Act. It's about \$150 million in cash funds that we transferred in one times, which was required as a 25 percent match of the total funding. So we are dealing with everything from a \$50,000 authority increase to be able to hire additional staff member, all the way to \$150 million in cash fund transfers from the DOT to leverage federal funds. What I lovingly say is this is truly at least our committee is sort of an island of misfit legislators, where we're coming together and trying to do very minute work and to really big sweeping investments and one-time things into our state. I'm really proud of the committee that we, we work on things. We win and lose in the committee. It's not always perfect. And I've said this before, we, we, we have so many bills that we are-- either have introduced and issues that we work on, on-- in collaboration with different agencies to address things, even, even issues that we were just taking up today. We do this and it is an iterative, you know, very, very intent-- intentional process. I'm just really lucky to be part of this Appropriations Committee and the work that we've done the last six going on seven years. And the reason I'm also sharing this to you is because many of us are going to be off the committee here, in the next year and a half. And when we're off the committee, the things that I'm saying on the mic may seem extremely trivial, trivial to people, because they're either uneducated about it or don't know. But this being sometimes your first budget process, there will be new people either elected or in the body that choose to be on the Appropriations Committee. And we get really into the details. And it requires a thoughtful [INAUDIBLE] requires somebody that's un-- that is willing to have really tough conversations on small amounts of funding to large amounts of money. We've been debating in committee when we were increasing the authority for an agency that's cash funded to the tune of \$1,000. We were debating on whether or not we can increase technology and whether or not some people's computers should be new or if they can handle an additional year of utilizing the same computers that they have. We've had this conversation about new cars, you know, for-- used cars that are being, you know, continually worn in, within Game and Parks and whether or not we should give them more authority to buy new cars. And I remember conversations in the past several years, even with Senator Wishart, where we said my car has more mileage than, than many of the cars that they, that they are--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: One minute.

VARGAS: -- talking about in the requests. This is all to say that this is an important educational process. This is in the mainline budget bill. You know, these are the adjustments we're making. But I also think it's really important that the public and my colleagues understand the very important, significant changes we're making to our previous budget and the relationships we have with agencies, the tremendous amount of work that our fiscal analysts do to ensure we are responding to the executive branch's needs and the agency's needs. This is-- has been an amazing, amazing effort on, on the part of the-- all the staff and the Appropriations Committee. And I ask for your continued support on not only this amendment and the underlying bill, but all of our budget bills, as we move forward towards the end of the session. Thank you very much.

KELLY: Thank you, Senator Vargas. Senator Day, you're recognized to speak. This is your last time on the amendment.

DAY: Thank you, Mr. President. I would like to yield my time to Senator John Cavanaugh.

KELLY: Senator John Cavanaugh, you have 4:55.

J. CAVANAUGH: Thank you, Mr. President. And so I-- you know, I appreciate folks paying attention and being interested in this topic. And just so we're clarifying, I support AM1692. I appreciate Senator Clements' attempt here, and I'm not intending to try and cause a problem for this particular amendment. I just thought this was a good opportunity to have a broader conversation about our implementation of technology in our justice system. And I, and I, admittedly, I don't think this only-- this amendment only applies to justice system. I think this applies to-- I'm trying to pull it up right here. So this is for-- the funds are for the Commission for the Deaf and Hard of Hearing. And then, we're giving the-- this includes the amount shown for this program for FY '22-23, \$500,000 in federal funds for the purpose of supporting in person. And then, Senator Clements' amendment would be "or virtual interpreting in rural areas and legal communication access." So it's basically saying that it's adding that the money can be used for in-person or virtual interpreting. So it's just adding that to it, not mandating it, not requiring that we only do-- that we move to virtual entirely or do anything along those lines. But this-- the reason I wanted to have this conversation is because we-- you know, I, of course, think we should make these sorts of things available, because when it comes to interpretation, being

for the deaf and hard of hearing in this particular case, but we want to make sure that we have those resources available for people, even in places where there might not be a readily available interpreter or might be hard to get one there. And so this is-- I think this is a good move, a good step in that right direction. But I, I-- when we start down this path of adopting technology and we find things that are great and they work really well, I think we need to make sure that we are deliberative about which things exactly we apply technology to and whether we-- where, where we put, in particular, where we put the ability to decide which things should be done in-person and which things should be done digitally. So I would say if a deaf or hard of hearing person only wants to deal with an interpreter in-person, that should be at their discretion. They shouldn't be forced to, to use a virtual interpreter, but that's not what we're addressing here. But I'm talking about in the criminal justice system, in particular in the courts, we need to make sure that we are not getting to a point where the discretion is taken away from the individual. And so, here's an example. So as I told Senator Walz that we have the judicial districts in the state of Nebraska. And so, for Senator Walz, you're in Judicial District, District 6, which I would tell you goes all the way up to, maybe, is that Knox County-- goes up past Thurston, so kind of curves around on the Missouri River there, so kind of a really big county, a big, a big judicial district. And so, of course, there may be a greater interest in that. But then there's Judicial District 1, which is south of Lincoln. So Lincoln is Judicial District 3. You had Judicial District 1, which is basically everything in Senator Brandt's district, Senator Dorn's district and it looks like maybe, Senator Slama's district. So Judicial District 1, as an example, had a proposal for a protocol for virtual meetings. Virtual meetings will be available for non-testimonial proceedings based upon the sole discretion of each county and district judge within his or her courtroom. A request to participate in virtual proceedings shall be made by filing a request with the clerk at least three business days in advance of the hearing, each party appearing via and they cross out WebEx and put video. So they were trying to genericize WebEx here--

KELLY: One minute.

J. CAVANAUGH: --will need to be logged 5 minutes in advance. So what I'm talking about there is that this is the determination of whether to do it in person or on WebEx or as video is solely at the discretion of the judge. And so, that's the thing I'm concerned about becoming of broader adoption. So this is non-testimonial proceedings, so not, not a motion to suppress, not a trial, not, not necessarily sentencing. So this is a hearing where there's not going to be any evidence putting

on. It's probably like, maybe, a bond hearing or something like that. It could be via video conference. And so what I'm saying is that the problem in that situation, though, that this is even though it's non testimonial, is that it's at the sole discretion of the judge. And it may have to do with the liberty, so determining the liberty, the freedom of the defendant and the defendant might want to have that hearing in-person. And so, I'm saying and we don't-- in the interest of efficiency, we are creating a structure where the judge gets to decide whether or not the person is going to be [INAUDIBLE].

KELLY: That's your time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

KELLY: Senator Dungan, you're recognized to speak.

DUNGAN: Thank you, Mr. President. Colleagues, I still, again, rise generally in favor of AM1692. And just to pick up with where my rowmate John Cavanaugh left off, the main concern that I have when we start talking about the digitization of courts, is that we are going to ultimately, accidentally end up depriving clients with the ability to interact with their attorneys in an effective manner. And again, I think the goal of access to justice is laudable and one that we should all work towards. But what we need in that access to justice conversation is the ability to make those decisions, based on the nuance that goes into an individual court case rather than unilaterally decide that that's how something is going to end up or not allow defendants or their attorneys the opportunity to potentially object or at least have their, their voices heard with regards to that decision. This lends itself to a circumstance that I've-- or this reminds me of a circumstance that I found myself in, very early on in my legal career, where I was representing a juvenile who was not from Nebraska and in fact, was not from America and spoke Romanian. And believe it or not, we don't have a lot of Romanian interpreters in the state of Nebraska, at least not that were available at that time. And we had a hearing that, for all intents and purposes, I, I genuinely think probably would have taken maybe three or 4 hours, but for we did not have access to an interpreter in the courtroom. And what makes this even more complicated is because it's a juvenile case, the parents are allowed to be there, too. And the parents only spoke or the mom only spoke Romanian. And to further complicate the issue, when that kind of circumstance presents itself, you need multiple interpreters. And the reason that you need multiple interpreters, (a) is if any case is going to take over a certain period of time, they have to switch out because they essentially get tired doing

simultaneous interpretation about high-brow legal concepts can be actually very taxing and (b) there needs to be an interpreter for the court and there needs to be a separate interpreter, generally, it's best practice, between the client and their attorney, so that way you can keep confidentiality. So we found ourselves in a situation representing juveniles or a juvenile. It was joint hearings. There were two of them there who spoke Romanian and mom who spoke Romanian and her other-- the other mother who spoke Romanian and we didn't have an interpreter that was available. So what we ultimately had to do was got together with the county attorney, got together at the court, and we found some Romanian interpreters on the phone. And believe it or not, trying to interpret a case via phone during this really intensive transfer hearing is what it was-- they were trying to transfer this case from juvenile to adult court-- is complicated. And despite, I think, the best efforts of everybody involved and despite the best efforts of the interpreter who was very talented, I don't know where they were physically located to this day, it took a very long time. And this hearing that ultimately I think would have taken, again, a few hours, was stretched out between two whole days. And I had never had a juvenile hearing take longer than a day. I'm looking at the Lieutenant Governor up there, who I know has practiced before, in court. And a hearing in juvenile court taking two days because of interpreter issues, which were, generally, us pausing and them saying, huh, what, can you please repeat that, was arduous. Now, again, I don't think anybody is suggesting that we go completely to a digital system and I don't think anybody is suggesting that we mandate that. But when we talk about this, I just want to make sure, when we're bringing amendments to bills that are not coming out of Judiciary--

KELLY: One minute.

DUNGAN: --thank you, Mr. President-- that have not, probably, had the testimony from practicing attorneys who have worked on this, that we're being cautious and careful. I know, in the past, there have been bills that have been brought that would allow wide discretion for these things to be done-- these hearings to be done digitally, that did not have any language that allowed for, perhaps, an objection or that didn't allow for a, a way to push back. And I think that the reason those ultimately did not move forward is there was an agreement or at least an understanding at how problematic that could be. So, again, I urge your vote on AM1692. I think we should vote green on this, because we have to make sure our interpreters do receive that funding if they're digital or in-person in rural areas. But any time we're having a conversation about the digitization of court, please keep in mind it's incredibly important that we do everything we can to

ensure that there is autonomy in making that decision and that nobody is forced into a situation where their rights are deprived, by virtue of not having access to counsel that is zealous and generally, going to do the best job they possibly could do. Thank you, Mr. President.

KELLY: Thank you Senator Dungan. Senator Raybould, you're recognized to speak.

RAYBOULD: Thank you, Mr. President. I, too, want to speak in support of AM1692, particularly on the necessity of having interpreters. They, they are essential to our judicial system at this point in time. My husband was a former certified court interpreter and I can tell you that it is a very difficult exam to take and very challenging. And of course, being a certified court interpreter is quite stressful, to be able to simultaneously translate in the hearings. But I know it's, it's a necessity. It's, it's part of our diverse Nebraska. And I can tell you, I've traveled all around our state and I've been in several court, court rooms, as well, and watched other interpreters just be-- perform flawlessly in challenging times and trying to minimize the court's time, as well. So it is, it is an essential thing. The other thing that I know that Senator Dungan spoke about was video conferencing for our judicial system. And it's-- it is so essential. And I, I really think the rural, rural communities have been using this a lot sooner than some of the urban areas. And I can speak of my time as a county commissioner. And I know, certainly, our Lieutenant Governor was, was there, as well, when we built a new county jail off-site, you know, on, on West O Street. And it became a, a real challenge. We thought that the judges would embrace video conferencing for video arraignments, but that was not the case. So it-- the initial-- once the new jail was built, we did have to transport the inmates to and from the courthouse for the arraignments. But one, one brave judge volunteered to be the guinea pig. And little by little, we won over all the other judges on how important it is and how it saves not only the court's time in, in seeing the inmates and, and getting through a backlog of arraignments, it really reduced the risk to our State Patrol, as they're the ones that would have to transport the inmates to and from the county jail to the courthouse. So it would save them time, fuel and, and also, was a, a big safety factor for that. And that-- the exciting thing is it really took off. A, a lot of the judges really embraced the idea of having video conferencing, video arraignments and it became the, the most sought after request. Can, can you convert my courtroom into being able to do this, as well? And I can tell you, certainly and you all lived through the pandemic here, in the city of Lincoln, we were able to continue our, our meetings, so that government stayed open the entire time and we didn't

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

miss a beat. And, you know, we were very fortunate with video conferencing, as well as the schools in Lincoln and Lancaster County were able to stay open. And kids were able to, to go to school via, via Zoom meetings and so on and how fundamentally important it is. And I think, because of the pandemic, we realize that this is an excellent way of, of taking care of business, working with our judiciary system, making, making sure that our kids get educated. And just going back to how fundamentally important it is to, to keep funding these, these items for the efficiency and effi-- efficacy of, of getting all types of work accomplished. Thank you, Mr. President.

KELLY: Thank you, Senator Raybould. Seeing no one else in the queue, Senator Clements, you're recognized to close on the amendment. And waive. Members, the question is--call of the house? The-- there's been a request to place the house under call. The question is, shall the house go under call. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 16 ayes, 2 nays to place the house under call.

KELLY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators DeKay, Jacobson, Armendariz, McKinney, Slama, Bostar, Hughes, Bostelman, Brewer and Wayne, please return to the Chamber and record your presence. The house is under call. All unexcused members are present. Members, the question is the adoption of AM1692. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 41 ayes, 0 nays on the adoption of the amendment.

KELLY: The amendment is adopted. Mr. Clerk, for items. And I raise the call.

CLERK: Mr. President. Senator, Senator Slama would offer-- or excuse me, has motion 1032 to bracket motion 1033 to recommit, both of which are withdrawn.

KELLY: So ordered.

CLERK: Mr. President, Senator Slama would move to IPP the bill with a note to withdraw that, as well, motion 1034.

KELLY: So ordered.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

CLERK: In that case, Mr. President, next amendment. Senator McKellar Cavanaugh FA102, FA102.

KELLY: Senator Machaela Cavanaugh, you're recognized to open on your floor amendment.

M. CAVANAUGH: Thank you, Mr. President. Colleagues, that was an unexpected debate on the last amendment. I feel like I learned a lot about courts. I do want to revisit a comment that Senator John Cavanaugh made. I think it was right after dinner, before he destroyed the technology in this building with his charm and wit on the microphone. He did mention Zoom as a, as a noun. No. Adjective? Adverb? Noun. Yeah. So, gosh, I'm tired. I can't even think. Like, just all teleconferencing is now, you like, oh, let's do a Zoom. And you might actually do a Google meet, but you say, let's do a Zoom or you might do a Skype, but you say, let's do a Zoom and other things like that. Kleenex, Xerox, escalator-- no. Escalator is not--

DEBOER: Yes. It's a brand name.

M. CAVANAUGH: It is. Escalator is a brand name. Wow. Senator DeBoer with the deep cut. Didn't know that. My goodness. We don't say Otis when we talk about elevators. Yeah. Or O'Keefe-- going to take the O'Keefe up to the fourth floor. No, we don't do that. I actually don't know what brand of elevators we have in this building. Is it Otis? Is it O'Keefe? Is there a whole 'nother brand I don't even know about, outside of Otis and O'Keefe?

HUNT: Historic.

M. CAVANAUGH: Historic. It is. It is a historic elevator, terrifyingly so. It is a terrifyingly historic elevator, four of them. And you have to be careful as to which one you get on. Yesterday, I think it was the lunch break. I was waiting for a elevator to come back down here. And it was full of fourth graders that were coming from the 14th floor because the elevator that's right outside of my office is the one that goes-- is one of the ones that goes to the 14th floor. And I oftentimes make the mistake of not walking to the other side of my floor, the 11th floor, to a different elevator at lunchtime, which I should learn my lesson because there's usually an elevator full of kids. But there was space for one more, so they did let me get on with them. And I like riding the elevator with the fourth graders, because it's just so fun to hear their conversations and, you know, ask them about the building. And like, oh, what do you enjoy about the building? And they have the most random, bizarre things that I would

never think of, to be like their favorite thing or things I didn't even know about. They'll talk a lot-- some piece of artwork that I've never seen. I'm like, cool. All right. I'll have to check that out. So, yes, all that is to say Xerox, Kleenex and escalator. They are the original Zoom. This amendment strikes Section 1. And that's really it, just strikes Section 1. So the bill-- the underlying bill, LB813, is our claims bill, right? No, it's not our claims bill. Deficit. Thank you. Deficit bill. And so there you have it. It's the deficit bill. Let's look and see what the deficit bill does. See, I started-- my trusty binder that my staff put together for me last week. Oh, this reminds me. I was super envious, jealous, both at-- early on in session, after bill introduction. I don't know if it was the Fiscal Office that put these together, the red binders that all the committee members had.

_____ : Wanda.

M. CAVANAUGH: Wanda? Wanda. Wanda, you are a marvel. I don't know who Wanda is.

_____ : She's in Fiscal.

M. CAVANAUGH: She's in Fiscal? Wanda in Fiscal, I was blown away. I tried to steal your binder. I saw, I saw the binders being distributed on the floor and I was like, whoa, [INAUDIBLE] a binder? Like, my ears perked up. There's a binder. There's a new binder. It's red. It's got lots of tabs. I was very excited. I didn't get one. So Wanda, just know, even from afar, Wanda, your work was admired and appreciated, because I love a good binder. I love a good binder. At the end of Senator Sue Crawford's session, her last year, the last day, she gifted me a binder and I never felt so seen in my life. I was like, Senator Crawford, she gets me, she gets me. She gave me a binder. And it had tabs. It was pretty. It was a, it was a, it was a top ten moment, for sure. A top ten moment. Anyways, LB813. What do we got here? Yep. And I already read that part. So if you look at LB813-- now, I am looking at the actual original LB and then there's the AM. I haven't updated it with the E&R amendments, but I don't think that they-- well, maybe they were substantial. I don't know. But the amendment that we added on General, is 20 pages. And you know, it does-- it, it doesn't change as-- for being 20 pages, it doesn't change as much as you would think. It's not as much reading as you might think. But I am striking definition of appropriation period by striking Section 1, which, again, is essentially striking the serial Oxford comma. It is helpful. It provides clarification, but it is not actually necessary. Because it's the biennium and we know that it's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

the biennium and we know the period for which this appropriation is happening. It can't be for any other time period. Unless that time period were explicitly stated, it cannot be for a time period outside of this biennium. So it's not actually necessary. So if you were going to go on a lark and vote for any of my amendments, this is the one, striking the Oxford serial comma of amendments. Section 1. I still wouldn't do it because it would cause people to panic. But it is an option available to you. So-- and it really, it-- just defying what like, an FY is. And we already know that our year-- fiscal years' start are July 1 through June 30. So again, do we need to have this? No, not really, we don't. Is it helpful? Yes. Yes, it is. Does it provide clarity? Yes. Could you discern it without it? Also, yes. But here we are. So, for the purposes of this act, any other legislative bill passed by the One Hundred Eighth Legislature, First or Second Session, which appropriates funds, FY '21-22 means the period of July 1, 2021 through June 30, 2022; FY '22-23 means July 1, 2023 to June 30, 2024. And it goes on from there, all the way through June 30, 2027. So it would be striking that. And from a grammatical perspective of a greater understanding or even a legal perspective, so much of what we put into these is, you know, to put intent.

KELLY: One minute.

M. CAVANAUGH: And there's lots of language in our bills that is intent: for the record, the intention, the intentionality of it all. And this is defining what we already know and accept to be true. Our fiscal year runs from July 1 to June 30. So do we need to define it on page 1 of this bill? I don't think that we do, actually. I think that we could very much consider striking that. I don't think that chaos would ensue. A lot of things that you could vote for, chaos might ensue. This, I do not believe, is one of them. So, colleagues, I encourage you to vote your heart. Vote with the serial comma or against the serial comma. FA--

KELLY: That's your time, Senator.

M. CAVANAUGH: Thank you.

KELLY: Senator John Cavanaugh, you're recognized to speak.

J. CAVANAUGH: Thank you, Mr. President. Well, I'm going to vote against FA102. I think that it's probably better, just for clarity's sake, that we leave all the list of fiscal years, what, what each one of them is, in there. But I wanted to rise and, and kind of just talk a little bit more about what I was talking about in the last

amendment, because I didn't get to talk again after Senator Dungan spoke last time. And I did want to take issue with something he said. I, I don't-- he might have stepped out for a minute. He might have gone to get a drink or something like that. But he was talking about what I was talking about. But he also said one thing and I wanted-- this is what I-- why I wanted to talk about it was it's a distinction that might seem small to people, but I think it's a significant one. He said that people need to have the opportunity to object, if they want to have their hearing in-person. And I think it's important to say that the person needs to-- the, the holder of the right is the individual, so the defendant. And they shouldn't be in the position where they have to object or they have the opportunity to object, but more that they should be the one who gets to choose to waive. And that's a important distinction. Because if you object, it means a decision has been made and you say, I don't like that decision. And then the judge can rule on that. So the rule-- judge can rule, like our Chair can rule and overrule your objection and say, no, the equities and the reasons-- you know, the, the Robert's Rules or well, Mason's Manual. But in the courts or whatever, the, the law allows me to make this decision, even in the face of your objection. And so, putting them in that position and then there's also-- there's some, I think, disincentivization, in terms of court procedure to-- for a defendant to raise those sorts of objections about timing and procedure. But if they are the holder of this privilege and there has to be that they have to waive it themselves, then they are less likely to be placed in that position where they're going to be-- it's going to be forced on them. Because if they have to object, then it gets raised by somebody else and they have to object, so it shifts it. But if they are the one that has to waive it, then it is always with them. And so, they would have to be asked if they would be interested in waiving or be presented with a scenario where it's worth their while to waive or something along those lines. And so I think there's a distinction between waiving and objecting. And again, in an objection situation, the judge can overrule that objection. But if it's totally with the, the defendant, then they can't be forced to waive it. So if they refuse to waive, then it can't-- the, the, the decision rests with them and the judge cannot schedule the hearing not in-person. So, that's a distinction I thought was an important one to make and that's one of the things I've been talking about. And that's kind of where the rules are going and of concern. And that's what I'm concerned about for, you know, more particularly, our rural senators, our rural judicial districts, where, in the interest of, you know, perhaps great interest of efficiency and access to the courts, the, the court procedures are looking for ways to increase those efficiencies. But

what I'm saying is, we need to be wary of the fact that if we get-- vest too much power, give the courts too much opportunity to unilaterally or as I read that one rule, on their own-- what was the rule-- the reading-- district court on-- in his or her courtroom who at the sole discretion-- was the word. So that they-- we leave it to the sole discretion of the judge, then, you know, it, it can cause these unintended situations, where the judge may, you know, force somebody to have a hearing on Zoom that they would not otherwise want to have. And then, that may lead to a situation where the judge makes a different decision than they would have if everybody was in the courtroom, in front of them.

KELLY: One minute.

J. CAVANAUGH: Thank you, Mr. President. So that's what I'm saying. It's an important distinction to say we need to make sure that we create a climate and environment in which people have the opportunity to gain access to the courts through advanced technology, that the courts have the efficiency, that we have these opportunities for courts to be digital and that we can find the places where, we can, yes, maybe, make certain things digital and not have that be, you know, the sole discretion or be at the discretion of the defendant. But we need to make sure that we are jealously guarding the, the ones where we need to make sure that it has to be at the, the request or the waiver of a defendant, to ensure that justice is continued to be served and that people get their fair shot at being heard and that everybody gets treated fairly and they do not become dehumanized through the interest of efficiencies in our courts.

KELLY: That's your time.

J. CAVANAUGH: Thank you, Mr. President.

KELLY: Thank you, Senator Cavanaugh. Senator Day, you're recognized to speak.

DAY: Thank you, Mr. President. I rise in support of LB813. It's sad. The three years that I've been here, I've gotten to the point where I now have to squint to be able to read the board from where I'm at now. This place is not good for your health, including your eyesight. Oh, thank you. Now that I have my opera glasses-- oh. I rise in support of LB813. I'm not sure where I stand on FA102. I am a-- I consider myself a bit of a grammar nerd, although the many years that I have engulfed myself in the internet, I have probably lost some of my skill. But I am a firm believer in the Oxford comma, now known as the serial comma.

That is something that I was not aware that it was called, but a firm believer that when you are separating items in a sentence, they are distinct in their characteristics and should all be separated by a comma. Because the last two things are not together. They are separate and distinct and that would require an Oxford or serial comma. So I don't believe that I will vote for FA102 if it is striking the serial comma. But more importantly, I know we are talking about the budget on this bill, but I think we're all aware that the underlying purpose of this ongoing filibuster is because of LB574. And I am going to read an article that just came out, I believe, maybe, a couple of hours ago, in the Omaha World-Herald, titled Union Pacific and 300-plus other corporations signed a letter opposing anti-LGBTQ legislation. A week after more than 100 Nebraska businesses and nonprofit groups signed a letter opposing restrictions on gender-affirming care, a similar message from national corporations was sent to the state's lawmakers. The Human Rights Campaign sent a letter to state senators and Governor Jim Pillen, listing businesses opposed to anti-LGBTQ let-- state legislation. First drafted in 2020, the letter has, so far, amassed 319 signatures, including major corporations such as Apple, General Motors, IBM, Johnson and Johnson, Microsoft and United Airlines. And in that sentence, they did not use an Oxford comma, unfortunately. So Microsoft and United Airlines are combined into one concept, which, as I understand it, as I asked a reporter about this, they said that when they take out the Oxford comma, it removes one character which makes it easier to fit things into print. So that was their-- anyways, I digress. The letter includes some companies that have deep roots in Nebraska, such as Union Pacific, which is headquartered in Omaha, or significant operations in the state, such as Amazon, Cargill, Kellogg, Google and U.S. Bank. Union Pacific signed onto the Human Rights Campaign business statement on anti-LGBTQ state legislation in 2021 and has a long-standing public record of supporting our LGBTQ employees and community, including membership in Nebraska Competes and our 100 percent rating from the HRC Foundation's Corporate Equality Index, the company said in a statement. This session, the Nebraska Legislature has been embroiled in a debate centered on LB574, which currently aims to ban puberty blockers, hormone therapy and gender-affirming surgeries for individuals under 19.

KELLY: One minute.

DAY: Thank you, Mr. President. Backlash to the bill includes an ongoing filibuster by opponents that has slowed progress on all bills that have made it to the floor. The letter contends that such bills are harmful to companies' bottom lines, making it difficult for businesses in places with those restrictions to recruit qualified

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

workers. It says, such legislation deters businesses from investing in those areas. Legislation promoting discrimination directly affects our businesses, whether or not it occurs in the workplace, the letter reads. As we make complex decisions about where to invest and grow, these issues can influence our decisions. LB574's introducer, Senator Kathleen Kauth of Omaha, called that argument, fear mongering. In fact, she suggested Nebraska economic prospects might be harmed if it fails to pass such legislation, since many of the state's residents are conservative.

KELLY: That's your time, Senator.

DAY: Thank you.

KELLY: Thank you. And, Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. Good evening, colleagues. I wanted to touch upon-- in my earlier remarks, I said I wanted to really focus my remarks on LB813, in regards to three areas that are contemplated in the measure: higher ed, corrections and housing. I've had, I think, ample opportunity to talk about some of my concerns in regards to the higher ed resources in the overall budget package and hope to continue the conversation and over the course of the next few years, to make sure that we are meeting the needs of a modern system of higher education and honoring our commitment to ensure an accessible, high-quality, higher education opportunity for, for all Nebraskans. Next, I'd like to touch upon the corrections aspect of this measure. And if you look on page 74 and 75 of your budget book, you can see a little bit more about the significant costs in this measure that really emanate from two primary areas in the Department of Corrections. The first is an increase in the annual and this is statutory language, not mine, inmate per diem costs, and that ensures that we're providing enough resources to meet inflationary pressures hitting the Department of Corrections, when it comes to the provision of food, health services, electronic monitoring and other expenses. So that's a \$12.8 million price tag on that regard. And then, the-- you look at the very next line, you can see that there's a \$12.1 million cost, in terms of salaries that we, we need to take care of, in regards to the Department of Corrections. That includes the negotiated salary increases, which, of course, are long overdue for frontline first responders in our Department of Corrections, but of course, public employees writ large. I know we haven't had a chance to talk a great deal about it thus far, but I actually think that, that negotiation and that commitment to provide increased compensation and benefits to state employees is one of the brightest spots in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

budget. And I'm, I'm glad to see that finally be addressed. But I wanted to highlight the significant price tags in regards to the interplay with the Department of Correctional Services in this measure. We had a pretty significant, and I thought, overall, pretty thoughtful debate on General File, about the costs of corrections and about the costs of the massive new prison, which would be one of the most expensive and complex earmarks in state history, and will do very little, if any, to actually address our prison overcrowding crisis and of course, does not account for ongoing maintenance and operations. And that includes significant costs for employees, for staffing, for ensuring the kind of programming that we need to see to address recidivism and ensure that when people return to our communities, they're not coming home more sick or more hopeless and more likely to re-offend, but rather, better able to deal with life's challenges and better able to commit to pro-social activities and ensure a successful reentry. That advances our shared public safety goals, which I, I just wanted to lift up. But we had a chance to talk just a little bit, about how we kind of got in this mess in terms of mass incarceration, what that means from a fiscal perspective and then some of the solutions that we need to look at, not only within the budget, but, of course--

KELLY: One minute.

CONRAD: --pending before the-- thank you, Mr. President-- pending before the Judiciary Committee and other jurisdictional committees that touch upon smart justice reform. So I'm going to hit my light again, because I'm not sure if I'm going to have enough time to touch upon some of the root causes driving mass incarceration and racial injustice in Nebraska, some of the solutions attendant to those public policy challenges and then tie it in to the fiscal matters contemplated in our budget and in this deficit appropriation bill. Thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Vargas, you're recognized to speak.

VARGAS: Thank you very much, President. A couple of things I wanted to talk about. So for the Affordable Housing Trust Fund, there will be-- there's been several of us that have been working on housing for the last several years. It started with Senator Williams in the past with the Rural Workforce Housing Fund and has continued on with Senator Briese and myself and Senator Ibach and Senator McKinney, in terms of our work we're doing. But a lot of the work we've done with Affordable Housing Trust Fund and part of the reason I wanted to speak to it is

because, at some point, we're going to need to continue to look at how we can make sure these dollars are getting out to more affordable housing, this grant program, more affordable housing projects across the state. So as in, in page 75, and it's referencing-- this Affordable Housing Trust Fund was created in 1996 resembling its current form in 1997. It receives about \$0.95 for each \$1,000 value or fraction thereof. The important part about this is why we increased-- somebody thought we were, we were appropriating \$10 million more dollars to the fund when, in reality, what we were doing is increasing the authority of, of cash funds. And part of this was due to the higher than anticipated increase in real estate activity. The fund balance has exceeded the forecasts. And sometimes, what we see and we've-- we had this conversation a little bit with the Universal Service Fund. When we have more revenue and funds going into different cash funded-- cash funds, in this instance, the Affordable Housing Trust Fund, we want to make sure that those dollars are being used, getting out, we're not letting them build up a balance so they become overwhelming. A conversation we had on the floor about the Universal Service Fund and we've had about some of the Game and Parks cash funds has been these funds continue growing and they keep growing. And sometimes, we do utilize them. Sometimes, we, we sort of underspend. And it's incumbent on us to make sure we're investing these dollars appropriately. And for the Affordable Housing Trust Fund, there is more revenue, so we can be able to utilize it more effectively. Again, this program is run through DED. It's got a competitive grant process. We've actually, in the last several years, made this grant process much more competitive and have also reduced some barriers to make it easier for different groups, different organizations, to be able to apply, while still holding a high bar for the Department of Economic Development as they're reviewing applications. There are projects across the entire state. This is both urban and rural. I encourage people to go and contact DED, go on a site visit to some of these, some of these wonderful projects that are created from this Affordable Housing Trust Fund. It is the only truly ongoing, affordable housing program that we currently have in the state of Nebraska. This is one of the opportunities we have for homeownership for working families. And if we didn't have the doc stamp tax, the-- at least, the, the statute that funds this, we wouldn't have the investments in affordable [RECORDER MALFUNCTION] --and what we've seen these last several years is there's an ongoing need to invest in home ownership. I've mentioned this several times in committees, I don't think I mentioned it on the mic, the reason why I work on affordable housing and that many of us have worked on this is because I feel like it's the most universal thing that we can agree to. It is completely

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

bipartisan and really truly nonpartisan, that it doesn't matter if you were born in Gering, Nebraska, or Omaha, or anywhere in between, that everybody is seeking their first home. Everybody is seeking that home ownership, that first piece of the American dream. And they want to make sure it's affordable. And I'm really thankful we have effective, useful Department of Economic Development programs that are trying to make that--

KELLY: One minute.

VARGAS: --reality possible for people. So my hope is that there's a senator that takes up the charge with the Affordable Housing Trust Fund, making sure that we're investing in it, making sure the dollars are getting out, the balances aren't being built up. They're going to effective projects, works hand in hand with DED, like many of us have these several years, and is also looking to making sure these other programs are even more effective. These workforce housing programs are real opportunities that are investing in home ownership across the state in both rural, rural and urban Nebraska and wonderful projects. And that is not something that is funded ongoing. Those are, those are-- when we fund it, it gets an infusion of funds and that's in a separate bill. But for the purposes of this, for the Affordable Housing Trust Fund, I'm just encouraged that it has been so effective. We're getting the revenues in and we want to make sure these dollars are going out because about seven year-- oh, sorry, seven years ago, there was a report that said these funds were building up and it wasn't working as effectively as it could and we are trying--

KELLY: That's your time, Senator.

VARGAS: --to rectify that. Thank you.

KELLY: Thank you, Senator Vargas. Senator Erdman, you're recognized to speak and waive. Senator Day, you're recognized to speak.

DAY: Thank you, Mr. President. I'm going to continue reading this letter that came out in the Omaha World-Herald today titled: Union Pacific, 300+ other corporations sign letter opposing anti-LGBTQ legislation. Excuse me. I spilled on myself. Mike Hornacek, CEO of the nonprofit Together Omaha and LB574 opponent, said he knows that not all conservatives support the bill. And this also reflects many of the comments that I have heard in my own life anecdotally from conservatives and Republicans that I know. The Human Rights Campaign letter reflects similar statements made in the letter that Hornacek drafted and sent to lawmakers last week. The more than 100 signatories

to this letter said they opposed LB574 and a similar Kauth bill, LB575, which would regulate transgender students' access to bathrooms and locker rooms, and their participation in school sports. Some of the businesses and groups who signed the Hornacek letter said they have, they have, they have harassed-- there's a word missing. Some of the businesses and groups who signed the Hornacek letter said they have been harassed by supporters of the bills. But Hornacek said he hasn't been asked by any businesses to retract their signatures. That's-- I'm not sure if somebody mentioned this on the mic yesterday, but there were multiple reports of the businesses that signed onto the initial letter. Locally, I think from the Omaha area of I think 115 businesses opposing LB574 who received harassing phone calls with various, just really nasty things that were said, voicemails left on their phones, basically trying to bully them into asking to retract their signatures from the letter that was sent in opposition to LB574. Hornacek said it's difficult to know the level of legitimate danger behind such harassment. As a parent to a transgender teenager, he said that he constantly fears for his family's safety since he started speaking out. He said it's disappointing that Nebraska has reached a point where there can't be real dialogue about these issues. If we listen to experts in this area, we wouldn't even be here, Hornacek said. And then the letter itself from the Human Rights Campaign. Business Statement on Anti-LGBTQ State Legislation: For years, business leaders have shared the detrimental business impacts of policies and debates that exclude LGBTQ people from full participation in daily life, including negative impacts on workforce, recruitment, productivity, and bottom line. In recent years, these policies have increasingly targeted LGBTQ youth, including a variety of attempts to isolate transgender youth and to make schools less safe and inclusive for LGBTQ young people. Today, we are seeing further expansion into policies that would block mention of LGBTQ inclusive families in schools, lead to book banning, and even attack the sexual harassment, prevention, safe workplace, and diversity, equity, and inclusion trainings and programs that are essential to corporate operations, ethics, and legal obligations. These issues remain major concerns for business leaders who are hearing concerns from employees and recruits about safety and inclusion for themselves and their children in states where such policies are pursued. The cumulative effect of these many attempts to exclude LGBTQ people is real, and these businesses-- and these business signatories remain impacted by these issues. This letter, originally published in 2020 as a joint letter with Freedom for All Americans,--

KELLY: One minute.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

DAY: --thank you, Mr. President-- continues to grow as business leaders seek to ensure that their team members feel safe and included everywhere they operate. So far, 319 companies have signed the business statement opposing anti-LGBTQ state legislation stating their clear opposition to harmful legislation aimed at restricting the access of LGBTQ people in society. We are deeply concerned by the bills being introduced in state houses across the country that single out LGBTQ individuals, many specifically targeting transgender youth, for exclusion or differential treatment.

KELLY: That's your time, Senator.

DAY: Thank you, Mr. President.

KELLY: Thank you, Senator Day. Senator Conrad, you're recognized to speak.

CONRAD: Thank you, Mr. President. Good evening, colleagues. I wanted to continue to help connect the dots about the budgetary implications in regards to the impact on the taxpayer and the detrimental effect on moving so many of our precious state resources into the Department of Corrections through not only the deficit appropriations bill but, of course, the mainline budget, capital constructions and transfers as well in relation to maintaining spending, picking up increases in salaries, and other needed items. And then, of course, the explosion in terms of costs when it comes to the massive new prison that will do little, if any, to address our prison overcrowding crisis, which has been declared under state law and will continue until our operations get, until we get below 125 percent capacity and that's nowhere in the near future. So I do think the massive new prison is a mistake, particularly without a plan for smart justice reform, because not only is this prison unaffordable and without merit, unless we can address those long-term challenges, the recent reports from the experts that we have asked to look at this have indicated unequivocally that it's not really one new massive new prison it's actually two. And we do not have a budgetary projection in place to fund that kind of significant, significant impact in our budget. So we see in the deficit appropriations, we see ballooning, skyrocketing costs on overtime, we've had a prison staffing emergency in place for some time. I believe now it is specifically focused on just a few institutions instead of system wide. But we're currently under, under state law under a prison overcrowding emergency and a staffing emergency at many, at, at least a few of our facilities and, and that's deeply, deeply concerning. And we're committing millions and millions, hundreds of millions of dollars to a crisis-riddled Department of

Corrections with no plan for how to stem the tide in contravention to the approach taken by our sister states that have engaged in smart justice reform and the federal government in through the enactment of a variety of measures, including the First Step Act. So we have a little time together. How did we get here? We got here really because of decades of inaction, a lack of political will to commit to smart justice reform, despite consensus ever growing across the political spectrum in our sister states and on the federal level. We've seen a lack of meaningful discretion for our hardworking, independent judges to provide meaningful alternatives to incarceration and to ensure that the sentence is derived and meted out on a case-by-case basis outside of extreme sentencing measures like the habitual criminal law or the mandatory minimum lot, particularly for nonviolent offenders, which still comes into play. We've seen a broken parole and probation system that was highlighted just very recently by an expose in the Flatwater Free Press thanks to the leadership of Senator McKinney in bringing forward accountability legislation to just get the parole board members to show up to do their job and what impact that had on individual lives and helping to--

KELLY: One minute.

CONRAD: --address these issues-- thank you, Mr. President-- in terms of mass incarceration. We've seen a lack of transparency and accountability for county prosecutors across this state in contravention to growing and emerging trends that we've seen in other states. And we see this continual doubling down creation of new crimes and exacerbation of existing crimes and penalties in the state house to prison pipeline. So that's how we, we got to where we are. And what does that mean? So not only do we have the most overcrowded prison system in the country, but think about that in human terms as well. About one in ten kids in Nebraska are going to have a parent in the criminal justice system. Let that sink in. What does that mean for our educational goals? What does that mean for our shared prosperity? Think about how unwieldy this system has grown. We have significant racial disparities at every stage of our criminal justice system, more than half of those incarcerated are there for a nonviolent offense,--

KELLY: That's your time, Senator.

CONRAD: --and about-- thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Machaela Cavanaugh, you're recognized to speak.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

M. CAVANAUGH: Thank you, Mr. President. I have been having off-the-mic conversations about a controversial topic as to whether or not the movie Die Hard is a Christmas movie or not. And I really need to process my feelings about some of the responses I've received on this so I will be digging in on that topic at a later time and date. And for now I would just yield the remainder of my time to Senator John Cavanaugh.

KELLY: Senator John Cavanaugh, that's to 4:35.

J. CAVANAUGH: Thank you, Mr. President. Well, I was-- thank you, Senator Machaela Cavanaugh. I think Die Hard is a Christmas movie, and I could talk about that for a while as well. But I did want to talk a little bit more about courts and access to courts and things. But I did want to point out, it's starting to get warm in here again, it got very warm in here last night and I was hoping we could have further air conditioning this evening. And so I know Senator Erdman pointed out last week that we need new light bulbs, and that seemed to spur people in to actually get them new light bulbs. So I'll just say to, you know, building commission that maybe we could have the air conditioning on in the Legislative Chamber in the evenings when we're here late because we are one of the three branches of the government and very important work we're doing, and maybe we do it, might do it a little bit more thoughtfully if we're not all really hot and not, you know, it's just harder to think straight when you're just overheated and getting dehydrated from sweating so much. But anyway, so I, I digress, but I just take this opportunity for the record. So I started talking right after dinner about the importance of technology in our courts, but also the importance of not overly being dependent on it. And I thought it was particularly apropos that when I was in the middle of speaking on my second time, actually it was Senator Machaela Cavanaugh's time, but it was the same time I was speaking, the entire building shut down. So the boards up here shut down, the, the cameras filming us shut down, the lights all turned off, our microphones turned off, the recording turned off. Everybody everywhere else in the building all turned off. And they came back on pretty quickly. But then it took a while for, you know, the board to get back to right, to get the microphones turned back on and the recordings, and those of you who are now watching on these cameras didn't get to see-- I stood here the whole time because I didn't know when we were going to come back up and I was in the middle of talking and, and, and we did get the microphones back at some point but I couldn't continue talking because we didn't have the recording. And so then we got the recording back and so I started speaking again. But then for the next, I don't know how long it was, 15 minutes or so, the camera broadcast wasn't

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

back up yet either. And, you know, technology, these things, they take a while to get back, readjusted, and, and it's of no fault of anybody in this building because clearly the whole building went down. So it was some, probably some external factor, force majeure, act of God, however you say it, but this is relevant. It was, I think, very interesting that we're talking about overreliance on technology. The folks at home, you know, you didn't get to see what was happening here, wasn't that interesting, but, I mean, I was talking but, you know, other than that. But we couldn't conduct the business because we didn't-- we weren't recording. And so we, we have become dependent on the recording to the point where who knows how long, you know, if that shut down what we would have done, lose the remainder of the legislative day? We've been working for two hours since then and we'll work for a few more. But my point is, in the context of this broader conversation, this technology is great. It allows the folks at home to watch this. It allows us now we're going to be recording these thanks to Senator Brewer. It allows us all to see these boards and know what's going on, allows us to go on our computers and see what the bills are, in particular, and the amendment is, what this FA102 is that I oppose is about, and these recordings allow--

KELLY: One minute

J. CAVANAUGH: --people-- thank you, Mr. President-- to go and, you know, get these things, listen to the recordings and all of these things, then the transcribers then can record at a different time. All of those things are great, but when they don't work, we can't do what we're supposed to do. We can't get our business done. And so I started all this talking about access to the courts is improved by this technological improvements and that we are having more opportunity for people getting to court and all these different ways. But we don't want to become overly dependent on it to the point where we cannot conduct the essential business of our state and of our courts because we become so reliant on a technology, though great is fickle, and can be subject to a lightning strike or a severed, you know, telephone line or a power outage, and then we can't do the work that we could do if we were all sitting in this room together just if the only thing we had to do was talk to each other in person. So that's I thought was a pretty interesting distinction or a point that needed--

KELLY: That's your time, Senator.

J. CAVANAUGH: Thank you, Mr. President.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: Thank you, Senator Cavanaugh. Senator Day, you're recognized to speak and this your last time on the motion-- or floor amendment, floor amendment.

DAY: Thank you, Mr. President. I am just going to finish reading this business statement here, and then I am done talking for the night because I am tired. It's 8:19. If I was at home, I would definitely be in my jammies, ideally in bed, watching the latest episode of Succession that I have not been able to watch yet and I am dying to get the opportunity. It likely won't happen tonight because I will go directly to bed when I get home because I'm a very sleepy person. So, again, the letter that was sent out, 300+ plus businesses, including Union Pacific, sign a letter opposing anti-LGBTQ legislation. I will remind everyone we're talking about Union Pacific, which we know is headquartered in Omaha, and then some other large corporations that have significant operations in the state like Amazon, Cargill, Kellogg, Google, and U.S. Bank all signed onto this letter. The full statement reads: The companies joining the statement do business, create jobs, and serve customers throughout the United States. Our businesses strongly embrace diversity and inclusion because we want everyone who works for us or does business with us to feel included and welcomed as their true, authentic selves. Fairness, equal treatment, and opportunity are central to our corporate values because we care about our employees and the customers we serve. What's more, these values also matter to our bottom lines. Inclusive business practices lead to more productive and engaged employees, increased customer satisfaction, and ultimately improved competitiveness and financial performance. We are deeply concerned about the bills being introduced in state houses across the country that single out LGBTQ individuals, many specifically targeting transgender youth for exclusion or differential treatment, like LB574. Laws that would affect access to medical care for transgender people, parental rights, social and family services, student sports, or access to public facilities such as restrooms, unnecessarily and uncharitably single out already marginalized groups for additional disadvantage. They seek to put the authority of state government behind discrimination and promote mistreatment of a targeted LGBTQ population. These bills would harm our team members and their families, stripping them of opportunities and making them feel unwelcome and at risk in their own communities. As such, it can be exceedingly difficult for us to recruit the most qualified candidates for jobs in states that pursue such laws, and these measures can place substantial burdens on the families of our employees who already reside in these states. Legislation promoting discrimination directly affects our businesses,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

whether or not it occurs in the workplace. As we make complex decisions about where to invest and grow, these issues can influence our decisions. America's business community has consistently communicated to lawmakers at every level that such laws have a negative effect on our employees, our customers, our competitiveness, and state and national economies. As business leaders dedicated to equal treatment, respect, and opportunity for all, as well as to improving the financial and investment climate across the country, we call for public leaders to abandon or oppose efforts to enact this type of discriminatory legislation and ensure fairness for all Americans.

KELLY: One minute

DAY: I will yield the rest of my time. Thank you, Mr. President.

KELLY: Thank you, Senator Day. Senator Conrad, you're recognized to speak and this is your final time on the floor amendment.

CONRAD: Very good. Thank you so much, Mr. President. And I failed to give credit where credit was due, of course, the presiding officer who now, now serves as our Lieutenant Governor, has a long and distinguished career as a prosecutor in our community and then also on the state and federal level as well. And I'm well aware of some of the innovations that he brought to the office in the Lancaster County Attorney's Office in regards to prosecutorial transparency that were really cutting edge and should be more closely examined by our prosecutors across the state for a more uniform and modern application, because I think it would be instructive and helpful to an overall smart justice approach to reforms. So even though I believe that this massive new prison is untenable from a moral and fiscal perspective, I do believe we are taxing ourselves to death to fuel mass incarceration and racial injustice. If this body is committed to providing those resources as it seems that it is, it does not alleviate our obligation to also pursue as robustly a course for smart justice reform. That must happen. That must happen this session. Those conversations must continue to come forward in the-- over, over the biennium and into the next year. And what does that look like? Friends, it's not academic. We don't have to guess. There's been study after study after study to show us what smart justice reform looks like. I know Senator Wayne has been working tirelessly to try and bring forward a smart justice package to help address these issues and the inherent human rights abuse and racial injustice component of these policy dilemmas as well. But we have to admit to ourselves and each other in the public that we cannot afford to build our way out of

this crisis. We have to ensure that we take a multifaceted approach to addressing this multifaceted problem. But we can learn from the examples of our sister states for how to do it. We've got to take up the front end. That means sentence reform. That means diversion. That means problem-solving courts. That means mental healthcare and treatment services. We've got to make the inside investments. That means an infusion of money to make sure that our hardworking correctional staff is safe and has the resources that they need to help people turn their lives around. We got to ensure that we have the programs and services in place to address recidivism. And we know from our own reports that there is a backlog. People are waiting to access programs and services that will advance our shared public safety goals. And we got to address the back end. That means smart innovations in parole and probation. That means improved access to prosocial activities like voting, like civic engagement, like removing barriers to accessing the safety net, whether that's food assistance or Medicaid assistance. And we have to remove barriers to education and employment. I have introduced an interim study on these very topics to at least address some of our reentry opportunities to make a difference in breaking cycles of recidivism. The good news is there's bipartisan support for these smart justice measures in our sister states and on the federal level. The good news is we can learn from these examples. The bad news is it's going to take a shift in our politics, in our political will. We're going to have to shed some of the tired thinking about being tough on crime and waging a war on drugs. We have to start to choose a better path because the impact--

KELLY: One minute.

CONRAD: --for humans, the human impact, the family impact, the fiscal impact-- thank you, Mr. President-- is untenable and unsustainable and unaffordable. So we have to be unafraid to address these crises, we have to learn from the examples that are out there, and we have to figure out a better way to save money, have better outcomes, and to ensure that our shared public safety goals are advanced. The status quo does not keep us safer. Building a massive new prison is bricks and mortar. It's a fancier box. It doesn't keep us safer. We have to be able to ensure when we're committing these resources, we're keeping our communities safer. We do that through smart justice reforms. Thank you, Mr. President.

KELLY: Thank you, Senator Conrad. Senator Cavanaugh-- Machaela Cavanaugh, you're recognized to speak and this is your last time before your close.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

M. CAVANAUGH: Thank you, Mr. President. I still am processing the Die Hard conversation. Is it a Christmas movie? Is it not a Christmas movie? Have you seen it? If you haven't, prioritize that. My oldest child has seen Die Hard when they were 24-hours-old, watched it with me in the hospital, took a picture. It was on Facebook. And I love every time it comes up to remind me that we watched Die Hard together right out of the gate. Senator John Cavanaugh, I agree, it absolutely is a Christmas movie. It is set at a Christmas party. Clearly, it's a Christmas movie. Senator John Cavanaugh had given somebody else examples, further examples beyond just the party, how he'd taped the gun to his back using wrapping paper. It's a Christmas movie. It's an undisputable fact that it is a Christmas movie. I mean, maybe it's disputable, but I don't think so. I think-- I take it as a fact that Die Hard is a Christmas movie. Now, I'm not talking about the other Die Hards, the original, the real deal, Christmas movie. I feel like I may have opened up a major controversy with this conversation so I am going to withdraw my amendment. Thank you, Mr. President.

KELLY: Mr. Clerk.

CLERK: I have nothing further on the bill, Senator.

KELLY: Senator Fredrickson for a motion.

FREDRICKSON: Thank you, Mr. President. I have the distinct honor to move to advance LB813 to E&R for engrossing.

KELLY: Senators, you've heard the motion. All those in favor say aye. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 25 ayes, 0 nays on advancement of the bill to E&R for engrossing.

KELLY: LB813 is advanced to E&R Engrossing. Mr. Clerk, for items.

CLERK: Mr. President, next bill, LB562. First of all, Senator, there are no E&R amendments. I have a motion from Senator Hunt to bracket LB562 until June 2, 2023, motion 646.

KELLY: Senator Cavanaugh, you're recognized to open on the motion.

M. CAVANAUGH: Thank you, Mr. President. OK, LB562 has been a fun ride. Get it? Car driving, ethanol. It's 8:33. It's been a long couple of days. My "punny" jokes are not "punny" at all. I'm not going to reopen the controversial conversation regarding Die Hard. So on General File,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

LB562 went to cloture without a vote on the committee amendment and that has caused a significant amount of heartburn for, well, people in the Chamber, people outside of the Chamber, but also staff and I do not want to continue to cause heartburn for staff so, so I'm going to make sure that we get to that today or tomorrow or whenever, essentially the amendment is coming. In addition to that, I, I appreciate in value Senator Dorn. And we've worked together for several years and we've sat next to each other, we've sat in front and behind one another. And I know that this amendment that is pending makes the bill better for pretty much everyone involved. So with that, I will slowly say I will withdraw the motion. Thank you, Mr. President.

KELLY: So ordered. Mr. Clerk.

CLERK: Senator Cavanaugh, I have motion 645 from Senator Hunt, as well as motion 644 from Senator Hunt, both with notes to withdraw.

KELLY: So ordered.

CLERK: In that case, Mr. President, Senator Raybould would move to amend with AM1378.

KELLY: Senator Raybould, you're recognized to open on the amendment.

RAYBOULD: Thank you, Mr. President. This amendment is, is actually for the amendment but it-- Mr. President, I believe this, this amendment is for the amendment that is yet to be introduced. Could we get a clarification, please?

KELLY: Mr. Clerk.

CLERK: Apologies, Senator. The committee amendments were not adopted on General File, therefore, the first amendment up on Select will be AM1248.

KELLY: Senator Halloran, you're recognized to open on the committee amendment.

HALLORAN: Well, thank you, Mr. President. Good evening, colleagues. This has been a bumpy ride to get to the committee amendment. A few detours along the way, but here we are. We spent eight hours in General on LB562 and that-- and this is a white copy amendment I'm about to read to you. It is the bill. And so all, all the debate we had on, on, on General was pretty much for not because this changes the bill. The Agriculture Committee amendment, AM1248, is a white copy

amendment that becomes the bill. The committee statement provides a fairly detailed section-by-section description of LB562 as introduced and as amended that I would encourage you to consult as we proceed with the debate today, but I will quickly walk through the most significant changes in the amendment and the committee's intent behind them. I want to stress that our committee worked diligently to bring you a compromise amendment today for your consideration. Countless hours, countless options, amendments, and concepts were debated prior to gaining support for AM1248. First, the committee amendment rewrites the standard in a more readable and understandable way. As clarified by the amendment, there are actually two parts to E-15 standard. First, the E-15 access standard trigger mechanism replaces what was perceived as a mandate in the original bill. A trigger mechanism better reflects the shared goal of gas stations in the ethanol industry to give consumers the freedom to choose homegrown ethanol blends that will give Nebraskans a range of fuel options and bigger savings under a structure that incentivizes this activity rather than mandate it. The trigger mechanism is set at a blend-rate percentage in the future, which reflects the shared goal and will be tracked using existing reporting capabilities within the Department of Revenue. New construction standards remain in the bill, however, requirements for replacement and upgrades have been removed while retaining a narrow provision as requested by the gas station industry that would only apply to replacement and upgrades that impact more than 80 percent of a facility. There was a great concern by the gas station industry on requirements that would occur when infrastructure is replaced or upgraded. Adopting an 80 percent standard makes it clear that major overhauls and only new construction are impacted by this particular provision. The amendment retains the provision that neither standard applies during any time the fuel infrastructure at the site is under construction. The amendment retains the authority for the Governor to waive the standard during periods of E-15 shortage or pricing volatility causing consumer harm. The amendment also retains another exemption for sites where all fuel tanks are constructed of certain materials and manufactured prior to specific-- specified dates. As a result of negotiations through several exemptions and waivers have been enhanced to address concerns. The amendment retains a waiver for when costs to comply are substantial, but dramatically reduces the threshold at which that cost waiver kicks in. Gas stations expressed concern over the amount, and so the cost waiver will now offer a waiver to the standard to offer E-15 from at least one dispenser if the cost of compliance would exceed \$15,000 rather than \$100,000 in the original bill. This reduction encourages and incents the transition to E-15 without burdening gas stations who are not equipped

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

to sell E-15. The amendment also retains a small volume exemption. In the original bill, this was a waiver that was required to be applied for at each location. Out of a desire to make the program as accessible as possible and limit regulatory complexity under the amendment, is now an exemption that the retail locations simply attests to. And the amendment allows a retailer to claim the exemption for multiple sites. Lastly, the committee amendment opts to enhance the refundable income tax credit the retailers who sell E-15 and higher blends of ethanol may claim rather than providing cost-share assistance. After conversations, enhancing the tax credit was preferred mechanism among all parties to further incent the transition to E-15 and make this transition as economically viable for participating gas stations. LB526 [SIC--LB562] was heard by the committee on February 7. It was a well-attended hearing with a number of testifiers, both for and against the original bill. There's been a lot of work by Senator Dorn, committee members, and others behind the scenes since the hearing to try to find a means to enable consumers to have a greater access to E-15 fuels at least disruption and inconvenience to the industry. These proposed changes satisfy a number of concerns of opponents and many no longer oppose the bill. I move the adoption of AM1248 and the advancement of LB562.

KELLY: Thank you, Senator Halloran. Senator Hughes, you're recognized to speak.

HUGHES: Thank you, Mr. President. I rise to talk about-- or I support AM1248 and-- to LB562. I was part of the Ag Committee and was in attendance for the hearing on this bill. The original bill of LB562 as originally presented, I was not a fan. In my opinion, it was a total mandate. This bill, as it was written, would have required gas stations to put E-15 at half of all their pumps by January 1 of 2024. And if it costs you over \$100,000, then you got a waiver. But if it cost you \$99,000 or less than you had to do it, there were some money for grant-- granting in if you did have to do that. Last year, a bill was passed that gave a five-cent tax credit per gallon for E-15 sold. And my question at the time was why wasn't this allowed to work before the stick was brought in? I have said multiple times I am for a carrot and not a sick-- stick. So there were several of us on the committee, on this Ag Committee that worked very hard to make this bill better. We held, held meetings with all parties involved to come to the table and discuss the issues. We had the retailers, the ethanol producers in a discussion. Ethanol kept repeating, we are the second highest-- as a state, Nebraska is the second highest producer of ethanol, and yet we're at the bottom ten states that sell it. Our state average of ethanol sold is 9.7 percent, and we need to have ethanol purchased

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

here. So ultimately, what we came about, which is what this amendment does, is we said what, what is that goal? And so AM1248 was created, which makes this bill better. It sets a goal of 14 percent ethanol blend to be sold. And if that is met by January 1 of 2028, then no mandatory switching is mandated. We also did more with the incentives. And for example in 2023, we have a five-cent per gallon credit for ethanol, every gallon of E-15 sold, in '24 it goes up to eight cents; in 2025, nine cents; 2026, back down to eight cents; and 2027, seven cents. So those incentives are in place to try to help get our retailers to get to that goal of 14 percent ethanol sold here in Nebraska. The State Department will also do, I believe it's a monthly report of where we're at in terms of that ethanol blend sold. So our retailers will see our tracking toward that goal. We also lowered the limit of what it costs to make that change. If, for example, we're not at that 14 percent goal, we lowered it from \$100,000 to \$15,000. So if you-- if it would cost you more than \$15,000 to make that switchover, then you do not have to do the change. And then there's some other, other options in there. If you sell less than 300,000 gallons a year of gas, you don't have to make the change, etcetera. So, colleagues, we spent a lot of time on this bill and we went round and round with the main players. In fact, I was just talking with one of the lobbyists and he's, like, I'm so sorry of being a pest on this. So it was a lot of work to do this, and I, I feel like we have made it better with this amendment. So please, would ask you to vote yes on AM1248 to LB562. Thank you, Mr. President.

KELLY: Thank you, Senator Hughes. Senator Raybould, you're recognized to speak.

RAYBOULD: Thank you, Mr. President. I do want to commend my colleagues on the Agriculture Committee. I am a very proud member of the Ag Committee and I know that we work pretty hard on trying to come up with compromises, working with the ethanol industry, the Corn Board, and a lot of the retailers and trying to work through all their objections. I know a lot of the discussion focused on it's a mandate and, yes, it is a mandate. We want to support agriculture in our state. And I think the compromises that we worked out are more reasonable than what they were before and more appropriate goals that we set are more realistic and appropriate. The enforcement side is still somewhat harsh because it gives the Department of Agriculture: may suspend or revoke a retailer's weighing and measuring establishment permit. That means that your permit to operate your fuel center if you are not in compliance. Now I know the amendment makes it clear the process that retailers have to go through to get that waiver, they are also willing to work with that retailer to get the

waiver, particularly for those smaller one fuel center independent operator to give them the additional time. And in many cases the older operator, meaning not the person but the station itself, has old outdated underground storage tanks that would not be able to be converted because ethanol blends are a highly corrosive blend of fuel. So I, I do stand in support of this amendment. I think it makes the whole bill a lot better. I'm a big fan of sunsets, and this does have a sunset of five years. It's-- we're here to help support the ethanol industry. I think it's reasonable, the five years, and it's up to future colleagues to either try to renew it or not, of course. I can see the future as well when it comes to vehicles that are driving our economy. And I know that electric vehicles are becoming more and more popular. And I know Senator Halloran and I went back and forth, what do our customers want? Will they come and tell me they want E-15 or E-30 in our fuel stations? And the reality is they do, they do tell us what they want and it's, it's funny we have some electric vehicle charging stations at some of our fuel centers. And the minute one of them goes down, I start getting calls from customers saying we need the EV charging station back up. And so I, I can see it's going to be the wave of the future. We know that every single automobile manufacturer has electric vehicles or electric models in their lineup and some are actually going to be going to all electric vehicles. We know that within five years they're going to be a predominant player in the automobile industry. And within ten years probably, every single family in the United States will have an electric vehicle. So I do support AM1248. The one thing that we sort of launched in talking about is my amendment. And my amendment is specifically for those retailers that request a waiver and the Department of Agriculture can take quite some time to review the waiver.

KELLY: One minute.

RAYBOULD: Thank you, Mr. President. And the idea is once they either approve, but when they deny my amendment gives that retailer 90 days to be in compliance. If we don't have that 90 days to get into compliance, the, the fuel station runs the risk of losing their license to operate. And it's-- a 90-day compliance is standard in the business world. And so I ask my colleagues to please support AM1248 but also support my amendment that's coming up very soon. Thank you, Mr. President.

KELLY: Thank you, Senator Raybould. Seeing no one else in the queue, Senator Halloran, you're recognized to close on the amendment and waive. Members, the question is the adoption of AM1248. All those in favor-- a request for a roll call vote. Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

CLERK: Senator Aguilar. Senator Albrecht voting yes. Senator Arch voting yes. Senator Armendariz voting yes. Senator Ballard voting yes. Senator Blood. Senator Bosn voting yes. Senator Bostar voting yes. Senator Bostelman voting yes. Senator Brandt voting yes. Senator Brewer voting yes. Senator Briese voting yes. Senator John Cavanaugh voting yes. Senator Machaela Cavanaugh not voting. Senator Clements voting yes. Senator Conrad voting yes. Senator Day voting yes. Senator DeBoer voting yes. Senator DeKay voting yes. Senator Dorn voting yes. Senator Dover. Senator Dungan voting yes. Senator Erdman voting yes. Senator Fredrickson voting yes. Senator Halloran voting yes. Senator Hansen voting yes. Senator Hardin voting yes. Senator Holdcroft voting yes. Senator Hughes voting yes. Senator Hunt. Senator Ibach voting yes. Senator Jacobson voting yes. Senator Kauth voting yes. Senator Linehan voting yes. Senator Lippincott voting yes. Senator Lowe voting yes. Senator McDonnell voting yes. Senator McKinney. Senator Moser voting yes. Senator Murman voting yes. Senator Raybould voting yes. Senator Riepe not voting. Senator Sanders voting yes. Senator Slama voting yes. Senator Vargas voting yes. Senator von Gillern voting yes. Senator Walz voting yes. Senator Wayne. Senator Wishart voting yes. Vote is 41 ayes, 0 nays, Mr. President, on adoption of the amendment.

KELLY: The amendment is adopted. Mr. Clerk, for items.

CLERK: Mr. President, next amendment on the bill, Senator Raybould would move to amend with AM1378.

KELLY: Senator Raybould, you're recognized to open on your amendment.

RAYBOULD: Thank you, Mr. President. I'll try to be brief and ask my colleagues to please support this. The amendment just permits the retailer if they are denied the waiver that their fuel station does not need to comply. If they're denied that, then they're given 90 days to get the fuel station in compliance. And that would allow them to not be subject to having their license revoked. And so I do ask my colleagues to please vote in support of that. That is a very reasonable standard business request. Normally, it's in most contracts. If you're not in compliance, you're given-- once you're given a denial, you're given at least 60 to 90 days to, to get into compliance. And that is, that is my only comment I have and if we're going to-- if there's no other people in the queue, I'd like to have a roll call, a call of the house.

KELLY: Actually, Senator, Senator Halloran is in the queue. You're recognized to speak. Yes, you're recognized to speak, Senator Halloran.

HALLORAN: Thank you, Mr. President. I'd like to address AM1378. AM1378 is not seen as a friendly amendment to the bill for a couple of reasons. First, the amendment seeks to address a stated concern that isn't problematic. First, the E-15 requirement may never come into being if the blend rate goal is hit. Before we ever get to a place where a retailer is considering the need for a waiver, we'll have nearly five full years of tracking this state blend rate until-- under the compromise version of the bill. Over those years, retailers will have regular updates on where we are in terms of that trend line and will have the ability to make business plans based on those trends, knowing well before 2028 what they'll need to do. Furthermore, at Senator Raybould's request in the committee, Section 10 of the compromise amendment includes a three-month delay in the timeline for when the department can take any action if the blend rate goal is not met. I would point out that this ultimately provides retailers with a full 15 months of additional time beyond what the introduced version of the bill would have gained. So I would encourage a red light for AM1248 [SIC]. Thank you, Mr. President.

KELLY: Thank you. Thank you, Senator Halloran. Senator Raybould, you're recognized to speak.

RAYBOULD: Thank you, Mr. President. I do appreciate Senator Halloran's concern, but since there is a cost associated with the conversion, a minimum cost that, that that fuel station has to incur, I would respectfully say that there is a compliance and data that you have to provide to the Department of Agriculture to verify the age of your equipment, the, the style and make and model of your tank to see if it is going to be exempt. You have to have a third party come and verify the information that you're presenting to the Department of Agriculture is true and accurate, that your equipment is too old to convert. And I think it's only fair that some, some retailers are not interested in selling an ethanol blend other than what they already have. The most popular ethanol blend is E-10, and they're not interested in making the conversion. If it's under \$15,000, they have no choice because it is a mandate to do that. So I think it's reasonable, standard, customary, normal for that retailer once they're given the denial that they feel that their, their fuel station should be exempt, that, that they have no choice at that point in time, that they have to incur the expense up to \$15,000 to get that fuel center converted and they should be given at least 90 additional days to be in compliance with that. So for that reason, I ask my colleagues to please vote green on this amendment. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: Thank you, Senator Raybould. Senator Halloran, you're recognized to speak.

HALLORAN: Well, I appreciate Senator Raybould's concern, but the amendment that she's suggesting here also presumes that an application for a waiver will be denied. The language of Section 6 on page 4 of the amendment, line 18, states that: The director shall issue an order that waives the requirement. The language says that if a retailer is eligible for a waiver, they get the waiver. Senator Raybould's amendment proposes to remove the language in the bill that allows the department and the Fire Marshal to evaluate the evidence of a retailer's qualifications for a waiver. Without the ability for the department to review the evidence presented and the expertise of the Fire Marshal to consult, the waiver process will be open to abuse by retailers who might submit a noncredible report from a paid consultant simply to avoid compliance. Again, I encourage a red light on AM1378. It is not necessary.

KELLY: Thank you, Senator Erdman-- or excuse me, Senator Halloran, and, Senator Erdman, you're next.

ERDMAN: Thank you, Mr. President. I see Senator Raybould's amendment, and I would assume that in some of these cases that these dispensers will dispense either 15 or E-10, either one. And in some of those cases if the tanks meet the requirements, all they have to do is change the sticker on the dispenser. And some people assume that those things you get gas from are a pump, they're not. The pump is in the tank. They're a dispenser. And so there will be minimal cost to switch over on most of these gas stations, most of these service stations. And so what I believe her amendment is, is a solution looking for a problem. And so I will also be voting read on AM1378. Thank you.

KELLY: Thank you, Senator Erdman. Seeing no one else in the queue, Senator Raybould, you're recognized to close on the amendment.

RAYBOULD: Thank you, Mr. President. I've been involved in the business world for at least 36 or more years, if you count my, my work experience when I was eight years old. And I deal with contracts on a daily basis for one of the largest corporations in our city of Lincoln. We operate in three states. This is pretty standard, customary in normal language for any operator to have to get into compliance when you get a denial, many retailers already have E-10. They would not stop selling E-10 because that's one of their biggest sellers, which means they would need to convert another one of their tanks and their pumps, their dispensers to be able to offer this.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

Right now, I can tell you that there is not a big demand for E-15 or E-30. We know that Iowa already went through this process and it is not a high, high priority, high preference type of fuel in the state of Iowa. E-10 is still their number one seller. So, yes, there is going to be some fuel centers out there. I'm not saying they're going to be ours. I'm just saying that these small operators throughout our state of Nebraska are going to be forced to make a decision if they want to switch to get rid of their top seller E-10 to go to E-15. And they shouldn't have to be forced to do something like that. They shouldn't have to be forced to go through a very complicated process to get the waiver from the Department of Agriculture. If, if their tank is a single-wall tank, it's just way too old. It will not be able to handle any ethanol blend, let alone E-10, because it's a single-wall tank. Most, most fuel centers are constructed with double-wall tanks that can take on any type of ethanol blend, but those are typically new fuel centers. And so I asked my colleagues, please vote on something that is a reasonable standard, customary business language to allow those retailers to have the additional time they need to get into compliance. Thank you, Mr. President.

KELLY: Thank you, Senator Raybould. Senators, the question is the adoption of AM1378. All, all those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 7 ayes, 27 nays on adoption of the amendment.

KELLY: The amendment is not adopted. Mr. Clerk, for items.

CLERK: Mr. President, next item, Senator Machaela Cavanaugh would move to amend with AM1369.

KELLY: Senator Machaela Cavanaugh, you're recognized to open on the amendment.

M. CAVANAUGH: Well, thank you. I'm not sure what it is, so I'm going to go ahead and withdraw.

KELLY: So ordered. Mr. Clerk, for items.

CLERK: Mr. President, next item, Senator Hunt has AM1380.

KELLY: Senator Cavanaugh, it's our understanding you're authorized to act on that matter.

M. CAVANAUGH: Yes, thank you, Mr. President, and I will withdraw AM1380.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: It is withdrawn. Mr. Clerk.

CLERK: Senator Dorn, I have FA68.

KELLY: It is, it is withdrawn.

CLERK: In that case, Mr. President, Senator Brandt would move to amend with AM1554.

KELLY: Senator Brandt, you're recognized to open on the amendment.

BRANDT: Thank you, Mr. President. Good evening, colleagues. Tonight, I am happy to bring AM1544 [SIC], which is my bill LB116, regarding the Beginning Farmer Tax Credit Program. This legislation updates the Nebraska NextGen Program to assist beginning farmers and ranchers by modernizing the requirements to qualify for the program for the purpose of encouraging more beginning farmers and ranchers. LB116 makes three changes to the eligibility requirements for the program. The first, it increases the maximum net worth for beginning farmers from \$200,000 to \$750,000. Number two, it removes pensions and, and other retirement funds from the net worth calculation. And number three, it removes the ten-acre minimum acreage requirement in the definition of a farm. Nebraska's NextGen Program, beginning farmer and rancher program, began 22 years ago in 2001. Since that time, the program has helped 565 beginning farmers and ranchers and granted \$16.2 million in tax credits. Over the last five years, the average number of applications per year have been 75, with the annual total tax credit of \$1.3 million, which averages \$5,200 in tax credits per year for each owner who leases to a beginning farmer. To qualify for the program, the beginning farmer or rancher must be a resident of Nebraska, have farmed and ranch for less than 10 of the last 15 years, provided the majority of the day-to-day physical labor and management, plan to farm or ranch full time, and has farming and ranching experience or education, and has participated in an approved financial management course. Beginning farmers and ranchers who qualify for the program will sign a three-year land lease, land rental lease, rather than a year-to-year lease. They are also eligible for a \$500 tax credit reimbursement for an approved financial management course and they can apply for personal property tax exemptions. Under the fiscal note, the original fiscal note stated there could be an additional \$10 million or \$11 million in tax credits, but on average there have only been \$1.3 million in tax credits annually from this program. To be safe, we are capping the program at \$5 million annually, but I don't suspect it will get close to that number. Finally, LB116 makes a few minor adjustments to the beginning farmer board and increases the net

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

worth threshold to qualify for NIFA beginning farmers loan programs. Thank you, Senator Dorn, for allowing this bill to be added onto his priority bill. And with that, I would ask for your vote for AM1544 as well as LB562. Excuse me, AM1554.

KELLY: Thank you, Senator Brandt. Senator Erdman, you're recognized to speak.

ERDMAN: Thank you, Mr. President. Good evening again. I was wondering if Senator Brandt would yield to the question, maybe two?

KELLY: Senator Brandt, will you yield to a question?

BRANDT: Yes, I would.

ERDMAN: Senator Brandt, you talk about having a personal property tax exemption. How much?

BRANDT: We know a little bit about that. My son Evan came home to farm about four years ago, and that was the only part of the program he qualified for. Basically, if you-- I think it will be up to \$100,000 worth of equipment and it, it amounts to about \$1,500 dollars a year for three years if you have that whole amount. Now if you have \$20,000 worth of equipment, it's going to be much less than that.

ERDMAN: So, so in other words, if you have \$100,000 you'll be exempt on the whole \$100,000, if you have 50, you'll be exempt on 50?

BRANDT: Yes. And if you have \$200,000, you're only exempt on \$100,000.

ERDMAN: OK. All right. Very good. Thank you. I noticed under your, your points you gave out, you passed out the information, it says increase the maximum net worth from \$200,000 to 750. And then the next line says removed pensions and other retirement funds from the net worth calculation. So a beginning farmer who has a net worth of \$750,000 excluding those things, in my opinion, may not be a beginning farmer. What is your-- what do you say to that?

BRANDT: I think it would be unusual for a beginning farmer to have that kind of net worth. We met last summer, the Ag Committee, with all the stakeholders, and I know Senator Jacobson was there. On the pensions, what a lot of people don't realize is a lot of young people in agriculture today will go work for another company before they come home to farm. Somebody like ADM, somebody like that, they might work five or ten years for them, or the [INAUDIBLE], and they can acquire \$50,000 or \$100,000 in retirement. Under the current program, that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

counts against the \$200,000, and it just doesn't leave much room for equipment or livestock or in a lot of cases, land. So originally the bill was to go to \$1 million and we were in agreement that we could bring that down to \$750,000.

ERDMAN: OK, so what you're saying then is if one qualifies for the beginning farmer, they can offer that tax credit to the landowner that they rent from. Is that correct?

BRANDT: They get-- that tax credit is an incentive for a landlord to lease to a beginning farmer as a carrot so he can compete--

ERDMAN: OK.

BRANDT: --against an existing farmer.

ERDMAN: So what's the advantage for the beginning farmer?

BRANDT: The advantage for the beginning farmer, if he's going against an established farmer to rent a farm, he can go to that landlord and say if you're willing to cash rent this to me, I can get you a 10 percent refundable state income tax credit or--

ERDMAN: OK.

BRANDT: --if you're willing to crop share this,--

ERDMAN: All right.

BRANDT: --you can get 15 percent. But this is subject to approval by the NextGen Board.

ERDMAN: OK. So let me understand this then. So you're removing the pension from the requirement-- that they made on the requirement from, from the net worth calculation, right?

BRANDT: Yes.

ERDMAN: And in a current program that is included, is that correct?

BRANDT: Yes.

ERDMAN: OK. So you're removing that and then you're increasing it from \$200,000 to \$750,000. And in your explanation to the last question, you said the reason they couldn't qualify is because their investments were counting against their net worth.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: One minute.

ERDMAN: So if one removes their net worth from the pensions, the \$200,000 may be an acceptable number for them to be able to get if beginning farmer opportunity. Would you agree?

BRANDT: It, it could be if the net worth is under \$200,000. Yes.

ERDMAN: That's a pretty good farm to have a \$750,000 net worth starting out, excluding their pensions. Would you agree with that statement?

BRANDT: It, it is. If you look at the qualification, though, a beginning farmer can only have farmed 10 of the last 15 years. And I imagine somebody that's been around for eight or nine years, and I'm thinking a lot of our young farmers start out by custom farming, and they have quite a bit of iron in the yard, that, that can add up pretty quick.

ERDMAN: OK. I take a significant-- it's pretty significant to have 750 net worth.

KELLY: That's your time, Senator. Thank you, Senator Brandt and Erdman. Senator Jacobson, you're recognized to speak.

JACOBSON: Thank you, Mr. President. I guess I have two comments and I'm going to have a question for Senator Brandt if he would yield to a question. But first, I'd-- I guess I'd like to respond to Senator Erdman's concerns about the \$750,000 net worth. I would tell you that one of the real issues, and we've talked about this a little bit when we talk about property taxes and the factory that we're talking about with farmland, I can tell you in Clay County, as recently as probably two years ago, maybe two and a half years ago, we saw farmland probably get down in that \$8,000, \$8,500 an acre range. And since that time, over the last two or three years, we've seen that pop up to \$12,000, \$13,000 an acre just because of a lot of outside investor pressure and other issues that are out there. So if you look at that, if you had a quarter section of land, it went up \$650,000 in value. OK. So if you're a young farmer who bought this quarter, you may be highly leveraged on the quarter, but you saw a big value increase, which of course you're going to pay higher property taxes on, but it also moves your net worth up. Now that net worth isn't going to be realized until you sell the land, pay the taxes, and everything else, but, but when you look at what's happened to equipment values over that same time frame, and so at \$200,000, what you're finding with a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

lot of these young farmers is a lot of them have \$199,000 net worth and they play a lot of games and a lot of gymnastics to get there. And so what this is doing, and you look at other states, that usually is some-- somewhere sitting right at \$1 million. And so I don't think that that's too high a number for a beginning farmer when you consider the kind of asset base that it takes to get started. That's what makes beginning farming and ranching so difficult is because this industry is so incredibly capital intensive. So I would make that point. Senator Brandt, I would have a couple of questions for you if you wouldn't mind yielding.

KELLY: Senator Brandt, will you yield to some questions?

BRANDT: Yes, I would.

JACOBSON: Senator Brandt, I just want to talk a little bit about the fiscal note on this, because you're saying that we're going to cap this at \$5 million per year, but historically the program's been closer to what, about a \$1.2 million? What-- do you believe that that \$5 million is a real number or could that number be lower?

BRANDT: The fiscal note was actually 10 to 11, no-- nobody thinks that's a real number. I don't think there's enough beginning farmers in the state to get it that high. The most the program has ever used is \$1.3 million. And I guess as a concession, we just put a cap in there at \$5 million. I mean, I'm trying to see here.

JACOBSON: How about, how about \$1.5 million?

BRANDT: What about \$1.5. Million?

JACOBSON: How about we move that number from \$5 million to 1.5 million?

BRANDT: I think you're going to have some expansion because they have a number of beginning farmers that don't qualify today because they're over that \$200,000. And I don't think we know exactly what that number is going to be.

JACOBSON: I guess my concern is I, I think if we could cap it at \$5 million a year, that's what the fiscal note is going to be. And I would probably like to see that number, maybe at least half that number, and then we look at adjustments maybe down the road.

BRANDT: I wouldn't be opposed to half that number.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

JACOBSON: Would you look at that as an amendment, perhaps?

BRANDT: Perhaps. Yes.

JACOBSON: Take your time. All right. Thank you. Thank you, Mr. President.

KELLY: Thank you, Senator Jacobson. Senator Linehan, you're recognized to speak.

LINEHAN: Thank you, Mr. President. And I know this-- Senator Dorn has worked very, very hard on this bill and I have been a cosponsor of the ethanol bill and I'm absolutely supportive. I am concerned about this amendment of Senator Brandt's and I will tell you why. And I did sign off on letting the Agriculture Committee have this tax credit, which in hindsight was not, not because anybody's done anything wrong, but what we do in the Revenue Committee, what we've been doing all week, what we will do now until the end is judge all the tax credits, all the tax cuts, all of it together. And we will judge, as Senator Clements did today, went through the budget and found another \$15 million. So we are at that part, that time and space in the Legislature where everything's got to add up. So I, I don't see how we can get-- I mean, there are people walking away from things that they want right now with less than \$5 million fiscal note. So I don't, I don't know how we can accept a \$5 million fiscal note. So I'm just, I guess I'm saying-- I know, I know everybody wants to go home but this, I know how we fix it, but this can't jump ahead of everything else because it's not coming from the Revenue Committee. Thank you, Mr. President.

KELLY: Thank you, Senator Linehan. Senator Brandt, you're recognized to speak.

BRANDT: I think your concerns are, are well-founded, except that this program has never been capped. The most this program has ever used is \$1.3 million. We got this fiscal note and we all about fell out of our chairs. And I think everybody recognizes that's a non real fiscal vote. And so we put the \$5 million cap in there on a program that's going to use maybe \$1.3 or \$2 million. We won't know until the new criteria go into effect. I did hand out a sheet that compares our current program to Iowa. Iowa's cap is \$12 million a year. Their net worth is \$833,000. The-- it's a little different, they get 5 percent on cash rents and 15 percent on share. But other than that, it's a very similar program to Nebraska's program. I guess I-- the fiscal

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

note will be produced after this passes. And, you know, we'll work with the Fiscal Office to see if we can clean this up a little bit.

KELLY: Thank you, Senator Brandt. Senator Erdman, you're recognized to speak.

ERDMAN: Thank you, Mr. President. I appreciate the conversation. I also appreciated what Senator Linehan had to say and also Senator Jacobson offering an amendment on the amount. So, Senator Brandt, if you would yield to a question, I may have a couple more.

KELLY: Senator Brandt, will you yield to some questions?

BRANDT: Certainly.

ERDMAN: Senator Brandt, I heard you say that they've used about \$1.5 million in tax credits. Is that correct?

BRANDT: 1.3.

ERDMAN: 1.3. OK. So do you know how many farmers, beginning farmers that, that were in that group?

BRANDT: Oh, yeah, we had 75-- over the last five years we averaged 75 farmers with an annual total tax credit of \$1.3 million, which averaged \$5,200 in tax credits per year for each owner who leases to a beginning farmer.

ERDMAN: OK, so according to the fiscal note of \$10 million, that would be a substantial, significant increase in beginning farmers. Is there any way to have an opinion about how many people have been left out by the lower \$200,000 maximum or minimum?

BRANDT: I can remember from our discussions last summer, you know, at the most maybe you would double that number is what they were thinking. We did have a producer in there who was pretty upset because his son never qualified with the committee because he was just over that amount.

ERDMAN: OK. All right. So considering Senator Jacobson's request, would we make the wrong assumption if we assumed there may be an amendment coming up the next time this bill is read?

BRANDT: We would have to pull it back from Final.

ERDMAN: I understand that. Is that a yes or no?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

BRANDT: On my part, it could be a yes.

ERDMAN: OK.

BRANDT: But I think we work with the Fiscal Office to see-- if the Fiscal Office redoes the fiscal note and we come in high, absolutely. But I mean, if the Fiscal Office comes in at, at \$2 million or something like that, do we still need to do that?

ERDMAN: I understand. But I think, I think ten is exorbitant. But we all know how, how the Fiscal Analysts do these reports. I understand that. Thank you for your help.

BRANDT: OK.

KELLY: Thank you, Senator Erdman. Senator Raybould, you're recognized to speak.

RAYBOULD: I, I actually stand in support of this because the Ag Committee reviewed this. We saw what I was doing in offering to their young farmers and I think we know it's so challenging for young farmers to get started. They have no equity built up in anything, not even in the land so it makes it even more challenging for them to go out and, and get any type of loan. So this, this seems like a, a good program and it's also an incentive to someone to actually lease or rent out their land. And I want to remind everybody that the vote on the Ag Committee was 7-1. It would have been 8-0, but I was-- I wasn't at the meeting, so I would have voted in support of this as well if I were in attendance. So the Ag Committee did review it and they, they supported it. So I, I don't know how to deal with this predicament because Senator Brandt didn't come up with the fiscal note. That's something that the Analyst provided to the committee, but we felt it was a good investment in our young farmers and to keep our young farmers in the business of agriculture, so. Thank you, Mr. President.

KELLY: Thank you, Senator Raybould. Senator Slama, you're recognized to speak.

SLAMA: Thank you, Mr. President. I rise in support of Senator Brandt's amendment. There seems to be some activity towards the front, so I just wanted to take some time to talk about the importance of supporting our young farmers so that we can get a potential compromise amendment on the board to get this very important amendment and this very important bill across the finish line. Our, our young farmers face an uphill battle in getting involved in agriculture. They face valuations that are going through the roof because investors,

corporate agriculture is running up prices and bidding wars on land. And that's leading to ag land valuations for all of the neighbors around those pieces of land to go up as well. And when those valuations go up, on paper our farmers look wealthier. They're not. And their taxes go up and they're asked to pay bills that their farm income doesn't reflect. I mean, property taxes are really just you paying the government rent on your land. And with Nebraska's current ag land valuation system, we're putting farmers, especially young farmers, at such a market disadvantage compared to their counterparts with potentially deeper pockets. And I'm going to read through now just some key findings from the National Young Farmer Survey, which was conducted by, oh, the National Young Farmers Coalition. Oh, that's wonderful. And the report is entitled: Building a Future with Farmers 2022; Results and Recommendations from the National Young Farmer Survey. Now just a few key takeaways from this is finding affordable land to buy is the top challenge for young farmers. And that's because you're either planning to inherit that land from your family upon your family member's passing or you're stuck trying to get into this business yourself. Either way, you're, you're stuck from the outside looking in on this business. Purchasing affordable land is even more challenging for farmers of color. Fifty-eight [SIC] percent of all young farmers named finding affordable land to buy as very or extremely challenging, and 65 percent of farmers of color ranked finding affordable land to buy as very or extremely challenging, including 68 percent of Indigenous respondents and 66 percent of black respondents. Over half of all respondents, 54 percent, and 75 percent of black farmers said that they currently need more access to land, whether to buy or lease. Now this is a national survey, but it really gets to a trend we're seeing not only in Nebraska but nationwide when it comes to ag land, in that investors, corporations are getting into bidding wars, bidding up land, and pricing young farmers out, out of the market to where there may be more opportunities for a farmer to rent land from the larger entity or from the investor, but not necessarily to own that land themselves. So they're never really building that equity themselves and building that wealth, building that ownership in, in the business themselves. And if you're renting your land instead of buying, you're not necessarily getting the same amount of buy-in, you're dependent on the good graces of your landlord and that comes to upkeep of certain equipment as well. So you could be dependent on your landlord--

KELLY: One minute.

SLAMA: --thank you, Mr. President-- landlord for things like pivot upkeep. And you're also stuck behind the eight ball in purchasing

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

equipment because you don't necessarily have the land that you can have as collateral for when you're buying that ag equipment. So this, this program is critically important to increasing access for young farmers. So I'm proud to stand in support of this amendment and in support of Senator Dorn's overall bill. Thank you, Mr. President.

KELLY: Thank you, Senator Slama. Senator-- oh, Mr. Clerk, for an item.

CLERK: Mr. President, Senator Linehan would move to amend with FA108.

KELLY: Senator Linehan, you're recognized to open.

LINEHAN: Thank you, Mr. President. And I'm sorry, colleagues, this will be really quick, I think. Senator Brandt, can you-- I didn't give him a heads up, so I'm going to ask Senator Brandt a question. So--

KELLY: Senator Brandt, will you yield to a question?

LINEHAN: --this gets really down in the weeds, but I think what Senator Brandt said is that this program has only used \$1.3 million on average. Senator Brandt, is that right?

BRANDT: That would be correct.

LINEHAN: So capping it at \$2 million would give another \$700,000 and it doesn't-- when we get to this point, if we have a-- if we cap a program-- my experience is for the most part, there's few exceptions-- if we cap a tax credit, that's what the fiscal note says.

BRANDT: Yes.

LINEHAN: So if we cap it at \$5 million, the fiscal note will say \$5 million, when we both know that it's highly unlikely we'll ever get to \$5 million, at least early on.

BRANDT: I would agree with that.

LINEHAN: So if we cap it at \$2 million in this amendment and then next year, if we hit that, whenever we hit that, we can increase it.

BRANDT: I think that's a really good idea. I would encourage everybody to vote for FA108, AM1554, and LB562.

LINEHAN: I agree 100 percent. Thank you very much, Mr.-- Senator Brandt.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

KELLY: Thank you, Senator Linehan and Senator Brandt. Senator Brandt, you're recognized to speak and waive. Senator Linehan, you're recognized to close on the floor amendment and waive. Members, the question is the adoption of FA108. All those in favor vote aye; all those opposed nay. Record, Mr. Clerk.

CLERK: 38 ayes, 0 nays on adoption of the floor amendment.

KELLY: The amendment is adopted. Senator Brandt, you're recognized to close on AM1554 and waive. Members, the question is the adoption of AM1554. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 38 ayes, 0 nays on adoption of the amendment.

KELLY: The amendment is adopted. Mr. Clerk, for an item.

CLERK: Mr. President, Senator Vargas would move to amend the bill with AM1563.

KELLY: Senator Vargas, you're recognized open on the amendment.

VARGAS: Good evening, colleagues. I am here to introduce AM1563, which would add my bill LB740 to LB562. First, I want to thank Senator Dorn for allowing me the opportunity to bring this important piece of legislation to the floor. I'd also like to thank Chairman Halloran and the members of the Ag Committee for voting this bill out unanimously 8-0 with no fiscal note. Special thanks to the Center for Rural Affairs, the Grocers Industry, Hospitality Association, the Platte Institute, Americans for Prosperity, and Nebraska Farmers Union for the support on this bill. This bill would standardize and streamline the permitting and inspection processes for food trucks here in Nebraska. I have already made a commitment to Senator Kauth. We will bring food trucks here at some point so that we can enjoy some of the local food trucks. Food trucks have been recognized by food writers and world renowned chefs. We have some of the best restaurants and chefs in the region and the country right here in Nebraska. My district is particularly home to some of the state's most successful breweries, distilleries, and a lot of food trucks. Several years ago, I was approached by food truck owners about the complications they faced while trying to operate their businesses, which is the impetus for this legislation. This legislation is about reducing overregulation, promoting entrepreneurship, and maintaining dining choices for consumers. These issues arise from a current regulatory framework, which is a bit of a patchwork of regulations from county,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

municipal, and state governments that make it difficult, costly for food truck owners to navigate and comply. Which is why I brought LB740, which would take a significant step towards finding solutions to maintain health, safety, respect local control, and recognize the rights of the food industry. Right now, local municipalities and our state government have this patchwork of regulations. It's difficult and costly for entrepreneurs to navigate and become profitable. The same food truck operators often operate in multiple cities, so these differences greatly impact their ability to conduct business and remain profitable. So, for example, a permit to operate in Lincoln or Bellevue can be hundreds of dollars more expensive than it would be in Omaha. The cost to operate, coupled with having to chase down the different permitting rules, can become a hurdle for these small business owners. Currently, there are about 620 different versions of regulations. That's correct. Different regulations, 620 of them are applicable to food truck operators in the state of Nebraska across all the counties and municipalities. Now my office has been working with food truck owners for the last several years, it saddens me that when we first introduced an iteration of this bill, an overwhelming majority of them actually closed down because it was so burdensome. So this is in retribution to, for them paving the way for the new food truck operators trying to start a business and make this possible in our state. And I know we believe in supporting small business owners, as we've just been discussing this today. In our hearing, we discussed overarching goals with this legislation. We heard from the stakeholders about the reforms necessary. You have a one pager that documents all these things and why this is a growing sector, why it's about consumer choice, reducing these regulations. I want to say thank you to everyone who's been working on this legislation with me for several years. LB740 is a straightforward way to make sure that we're expanding this industry and I want to thank all the stakeholders for their work. Again, please support AM1563, unanimous out of committee, no opposition testimony, so we can move on and get home tonight. Thank you.

KELLY: Thank you, Senator Vargas. Senator Raybould, you're recognized to speak.

RAYBOULD: I stand in support of this amendment that Senator Vargas has been working on for many, many years. It passed out of the committee. I know you mentioned that 8-0 in Agriculture Committee. We know that food trucks are very much in demand and requests, I just think all across our state with rodeos, with county fairs, state fairs, all the sports activity, they're really growing in popularity. And I just want to let you know, all the proponents that supported this bill are just

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

a very diverse, really interesting group of people. You know, Americans for Prosperity, Nebraska Farmers Union, senator-- Center for Rural Affairs, and, of course, the Nebraska Grocery Industry Association, the Hospitality Association, Friends of Public Health, and the Platte Institute as, as well as the, the really brave pioneers in the food truck industry. It's, it's something that we've struggled with in the city of Lincoln to, to really work with our Department of Public Health to make sure that we can make it more accessible and available to the consumers that really appreciate the fine cuisine that they present and, oftentimes, they're some of the, the, the best of Nebraska cuisine. So I encourage my colleagues to please vote in support of this amendment.

KELLY: Thank you, Senator Raybould. Senator Erdman, you're recognized to speak.

ERDMAN: Thank you, Mr. President. This is the first I've seen of this bill, so I'm trying to get my hands around. I wonder if Senator Vargas would yield to a question or two?

KELLY: Senator Vargas, will you yield to some questions?

VARGAS: Yes, happy to.

ERDMAN: Senator Vargas, have you seen the fiscal note that was on LB740?

VARGAS: Yes, if I'm remembering the right fiscal note, yes.

ERDMAN: OK. Can, can you explain if you can, why there would be a, a \$12,000 revenue loss or cost to inspect these food trucks? Don't we already have food trucks?

VARGAS: So yes-- so my understanding is the reason why there was a \$12,000 revenue loss, we changed the definition in regards to some of the food truck language. And as a result of that, it, it basically exempted and lowered the cost of the fees to the state so it would be \$12,000 less to this cash fund. But that's a negligible amount, it really didn't-- that's, that's their estimate based off of this that it would be about \$12,000 in revenue loss.

ERDMAN: So, so does that seem reasonable to you?

VARGAS: Reasonable, from what standard?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

ERDMAN: Well, I mean, it's kind of peculiar if you already have the food truck. So what you're doing is you're allowing them to go from one jurisdiction to the other. Is that correct?

VARGAS: No, no. The bill does two primary things: one, it allows for interlocal agreements between certain municipalities. So it creates the framework for them to be able to do this. And then second, it creates a one-stop shop where all the different regulations would be housed for cities across the state so that food truck owners can then look at the regulations in one place, rather than making it very burdensome for every single community to be reaching out to them independently and making it harder on them.

ERDMAN: OK, so if I have a food truck and I'm in one municipality and I go to another, I have to have another inspection?

VARGAS: That actually is still state law. This is not touching that. So different, different cities, different municipalities, it depends on if you are, let's say, Douglas or Lancaster or Sarpy or versus some other cities outside of those, you're either going to fall under the standard of those larger counties or you're going to fall under the standard of the Department of Ag. We have not touched that, that still exists, and that's, that's just current law so we're not touching that.

ERDMAN: So the last part of the fiscal note says: the estimate of reduction in the revenue as this will shift some of the establishments defined by the mobile food establishments to the mobile food units which will cause a shift in the fees levied. So there's going to be less-- you're going to charge less of a fee?

VARGAS: I mean, one of the language changes will be slightly charging less for one of the fees and that's the, the revenue that would be lost would be about \$12,000 to this cash fund.

ERDMAN: OK. Thank you.

KELLY: Thank you, Senator. Senator Slama, you're recognized to speak.

SLAMA: Thank you, Mr. President. I rise in strong support of Senator Vargas's amendment. If I'm remembering right, he brought this bill in my freshman year when I was serving on that committee, and I was very confused as to why it didn't pass that year. And I'm grateful to Senator Vargas for keeping up the good fight and fighting against unnecessary regulation to allow our food truck industry to thrive in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

the state of Nebraska. So with that, I'd encourage everyone to green light vote Senator Vargas' amendment.

KELLY: Thank you, Senator Slama. Senator Brandt, you're recognized to speak.

BRANDT: Thank you, Mr. President. I stand in strong support of AM1563. Would Senator Vargas answer a question?

KELLY: Senator Vargas, will you yield to a question?

VARGAS: Absolutely.

BRANDT: Senator Vargas, like Senator Slama, when I served on the Ag Committee, I remember several food truck bills and specifically yours and Senator Aguilar. And did Senator Aguilar have an interim study on this, this summer and work with you on this?

VARGAS: Yes. Yes. And so a big thank you to Senator Aguilar for their work, the Center for Rural Affairs, and many others that worked on interim study to inform many of the things that we are doing in this and, yeah.

BRANDT: So this bill addresses any concerns that he had with his food trucks. Is that correct?

VARGAS: Yes, that is, that is what we worked on.

BRANDT: All right. Thank you, Senator Vargas.

KELLY: Thank you, Senators. Seeing no one else in the queue, Senator Vargas, you're recognized to close and waive. Members, the question is the adoption of AM1563. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 40 ayes, 0 nays on adoption of the amendment.

KELLY: The amendment is adopted. Senator Ballard, you're recognized for a motion.

BALLARD: Mr. President, I move that LB562 be advanced to E&R for engrossing.

KELLY: Members, you have heard the motion. All those in favor say aye. Those opposed nay. It is advanced. Mr. Clerk.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate May 09, 2023

CLERK: Mr. President, new LR, LR137 from Senator Bostar. That will be referred to the Executive Board. Name add: Senator Fredrickson, name added to LB705. Finally, Mr. President, priority motion. Senator Ballard would move to adjourn the body until Wednesday, May 10, 2023, at 9:00 a.m.

KELLY: Senators, you've heard the motion. All those in favor say aye. All those opposed nay. We are adjourned.