

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Floor Debate February 1, 2022

**FOLEY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighteenth day of the One Hundred Seventh Legislature, Second Session. Our chaplain for today is Senator Arch. Please rise.

**ARCH:** This is a prayer from Reverend Emily Schnabl at St. Martha's Episcopal Church in Papillion. Let's pray. Creator of all, you have fashioned this beautiful state of Nebraska for us to live, work, and be refreshed in. You have filled it with rivers, hills, and open vistas for us to be reminded of all that is good and shaped it with resources that feed many around the whole world. From streams to the air, from silvery minnow to sandhill crane, our state is filled with creatures that bring us to light. And to us, you have given us senses to perceive, minds to reason, and grow and understanding hearts made for love and compassion. Grant that this Legislature gathered to listen and deliberate may use all of the gifts we have been given to remember the well-being of all who call Nebraska their home. May this body debate in fairness and equity, work for justice and truth, and provide for the flourishing of all Nebraskans in all stages and ages of life. We ask this in the name of you in whose image all of us are made. Amen.

**FOLEY:** Thank you, Senator Arch. Senator Halloran, you're recognized to lead us in the Pledge of Allegiance.

**HALLORAN:** Please join with 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.

**FOLEY:** Thank you, Senator Halloran. I call to order the eighteenth day of the One Hundred Seventh Legislature, Second Session. Senators, please record your presence. Roll call.

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

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

**CLERK:** I have no corrections.

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

**CLERK:** Mr. President, your Committee on Health and Human Services reports LB704, LB855, LB374, LB541, LB697, LB705, LB741, LB824, LB905,

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LB906 to-- all reported to General File, some having committee amendments attached. Priority bill designations: Senator McCollister, LB709. I have hearing notices from the Natural Resources Committee, those signed by Senator Bostelman. Senator Brewer would like to withdraw LB1056. That motion will be laid over. And finally, Mr. President, announcement: Natural Resources Committee will have an Executive Session tomorrow following their hearing. Natural Resources Exec Session following their hearing tomorrow, Wednesday, January-- or excuse me, February 2. That's all that I have, Mr. President.

**FOLEY:** Thank you, Mr. Clerk. Legislature, please come to order. Senator Geist would like us to recognize Dr. Marlon Weiss of Lincoln, Nebraska. He's serving us today as family physician of the day. Dr. Weiss is with us under the north balcony. Doctor, please rise so we can welcome you to the Nebraska Legislature. First item on the agenda, General File 2022 senator priority bill. Mr. Clerk.

**CLERK:** Mr. President, LB767, a bill by Senator Kolterman. It's a bill for an act relating to pharmacy benefit managers. Senator Kolterman presented his bill yesterday to the body. Mr. President, there are Banking, Commerce and committee-- Banking, Commerce and Insurance Committee amendments pending.

**FOLEY:** Thank you, Mr. Clerk. Before we move to that bill, Senator Erdman would like us to recognize a couple of special guests he's got with us today from Bayard, Nebraska: Travis and Karen Peterson, neighbors of the senator out from Bayard, Nebraska, under the north balcony. If they could please rise, we'd like to welcome you to-- excuse me, up in the north balcony. Please rise so we can welcome you to the Nebraska Legislature. Senators Kolterman and Williams, if you'd like to take a couple of minutes each to refresh us on where we left off on LB767? Senator Kolterman.

**KOLTERMAN:** Good morning, colleagues. Thank you, Mr. President.

**FOLEY:** Come to order, please.

**KOLTERMAN:** The bill that I introduced yesterday, LB767, really is a-- is about licensing and regulating pharmacy benefit managers. We've had bills that dealt with pharmacy benefit managers all-- going back to prior to my time even, in 2013, but it's time that we regulate, like 30 some other states have done and so I look forward to some discussion this morning about what we talked about yesterday and I'm open to questions that anybody might have. Thank you very much.

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**FOLEY:** Thank you, Senator Kolterman. Senator Williams, I'll recognize you for a couple minutes and then you're first in the queue so why don't you just take it all?

**WILLIAMS:** Thank you, thank you, Mr. President. I appreciate the opportunity. AM1643 is an amendment to fine-tune some definitions in LB6-- excuse me, LB767 concerning the 340B issue. And I would, first of all, point out that again, the Banking Committee has been very involved with the PBM issue for a number of years now, ever since at least I've been here, and passed a number of things over those years. This is the culmination of that and with this amendment, we certainly would hope that you would vote green. Moving forward on, on my own time then that I punched in for, Senator Kolterman this morning has distributed something that is, is, I think, very important for those of us in the body to take a quick look at. It's a definition of a pharmacy benefit manager that comes from what has been called the Rutledge case, which is out of Alabama, a 2020 Alabama Supreme Court-- or ended up actually in the U.S. Supreme Court and it includes a very comprehensive definition of what a PBM actually is. I really appreciate the discussion that we had yesterday from different people. This is a complicated issue. Senator Arch used the term "mind-numbing." I think that is certainly the case, but it's something that we can do something about and help with a great deal. The definition in here talks about what a PBM actually does and how they work as an intermediary. I would tell you underneath all of that, the goal of this process is to help control costs on everybody's concern all the way from the consumer to the pharmacy to the insurance company and their reimbursements of these things. They also negotiate with pharma and they have large contracts with the pharmaceutical companies and contracts with the pharmacies themselves on the other side and certainly with the insurance companies. So you have this system that works together that way. The problem that we have run into is that in many cases over the years, we have watched the pharmacy benefit managers create systems for audits, appeals, MAC pricing that have been detrimental to some pharmacies and in particular, those locally owned pharmacies that many of us have in our communities. If I look back historically, for many, many years, we had three pharmacies in Gothenburg. Now we have one. And we don't have a Wal-Mart and we don't have a Walgreens and we don't have a CVS in many of our locations so it is important that in cases like this, the Legislature takes an aggressive position to correct those situations and create more, more fairness. It would be really easy for a pharmacy benefit manager to limit this so much that the only people qualifying would be those that wanted to have that mail-order drug sent to them from one of the large

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providers. We are providing protections in LB767 to see that that doesn't happen. Over the years, we've done a number of things. In 2019, we passed legislation that eliminated the clawback provisions that PBMs were using. That same legislation eliminated the gag clause. I know Senator Kolterman will talk more about that as, as we move forward. So today we, we have limited the discussion under the PBM legislation that is before you to five specific issues: MAC pricing, audits, and appeals that deal primarily with the relationship between the PBM and the pharmacies themselves. Then we're dealing with the 340B issue, which is important to our critical access hospitals and all of the other hospitals across our state on the discounted drugs that they can purchase through a federal program. And again, I would tell you, you know, the discussion of how much a specific drug costs at a hospital when the patient gets it has little, if anything, to do with 340B. 340B recognizes that hospitals, if they are going to take advantage of this discount, must reinvest these dollars into--

**FOLEY:** One minute.

**WILLIAMS:** --low-income projects and customers and patients in their communities. We recognize that in many areas, the emergency room at a hospital has become the, the, the place of choice for people to go to get medical services, mostly those people that do not have insurance coverages. We had testimony from Johnson County Hospital concerning how much they write off every year from those things so that's why 340B comes back to help them immensely. The specialty pharmacy, pharmacy situation is the fifth area that we're covering with LB767, also something that's very important. Tim Redline from Redline Pharmacy in Hastings primarily testified on that. I'd like to thank him. I'd also like to thank Dave Randolph from Hemingford that came down on numerous occasions to testify on these issues. With that, I would again recommend passage of this. This came out of Banking Committee-- no opposition testimony, came out of Banking Committee on an 8-0 vote. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Williams. Senator Groene.

**GROENE:** Thank you, Mr. President, and I appreciate that we were able to go to today and not finish up yesterday. I'm in full support of the bill after talking to some individually owned pharmacies, but I wanted to share with you before we're done with debate here what, what I learned. A PBM-- I asked, what is a PBM to some of the pharmacists? Is it a distributor, is it an insurance company, or is it a clearinghouse? It's a clearinghouse. That's what it is, if you know what a clearinghouse is. The pharmacy buys from a distributor and then

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the customer buys an insurance policy from an insurance company, Blue Cross Blue Shield, then the customer buys the drug from the pharmacy. The pharmacy contracts with a PBM, a clearinghouse. No matter what insurance company the client has, it goes to this clearinghouse. They pay the pharmacy and then they bill the insurance company or Medicare or Medicaid. It happens in a lot of industries, but this one is corrupt. This is corrupt. I'll read you an email, something I got from a person involved in this-- in the system and well versed in it. The PBM model is so corrupt. They always will say that if they charge-- change their model, they will have to raise premiums or copayments. However, what really happens is a practicing-- practice that's called spread pricing. They charge the customer, insurance company, or the government \$40 for a prescription. The pharmacy collects the copayment at the register. Then, four months later, they claw back \$28 in fees for participating in their network. Senator Kolterman and Senator Williams shared with me a bill we passed in '19-- I have a vague remembrance of it-- that we outlawed clawbacks. So what did they do? They just renamed them "fees," they just renamed them "fees" for the services rendered to pharmacy. They leave total payment to the pharmacy at \$5 and they keep the spread. Currently, they have language in their contracts that if we offer a cash price without billing their insurance, they will pull their contracts. Often, they leave less than 1 percent margin after clawbacks to the pharmacy. Currently, 10 to 20 percent are actually underwater pharmacies in the state. It's totally a convoluted business plan. These legislative bills are just a start, but we need to do something. As of just 10 to 15 years ago, the transition, transition fee per claim or [INAUDIBLE] fee in the neighborhood of 35 to 40 cents was charged. Now, the average from the PMBs [SIC] is \$20 per claim, \$20. So what we have here is we need-- this is just the start. This is just a start. This is corruption at its best. And here's another deal: I've always been for private. Our state used to pay-- HHS used to control it and pay the-- out the claims for Medicaid, all right? What I was told now is we contracted that out. So now if you got a \$20 drug that the pharmacy is allowed to charge and they paid \$10 for it, they claw back from them \$5 or \$7 and then they turn around and charge the state \$40 for the, for the drug. Here's another example: they won't allow the pharmacy to mention a generic. What they do is if a drug costs \$400, comes off its patent, the drug company goes to--

**FOLEY:** One minute.

**GROENE:** --PMB [SIC] and says, I will give you \$150 kickback on this if you won't allow the generic coming out to be sold. It's pure and simple greed. It's corruption. And you wonder why our healthcare is so

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high priced for the average citizen. Amazing that is allowed, that kind of a business practice is allowed, but it is. There's three big ones. I'll put my name back in the queue, but one of them is owned by one of the big pharmacy companies so they have a closed network. I'll talk about it next time. I guess I'm out of time, pretty close.

**FOLEY:** Thank you, Senator Groene. Senator Friesen.

**FRIESEN:** Thank you, Mr. President. Again, I know numerous people have thought we were working to hurt this bill, but I do support the bill. It does support local small pharmacies and I appreciate Senator Kolterman for bringing the bill. But I think we need to learn more about how our system operates because typically, you've-- we've heard a lot of complaints about what medications cost and what's driving some of that. And again, the complaints that come show a system that probably started out with good intentions, but now has grown to where it is dictating what pharmacies can purchase, where they purchase it, and what they can charge. And so the consolidation in the industry has now three of these companies controlling 80 percent of our pharmaceutical market. There's just been tremendous consolidation like in any other types of business we're seeing these days, but many of them are owned by the large health insurers and they're part of the Fortune 500 list. So they're large companies and they're owning the-- the insurers are owning these PBMs. A lot of times, they can force a pharmacy to purchase some of their drugs from companies owned by the PBMs. So again, the system is set up not to help these. It's developed more to drive profits, what I call it, maybe to the big insurers. So I think we need to keep talking about some of these issues and learning how that process works because I think someday this body needs to address how PBMs work. But this bill does help in regulation of those PBMs, which they currently are not regulated. So with that, I do thank Senator Kolterman for bringing the bill. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Friesen. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. Good morning. I seen the description of a PBM that Senator Kolterman left on my desk. I appreciate that, Senator Kolterman. I was wondering if you would yield to a question or two, Senator Kolterman?

**FOLEY:** Senator Kolterman, would you yield, please?

**KOLTERMAN:** Yes, I would.

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**ERDMAN:** Senator Kolterman, thank you for giving us that information. It appears yesterday in the conversation that we heard from Senator Friesen and Senator Groene about the black box that is associated with chemicals, I think this is very similar. So how long have PBMs been in place? Do you not-- do you have an idea?

**KOLTERMAN:** It's my understanding that they were developed in the 1960s.

**ERDMAN:** If, if you know, what might it have been like before that? What did they do before?

**KOLTERMAN:** I assume-- and I, you know--

**ERDMAN:** Then I'm asking--

**KOLTERMAN:** I just assume that what happened was the pharmacist-- pharmacy went directly to the--

**ERDMAN:** Right.

**KOLTERMAN:** --to the manufacturer and bought direct. I don't know for sure.

**ERDMAN:** I was amused by the information that you gave us and at the bottom of the description, it says a PBM's reimbursement from the plan often differs from the-- and exceeds the PBM's reimbursement to a pharmacy and the difference generated is the profit for the PBM.

**KOLTERMAN:** That's accurate, Senator. What, what's happened is these, these PBMs-- that's why we put in there the MAC pricing lists have to be updated every seven days so at least a pharmacist knows if they're going to make money on dispensing that drug or not.

**ERDMAN:** All right. I'm just having a tough, tough time. And as Senator Arch had said, you get brain fog thinking about this. And I, I do support the bill because I think we need to do something about reining these PBMs in, but maybe the bigger picture or the solution is maybe we need to look at a different way to distribute drugs than the PBMs. It looks like this is a license to steal, as I said yesterday, and the more information I receive, it's-- the more I'm convinced I'm right.

**KOLTERMAN:** That's why, that's why 34 other states have already regulated them. They had not been regulated prior to the last couple of years. We really-- we had LB375 last year. We actually held off on

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that bill so we could get that-- National Association of Insurance Commissioners'--

**ERDMAN:** OK.

**KOLTERMAN:** --model language because they--

**ERDMAN:** OK.

**KOLTERMAN:** --they've been through it many times.

**ERDMAN:** So if you, if you do know, can you tell me, those other states that have regulated the PBMs in the past, have they seen an advantage from doing that?

**KOLTERMAN:** I believe they have and some have gone a lot farther than we are in this case. In fact, I believe Senator Morfeld has a bill that deals with rebates coming-- it's been dropped this year. We decided that we'd limit it to five or six items so we can get something through this year.

**ERDMAN:** OK. Thank you for answering those questions. So as I listened to the discussion and as I began to research and try to understand this, I am, I'm unconvinced that we need to do more research on PBMs and see if there's a more efficient, more transparent way to distribute drugs in, in not only this state, but in the United States. It looks to me like that this is a convoluted thing on purpose so that we don't know exactly how much money they're making and how much drugs really cost because if you buy drugs in a different country, they're significantly less. I have a good friend that travels internationally and he forgot a drug that he buys here in the United States and it's \$340 a month. And when he got to his destination, he had told the gentleman there that he had forgotten that prescription and he could buy the same prescription in that country for \$30. So we have a problem in America with too many middle people and it looks like this PBM is one of those. So I'm very disappointed that it's this confusing--

**FOLEY:** One minute.

**ERDMAN:** --and maybe it's because I'm so simple I can't understand it, but this looks a lot like the black box in the chemical industry in agriculture and that has always been confusing to me and so is this, but I'm going to support the bill because I think it does help, but I don't know that it's the solution. Thank you.



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**FOLEY:** Thank you, Senator Erdman. Senator Groene.

**GROENE:** Thank you. Here's-- I'll read another reply I got from this individual. Purchasing prices are-- for, for an independent are pretty comparable to the large national companies. Where they do better is in the contracting with PBMs. CVS owns one of the largest PBM companies called Caremark and WellCare and, of course, pays their CVS stores much larger fees. If there is a CVS store in the market, they force their insured to their own stores or withhold coverage. So they got a closed market. Sometimes they do it through different copayments; zero copayments at CVS and \$10 at a competitive store, competitive store. Walgreens is nearly in the same bad position as the independents, but have enough stores across the country that, that plans require their employees have access to more than CVS as a provider. So thank God some of the healthcare plans insurers say you have to have at least more than one provider available in your network. Otherwise, it would be a closed shop and all the profits would be concentrated in one corporation. This individual said they are after the independents. They want them gone. They want to teach them a lesson because they're the ones-- because they're individual owners who are bringing the lawsuits. They can work with the big corporation. They all in it together. It's just like a lot of industries: get rid of the independent, get rid of the small entrepreneur. And they use the audits as a hammer. We heard you spoke up. There's a rumor out there you're looking at a lawsuit. Boom, an audit hits them. And if they find one little discrepancy, a word written wrong, prescription a little bit-- was given two or three days too soon because the customer came in to get a refill. Boom, they won't pay the claim. They teach them a lesson. I appreciate Senator Kolterman and Senator Williams working on this. I guess I can understand how they-- confusion, but I want to correct Senator Kolterman. He said they can buy from a different PBM. They do not buy the drugs, the pharmacy from the PBM. They-- there are distributing networks out there. Just like we heard in General Affairs, there's distributors for alcohol products. The wholesaler buys from the chemical company and then the chemical company comes back to the PBM and gives "kicksbacks" so that they will favor their drug in the network and not, and not permit the generic to be covered in their network. I always blamed the insurance companies for the networks. No, no, no. It's the PBMs. It's not the manufacturer, either. It's the PBMs. They're skimming off a huge amount of money and they use fear tactics in their contracts. This individual, I don't know if he's-- what-- it-- where-- he's not my-- he owns pharmacies outside my district so hopefully the PBM don't start spotting on my pharmacies, hitting on them. But what he told me,

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he could get his, he could get his contract canceled because he let trade secrets out about how they operate. Is that America? Starting to understand why the liberals want socialized medicine. This isn't free markets. So anyway, I'm going to leave it at that, I'm going to vote for the bill, and I hope whoever takes Senator Williams and--

**FOLEY:** One minute.

**GROENE:** --Kolterman's place in the body continue this fight and work with the independent pharmacies to claw back their free market, their free market freedoms. Thank you.

**FOLEY:** Thank you, Senator Groene. I see no other members wishing to speak. Senator Williams, you're recognized to close on the committee amendment.

**WILLIAMS:** Thank you, Mr. President, and thanks, everyone, for your discussions today on this issue. Healthcare cost-- we had testimony in Banking last week, I guess, now. Healthcare costs in our country have risen to 19 percent of GDP. And of that, it is estimated that about 30 percent of it is pharmaceutical costs. So what we are talking about here are big numbers, big business, and things that we should be engaged in. The other side, I would suggest to us, is all of these companies are private companies. These are private contracts between insurance companies, PBMs, pharmacies, and pharma and we're engaging in a system that is privately run and privately administered. I really want to thank again those discussing this bill and also Senator Kolterman, Senator Morfeld, Senator Bostar, and all the groups that met for so long. Some of the issues that were being raised on the microphone this morning were taken care of in 2019 by this body when we passed LB316. Those took care of the issues of the clawback and the gag clause that were being talked about. So we have made progress. Again, I would point out that 34 other states are moving the direction that we are moving and I appreciate all the work that's been done on that. With that, I would encourage your green vote on AM1643. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Williams. Members, you heard the debate on AM1643. The question for the body is the adoption of the committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 41 ayes, 0 nays on the committee amendments.

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**FOLEY:** AM1643 committee amendment has been adopted. Any further discussion on the bill as amended? Senator Kolterman, you're recognized to close on the advance of the bill.

**KOLTERMAN:** Thank you, Mr. President, and thank you, colleagues, for the robust discussion we've had on this bill. As Senator Williams has indicated, back in 2019, I brought some legislation that really dealt with PBMs and it was a start. This is a, this is a problem that's not going to go away. Back in, in LB316, we took away the ability for PBMs to put in language that allowed their pharmacy benefit managers to claw back those payments that Senator Groene was talking about. We took away their ability to restrict pricing information for their patients. They used to not be able to even-- the pharmacist used to not be able to even tell the patient what the drug costs. That was called the gag clause. We took away their ability to limit the pharmacist from mailing the drug to the patient, and we took away restrictions on pharmacies being allowed to participate in specialty pharmacy. So we've done little by little. This is not a new issue. Going back to 2013, Senator Mark Christensen brought a bill, adopt the Pharmacy Audit Integrity Act. In 2016, Senator Fox brought a bill, adopt the Pharmacy Benefit Fairness and Transparency Act. I brought a bill in 2017. In 2019, we passed some legislation. Senator Morfeld brought a bill in 2020 and I brought one last year, as did Senator Morfeld. So this is not new, but the problem is we've never been able to put the regulations together or figure out what's the best way to do it. Now we have National Association of Insurance Commissioners working hand in hand to put together model legislation that we can adopt as a state. Many other states are doing the same thing. I will-- I wanted Senator Groene to know that I did correct myself yesterday when it came to talking about who buys drugs from whom. The pharmacies actually buy their drugs from an organization called PSAOs, which I'm not going to go into as well because it just confuse the issue more. As far as who owns PBMs, insurance companies own PBMs. PBMs own insurance companies. There is a dramatic need for regulation in this industry and so that's what we're trying to do here today. We took a little bit of the problem-- a few of the problems away, five or six issues, we've put in model legislation and I would hope that you would give us a strong green light on this. Thank you very much.

**FOLEY:** Thank you, Senator Kolterman. You've heard the debate on LB767. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those oppose vote nay. Have you all voted who care to? Record, please.

**CLERK:** 42 ayes, 0 nays on the advancement of the bill.

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**FOLEY:** LB767 advances. Proceeding now on the agenda, Select File 2022 senator priority bill. Mr. Clerk.

**CLERK:** Mr. President, LB376, a bill originally introduced by Senator Machaela Cavanaugh, is on Select File. Enrollment and Review amendments were adopted last year in May. I have, Mr. President, several amendments pending. Senator Cavanaugh, I understand you wish to withdraw AM1453. Yes, thank you. Senator Slama, your floor amendment would therefore be withdrawn as well since it's an amendment to that amendment.

**FOLEY:** Amendment is withdrawn.

**CLERK:** Senator Arch, AM1646 to be withdrawn. Mr. President, Senator Arch would move to amend with AM1707.

**FOLEY:** Senator Arch, you're recognized to open on AM1707.

**ARCH:** Thank you, Mr. President. Good morning, colleagues. Today, I want to do several things. I first want to address some concerns that were raised on the mike last time LB376 was debated on Select File. I want to outline what exactly AM1707 to LB376 would do and try to help explain a little more about the developmental disabilities waitlist and developmental disabilities waivers. Let me first talk about LB376 as currently amended. If you recall, the main motivation for LB376 from the committee's perspective was to address the reality that simply applying more resources to our system of waivers, including the registry or what is sometimes referred to as the waitlist, was not a long-term strategy. It came out 7-0, became a committee priority, and it is before us today. I want to take a little time to explain the registry or the waitlist. Individuals that qualify as a result of their disability requiring a-- and it's-- this is the term used-- institutional level of care, which my understanding, how it's been explained to me is an institutional level of care is, is a, is somewhere between an assisted living and a skilled nursing 24/7 facility. So it doesn't require 24/7 skilled, skilled nursing, but it's a, it's, it's above even assisted living. So individuals qualify to go onto this registry, the waitlist, if they qualify, requiring an intermediate level of care and they may apply, which includes many services including-- and this is the important one-- residential, out-of-home services. That's the comprehensive waiver that people are waiting, quote waiting for. The individual is waiting for these residential services to be offered. There are limited resources. There are priorities that people, that people are considered to go into that comprehensive waiver and people are offered to go and receive then

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that comprehensive waiver. In the meantime, they are quote waiting. Now the issue of the growing waitlist or registry has been a frequent discussion on this floor. The waitlist for developmental disability services continues to grow each year and has been a persistent issue in Nebraska for decades. We've been told that we will need an increase of approximately \$3 million-- it's just an estimate-- each year, each year, just to maintain the present size of the registry and that's clearly not sustainable. The Legislature actually eliminated the registry once, where everyone eligible received services back in July of 1995. In 2009, the Legislature appropriated \$15 million to help cut down the waiting list, which had approximately 2,000 individuals waiting for services, so this is clearly not a new discussion. So the strategy for LB376 as currently amended, and it was amended at our last Select File by a committee amendment, is an attempt to provide early intervention services for children-- this is all children-- in their family and community, reducing the future need for the residential services provided under the comprehensive waiver, which is what they are waiting for. So the, the, the intention is that they would receive services in their home, provide the family support services that they can maintain them in their home, that they do not need residential care. Better care, many times, in the home for the child, for the adult eventually. And so that, that is the desire; to support the family, LB376. Now I'd like to discuss AM1707. After our last debate on this bill, the committee took a step back. It became apparent that we as a body and as a committee would benefit from an understanding of the developmental disability system as a whole, not just this particular waiver, and more specifically, the various waivers that currently comprise our system. To do so, over the interim, the Health and Human Services Committee held LR239, which examined the developmental disabilities Medicaid waivers. AM1707 is a product of that interim study. AM1707 requires the Department of Health and Human Services to engage a nationally recognized consultant to evaluate Nebraska's developmental disability services system. The evaluation will look at the services we offer through Medicaid state plan amendments or waivers-- different tracks-- the services offered by other states through traditional Medicaid as state plan amendments, waivers, or other mechanisms in any other area which may be helpful for the state to assess our developmental disability services system. As part of the interim study, we recognized that there is a myriad of ways that other states are addressing the needs of the developmentally disabled in their communities, all of which interact with federal funding and regulations. We believe that we need to examine those and compare them to our state's approach. I really appreciated the education that we received from Director Green and the department at

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the interim hearing. The interrelationships of the waivers are very complex and Director Green did his best to help us understand. The committee's conclusion from LR239 was that we have a labyrinth of waivers that have been layered on top of each other over decades.

**FOLEY:** Excuse me, Senator. Members, please come to order. Senator Arch.

**ARCH:** We believe that it is time to step back and do a thorough, thorough evaluation of our system. The consultant would send the evaluation to the Legislature, the Governor, the Department of Health and Human Services by December 31, 2023. AM1707 would also stipulate-- and this is regarding LB376-- that if the family support waiver outlined in LB376 is denied by CMS, DHHS would need to redo, resubmit the application, or look for another mechanism to implement the program, such as a state plan amendment. Furthermore, the amendment also states that the program would not be implemented until the federal government approves it. And that was a concern raised in our last debate on this bill that if the federal government doesn't, doesn't approve it, it would go 100 percent to General Funds and we, we make that very clear in this amendment it would not. The second is initiating a comprehensive study-- excuse me, if AM1707 is adopted, then LB376 becomes a bill with two major components: the first is directing the Department of Health and Human Services to apply for a three-year Medicaid home and community-based services program waiver to institute a family support program and the second is initiating a comprehensive study. So I'm going to pause here for a second because the waiver application is approximately an 18-month process. It takes a while to get through CMS so we're not talking about tomorrow having these services available, but we would implement LB376. We would, we would require the department to apply for a waiver while initiating the comprehensive review. We believe that there are better ways, that there are more cost-efficient ways, that there are ways that we could have greater impact than simply our-- running our present system that continues to require more and more funding each year. That is our desire. So these two efforts will run parallel. Our intention is to apply for the waiver while conducting the study to provide these needed services and then there is a, there is a clause in LB376 that requires an evaluation at the end of that three-year period. So if the waiver would be applied, it is a three-year waiver. If the waiver is not reapplied for, it would not continue. It has a three-year hard sunset without reapplication. There's a revised fiscal note and I'm, and I'm not going to directly address that because I think Senator Stinner is going to talk about the fiscal note and how-- and the

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funding of this, but thank you. I encourage your green vote on AM1707 and on LB376. Thank you.

**FOLEY:** Thank you, Senator Arch. Senator Stinner.

**STINNER:** Thank you, Mr. President. Members of the Legislature, I support both the underlying bill and the amendment and I will, first of all, say this addresses some of the problems that we're having as it relates to waiting lists as we're wait-- as, as a creative decision. And I don't want to go into all the details because I think Senator Arch really explained the bill and, and kind of a cost containment, but still getting out and servicing a needed population so I, I, I support that. As it relates to the fiscal note, there are two places that we can identify under today's ARPA situation that we have and one of them was-- is the department actually applied for a \$90 million grant for community-based services. Based on the information I have today, there's about \$60 million available to fund possibly this. Now, I'm not going to guarantee all of that \$60 million is there because I know this has been kind of an active situation as it relates to trying to provide some money for providers, but I feel pretty confident that that is a solid place to go to, to fund this program. The other place is, is the department head actually gave me these numbers: \$930 million were received directly in ARPA funds. That's not in our package. It goes directly to DHHS. Currently, they've spent about 35 percent of those-- that-- of that \$930 million. So this will be a secondary and we'll probably put it in the language that if-- certainly, if the community services grant is used up or isn't sufficient enough to do that, then we'll, we'll redirect the department to use some of these ARPA funds. So that should mitigate some of the concern that I've heard in the body. Thank you for that.

**FOLEY:** Thank you, Senator Stinner. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I rise in support of AM1707. I am so appreciative to Chairman Arch and all of the HHS Committee for working on this. I also am very appreciative to Senator Ben Hansen for all of his diligent work on this bill. He's been a great partner in this endeavor to get services to children in the state and thank you to Senator Stinner for figuring out the finances of it all. And I just would ask everyone to vote green and we can move on to the next thing. Thank you.

**FOLEY:** Thank you, Senator Cavanaugh. Senator Groene.

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**GROENE:** Thank you, Mr. President. I'm not filibustering this, even though some people put my name on a bill and decided to filibuster it in the past, so-- but I don't play that game. Senator Stinner, would you answer a question?

**FOLEY:** Senator Stinner, would you yield, please?

**STINNER:** Yes.

**GROENE:** So the entire A bill could be replaced with ARPA money? You didn't clarify that.

**STINNER:** Yes.

**GROENE:** A hundred percent of it could?

**STINNER:** A hundred percent of the bill could be repurposed to be used under the community-based services and that was a \$90 million grant. There was about \$60 million the last I looked. There may be--

**GROENE:** Thank you.

**STINNER:** --less money. The second--

**GROENE:** So another question, so it is-- has nothing to do with the \$1.4 billion that we're all going to try to dish out. This has to do with a direct grant to HHS.

**STINNER:** Yes.

**GROENE:** All right, thank you. Thank you. That makes it bearable. I just still have some concerns of that 502. You know, I came down here and I-- the proponents of fully funding disability said-- made it sound like 2,000, 3,000 people were on the list. A little stretch of imagination there because a lot of those are getting some-- were always getting some services. They were always getting some of the services. They just weren't getting the final-- there's what, one, two, three, four, five tiers. They just weren't getting everything, usually because they made too much money and they didn't qualify for Medicaid, for example. The first tier of 502, Senator Arch just said that a hundred and some will disappear because they have-- their families make too much money. They will be 19. They'll be on their own. Then they won't make an income because of their disability and they will qualify for Medicaid. But right now, their families make enough money. So that 502 are not hurting. They have financial resources to take care of their family member. Then you got the



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Medicaid services only, which is huge. That's a big chunk of it. There's-- of what is the final package of what you can get for disabilities. Then you have the Medicaid services, behavioral health, dental, pharmacy. That's the next bunch. What the problem with the system now is one and two and three, if somebody moves into the state that qualifies for four and five, they jump the line. That's one of the things I hope Senator Arch looks at is this very-- we're very generous with our disability versus a lot of states and it is an attraction to move here. I know of two testimonies I've had from individuals who did that. One individual owns a company in Torrington, Wyoming. He moved to Scottsbluff so he could get the services for his child and he goes over and works at his place in Torrington. That's just one example. But until you fix that, one, two and three is always going to be sitting out there in the end because somebody's going to move to the state and jump the line. That's one of the areas that needs to be fixed. So I just want the people of Nebraska know we're not evil. We're not hard hearted. We do not offer services. We are very generous, the taxpayers of Nebraska. It's just that everybody has unlimited resources and this state doesn't in a lot of areas. Nobody's been harmed. Nobody's been denied, live on the street--

**FOLEY:** One minute.

**GROENE:** --without, without a disability care. They are cared for. And then you've got a multitude of private organizations, church organizations that help folks that are disabled. It's a good network. But what we're going to do now is somebody-- Susie Buffett, if she had children-- don't know if she does-- she would qualify for a disabled child. She would for benefits. But anyway, the way I understand it, she's in the 502. There are even folks who are offered to go onto-- I've heard-- I think Senate Arch told us this-- offered to go and-- on four and five, but they turn it down because it messes up their-- the services they got or whatever. They don't want that because it's-- Senator Arch, could you answer why they turned that down?

**FOLEY:** Senator Arch, would you yield, please?

**ARCH:** I don't know the specifics, but I would, I would say that--

**FOLEY:** Actually, that's time, senators. Thank you, Senator Groene and Senator Arch. Senator Erdman, you're recognized.

**ERDMAN:** Thank you, Lieutenant Governor. Good morning again. It's been a while since we discussed this bill and I think last May was when we discussed it last and, and I had a few comments or opinions then and

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I've tried to jot those down so they become fresh in my memory again. But Senator Groene is exactly right about people moving to Nebraska for services. When we were down at Beatrice, there was a gentleman there that told us that he bought land in the state of Nebraska. He lived in Kansas and about 14, 15 years ago, he bought land in Nebraska so that his son could get services because Kansas did not offer anything like what Nebraska offers. So it does happen and, and it may be more prevalent than we think. So one of the questions that I have and I-- maybe I have several for Senator Arch, if he would yield?

**FOLEY:** Senator Arch, will you yield, please?

**ARCH:** Yes, I will.

**ERDMAN:** Senator-- thank you, Senator. Senator Arch, what I had in a note from earlier was there really was no income requirement for becoming eligible for this. Has that changed? Is it still-- if I'm a millionaire, would I still be eligible for Medicaid?

**ARCH:** Yes, yes, LB376-- and you're referring to the, you're referring really to the first group went in September when, when we heard or-- anyway, it was in the fall when we heard from Director Green. There was 399 individuals that were in that, all children--

**ERDMAN:** OK.

**ARCH:** --who do not qualify for Medicaid because of income, would qualify under, under LB376. So we went back and we said, is there a way to income test on, on, on, on those individuals and, and see if there's-- can we, can we set a limit of X percent of FPL and so forth? What we were told is no, not under the waivers, which is interesting because in my opening, I talked about state plan amendments versus waivers.

**ERDMAN:** OK.

**ARCH:** Apparently, if you go to a state plan amendment, it provides you more flexibility than the waivers. That's one of the things that we want to look at in, in, in our-- really our comprehensive dive when we bring a consultant in, which is what AM1707 covers.

**ERDMAN:** So that'll be an opportunity for the consultant to review those to make sure that that doesn't happen, is that what you said?

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**ARCH:** Yeah, it's, it, it really is that a state plan amendment versus a waiver, what flexibility does that give us, which would we choose here?

**ERDMAN:** OK, so you, you spoke about a three-year waiver and when, when you did that, here, here is the thought that comes to mind. That's a three-year waiver. What happens when the three-year waiver ends?

**ARCH:** Well, there will be some choices, but, but again, what I, what I want to do is I want to run, I want to run the study, the consultant study, parallel to the waiver. And so, and so if it takes approximately 18 months to get a waiver, it's a three year, their-- if we decide to change our system of, of our disability services, there will be some implementation time required. In the meantime, if we can provide some of these in-home services and some family support services for some of these families-- and I, I could talk a lot about this, but some of these individuals are getting on to this waitlist because they don't know if they're going to need residential services at a later point in their life and they feel like I better get on this now because if-- because it's a, it's a wait-- it's a period of waiting. And if I need it then at some point later, I will have the option to do that. And so what we're trying to do with this waiver-- and, and we will certainly be focused on that with a consultant-- is how can we support these families in the home so that they don't need residential services? It's available. It can be given, but they don't need it because they have--

**FOLEY:** One minute.

**ARCH:** --support they need in the home.

**ERDMAN:** Did you say one minute?

**FOLEY:** One minute.

**ERDMAN:** OK. Maybe, maybe I'll ask this last question, then I'll maybe put my light on so I can ask more. So having the three-year waiver, does that create two waiting lists?

**ARCH:** The, the waiver that is anticipated under LB376 would be for 850 individuals. So there is a possibility that there would be those beyond that 850 that would also be and we would have to-- and this would be part-- the department would have to write this waiver so there would have to be some determination of how do you determine which of those 850? Very similar to what we have with that

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comprehensive waitlist that's running right now, the comprehensive services.

**ERDMAN:** So I concluded the short answer is yes.

**ARCH:** Yes.

**ERDMAN:** OK, thank you.

**FOLEY:** Thank you, Senators Erdman and Arch. Senator Slama.

**SLAMA:** Thank you, Mr. President, and good morning, colleagues. I rise today in support of AM1707 and if that is attached, in support of LB376. I wanted to take just a moment this morning to thank Chairman Arch and Senator Ben Hansen for their work over the interim and during the beginning of session on this, from the LR29 committee all the way up to this point on the floor. They brought everyone into the room, got us all on the same page, and addressed the issues that me and several others outlined in the last session with LB376. So AM1707 doesn't get us to where we need to be systemically with this program, but it gets us in the right direction. So I'm, I'm grateful for Chairman Arch and Senator Ben Hansen's leadership. Without, without it, I don't know that I'd be able to support LB376 so thank you, Mr. President.

**FOLEY:** Thank you, Senator Slama. Senator Groene.

**GROENE:** Thank you, Mr. President. Senator Arch, I'm going to ask you that same question I ended with last time. Why are some people being offered to come off the list? Are they in, in-- the next one in line, but then they, they decide it's better for them not to take the final steps? Could you answer that question?

**ARCH:** Yes, I'll respond. Those, those are individual family decisions, obviously. Again, you know, I go back to, I go back to part of, part of the issue that we have here is we-- what I would call a bit of a self-fulfilled-- self-fulfilling prophecy in that, you know, we know that the, we know that the waitlist is long and we know that if you are not in an acute crisis situation, you could be waiting eight years to, to be offered the comprehensive waiver. And so we have, we have children now getting on months old onto that waitlist, not knowing am I going to need that at some point out there? So some families do get to the point where they're offered the comprehensive and when Director Green came to us, he indicated that 30 percent of the people that were offered that comprehensive waitlist this year declined and they had

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been on that waitlist for-- the registry, probably better refer to it as the--

**GROENE:** Thank--

**ARCH:** --registry.

**GROENE:** Thank you, Senator Arch. You-- I think you answered my question. So it sounds to me like if you're a successful family, two-parent family, you've got a child with-- that, that has a disability that when they reach the age of 19, they're going to need help because they're not going to have the income the family does, that it's best to get on the list early so you have a spot when the, when that child turns a certain age, I'm assuming, or a good insurance policy. Your life could go to heck. You could lose your job. The parents could. Economy turns around and they might need that help. So I understand, but-- so then the thing-- claim then that these children are being just-- not having services is wrong. Mom and dad are taking care of them. It's just an insurance policy. They get on the list. But I, I am very grateful to Senator-- I brought it up last year in debate that we needed to do this study and I hope-- I'm going to take a little bit of-- after talking Senator Arch that we did it because nobody understands exactly how one layer gets added onto another layer. We pass this little bill over here. We have this, this disability over here. As, as each of us bring-- I think, one day-- one time a senator added podiatrist to the list of, of a, of a Medicaid payment in the state or whatever. So anyway, it's time to look at the whole convoluted mess. Clear it out. Make sure the people who need the services are getting it. Maybe some cost control. Maybe we ought to look at Medicaid again after looking at this, at this PBMs. And maybe it needs to be controlled again by the state and not some company making-- in charge-- picking up \$40 on a bill that the pharmacists only charge \$20. So anyway, I'm going to support it. I mean, with AM707 [SIC, AM1707] and with the clarification from Senator Stinner that it will come out of ARPA money and it has a three-year sunset on it. By then, we ought to have fixed-- Senator Arch will still be here and we'll have fixed the system and cleared things up and so I can live with that. We got money flowing out of our ears and, and HHS has \$90 million so it's good a place as any to spend it. Thank you.

**FOLEY:** Thank you, Senator Groene. Senator Erdman.

**ERDMAN:** Thank you, Lieutenant Governor. I listened to what Senator Groene said in his last part of his remarks. He said this has a three-year sunset. So if someone in this room would please explain to

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me or describe for me how many sunsets have actually been applied in this body? I've been here almost six years. I think maybe one or two things have actually sunset. Don't get it in your mind that because they say it's going to sunset, that is going to because that may not be the case. So I was wondering if Senator Arch would yield to a question or two more?

**FOLEY:** Senator Arch, would you yield, please?

**ARCH:** Certainly.

**ERDMAN:** So Senator Arch, when the three-year waiver period is over, how do you merge these two waitlists together?

**ARCH:** Good question. OK, so-- well, first of all, we don't know. We've got to bring the consultant in to ask that bigger question. But, but here's what I would say: right now, that comprehensive waiver per individual-- we are, we are spending \$96,000 a year per individual on that comprehensive waiver. So the question is this, that if we are able to provide these services for children in the home and, and the state can determine which, which services go into this waiver, but if we're able to provide those family support services to the children in the home, will we get to a point where, when, when, when that comprehensive waiver is offered, right-- this past year, we had 30 percent that did, that did not choose to go onto that. They didn't need those services for whatever reason. Will we come to the point where perhaps that's 40 percent, 50 percent because we're able to care for them in the home, we're able to provide those wraparound services for them? In which case, then I think, I think we would see this to be both cost effective as well as having greater impact on those families.

**ERDMAN:** OK. OK, earlier off of the mike, you and I had a conversation about the fiscal note and your comment was the note that's there now, the fiscal note there may not be correct. Can you describe that for everybody as you did to me?

**ARCH:** Sure. The fiscal note that sits here right now does, does not include the consultant fee. And, and so-- and, and it-- and so I, I'll have to work with Senator Stinner and the Fiscal Office and, and Senator Cavanaugh to, to get that to where it can come to the, it can come to the body.

**ERDMAN:** So in your opinion, will the fiscal note be less than it is in the, in the bill that we see?

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**ARCH:** I, I know that it will go up by the consultant fee. I don't, I don't know. You know, the language-- and this is, this is, as Senator Stinner addressed it, the, the direction of this to go to ARPA funding, then it certainly would have some reference to General Fund impact.

**ERDMAN:** OK, thank you very much. Well, this is, this is an issue that we're going to be dealing with, not only today, but in the future because I would say that from what I've heard and what I've concluded from the comments that have been made and the answers given that we're not going to solve this problem with this bill. And so I'm, I'm a kind of a middle ground here to understand where I'm going to be on this. But I don't know, it just-- it's confusing. It's not as confusing as the PBMs. That's good news. It's not that confusing. So anyway, thanks for answering those questions, Senator Arch. Thank you.

**FOLEY:** Thank you, Senator Erdman and Senator Arch. I see no other members wishing to speak. Senator Arch, you're recognized to close on AM1707.

**ARCH:** Thank you, Mr. President. This is complicated and, and honestly, that's probably why it hasn't been tackled in the past. It is, it is layered. It is a labyrinth of waivers. People are very dependent upon these services so we will be very careful as we have this discussion, but we need to learn from other states. We need to, we need to understand how to do this better, both from a cost perspective as well as from a support and impact on these families. This particular one, I-- you know, I will, I will tell you from the committee's perspective, when we hear issues of disability and we hear issues of children, those are the two populations that we identify as a committee as what we would call our vulnerable populations. So no, it is not a blank check. No, it is not unlimited resources. But we-- from the perspective of the committee, we have an obligation to care best for this population, understanding limited resources, seeking, seeking the best care that we can provide for them. So with that, I would encourage a yes vote on AM1707 and LB376.

**FOLEY:** Thank you, Senator Arch. Members, you've heard the debate on AM1707. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

**CLERK:** 45 ayes, 0 nays on adoption of Senator Arch's amendment.

**FOLEY:** AM1707 has been adopted. Anything further, Mr. Clerk?

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**CLERK:** Nothing further, Mr. President.

**FOLEY:** Senator McKinney for a motion.

**McKINNEY:** Mr. Lieutenant Governor, Governor, I move to advance LB376 to E&R for engrossing.

**FOLEY:** Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB376 advances. Items, please.

**CLERK:** Thank you, Mr. President. Government Committee offers a series of hearing notices. That was signed by Senator Brewer. Education, likewise, hearing notices signed by Senator Walz and Urban Affairs Committee, Senator Wayne; Agriculture Committee, Senator Wayne [SIC]; and the Executive Board. Also, Mr. President, an amendment to be printed: Senator Hansen to LB446. That's all that I have.

**FOLEY:** Thank you, Mr. Clerk. Proceeding on the agenda, General File 2022 senator priority bill. Mr. Clerk.

**CLERK:** Mr. President, LB986, a bill introduced by Senator Briese, is a bill for an act relating to revenue and taxation; adopts the School District Property Tax Limitation Act. Introduced on January 12 of this year, referred to the Revenue Committee. The bill was advanced to General File. There are Revenue Committee amendments pending.

**FOLEY:** Thank you, Mr. Clerk. Senator Briese, you're recognized to open on LB986.

**BRIESE:** Thank you, Mr. President, and good morning, colleagues. I rise to present my priority bill, LB986. This bill would, with some exceptions, generally limit school property, property tax asking increases to the greater of 2.5 percent annually or the CPI. It was voted out of committee 6-2 and you can see from the fiscal note it was supported in testimony by LIBA, Platte Institute, Nebraska Cattlemen, Nebraska Farm Bureau. We also received letters in support from the National Federation of Independent Businesses and the Nebraska Chamber of Commerce. Although inflation has been averaging about 1.75 percent per year during the last ten years, property taxes have been increasing at about 4.45 percent, or roughly 250 percent faster than inflation. And I think it's unconscionable for us to allow this to happen and I don't think it's too much for us to ask schools to limit their askings. According to Department of Revenue data, we likely collect nearly \$600 million more in property taxes than individual and corporate income taxes and well over \$700 million more in property taxes and state, local, and motor vehicle sales taxes and that is



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after factoring in the property tax credit fund and the refundable income tax credit of LB1107. We are no-- known for having some of the highest property taxes in the country and that's not conducive to attracting residents and growing our state. So what are we going to do about it? Property tax relief requires a multifaceted, multi-pronged approach, and one prong of that, that approach must be trying to control the increases in property taxes and that's what LB986 does and it does it in a very reasonable, manageable way. And so what about schools? I look at the data and it seems that in the aggregate, property tax increases over the last four years have been arguably reasonable, maybe averaging about 3.4 percent per year. But relative to inflation, that's still a little high. But as you dig deeper comparing property tax increases, enrollment, and state aid for the previous four years, you know, there are some troubling numbers too. LRO provided these numbers for various districts. In one district, an example, an un, une-- excuse me, an unequalized school with a 10 percent average general fund property tax increase over the last four years and an average 4 percent enrollment decline. Another district with a 6.9 percent general fund property tax increase on average over the last four years and a 3.3 percent enrollment decline. And I have several other examples also so there are those outliers out there. And we also have to remember that according to U.S. Census Bureau data, we spend-- we formally spend about two-- over \$2,000 more per student than five of the six surrounding states. I think that number is down to about \$1,500 now. So it also appears our per-pupil spending appears-- or would be out of whack. But I will agree with you that school spending increases, school tax asking increases in the aggregate, on average, are perhaps not the issue. But we have these outliers and they concern me and they should concern you as well. LB986 is designed to limit property tax asking increases, but at the same time protect the ability of schools to educate our young people. It begins by calculating a school's property tax request authority. The amount is initially determined by increasing the district's previous year's request by the highest of 2.5 percent, the increase in the CPI, 40 percent of the percentage growth in enrollment, 25 percent of the growth in LEP students as a percentage of enrollment, or 25 percent of the growth in poverty students as a percentage of enrollment. This amount determined above is then decreased by an amount equal to the amount by which non-property-tax revenue for the current year exceeds total non-property-tax revenue from prior year or that amount is increased by the amount equal to the amount by which this non-property-tax revenue for the prior year exceeds the non-property-tax revenue for the current year. So bottom line is if state aid goes down, the tax asking cap increases to allow schools to

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make up for this loss and that's really designed to protect schools and it takes away one of the main objection to some of the cap ideas. And if state aid goes up, the cap goes down. And note that the limit here does not apply to those dollars needed to repay bonds. And in the spirit of local control, the limits can be exceeded by a designated amount by a 60 percent majority of legal voters at a special election held pursuant to the Election Act or it can be exceeded by a 75 percent majority of the school board with some limits on the percentage increase. And the bill allows the district to carry forward any unused authority. So last year, we debated LB408, but this bill really contains some provisions that provide some protections for a growing school district or one facing an influx of LEP or poverty students, which are important but really the greatest difference here between this bill and LB408 that we discussed last year are the provisions that allow the cap to float with other revenue sources. And why is that important? It gives our schools protection against a drop-off in other revenues, but it also protects our taxpayers in the event of an influx of other revenue. And protecting our taxpayers in the event of an influx of revenue, why is that important? Most of this-- of us in this room have been involved in efforts, many of us multiple efforts, to reform education funding in Nebraska, reforms that entail-- invariably entail injecting more state dollars into public schools in Nebraska, and we've struggled time and again. And why have we failed? There's a lot of reasons: a funding source or a lack of it is one problem, how the relief impacts various taxpayers and districts is always another issue, but I would suggest to you the greatest stumbling block to injecting more state dollars into education has been the need for a mechanism to ensure those dollars yield property tax relief. And that's really where we've come to an impasse in the past. I would suggest that this bill present-- prevents-- excuse me-- presents a mechanism that can allow us to overcome that stumbling block. The floating cap would require a reduction in the tax asking as we inject additional state dollars into school districts. But it still allows for reasonable growth in the same period that state dollars increase while still allowing for local control and still allowing districts to address exigent circumstances. I would submit to you this bill represents a reasonable solution to an ongoing issue. It will help protect our property taxpayers, it will help ensure that schools can continue to provide quality education to our young folks, and it really can set the stage someday for an injection of additional state dollars into public education to help reduce our overreliance on property taxes. And we have an amendment to it that Senator Linehan will discuss, but I would urge your support of the bill. Thank you, Mr. President.

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**FOLEY:** Thank you, Senator Briese. As the Clerk indicated, there are amendments from the Revenue Committee. Senator Linehan, you're recognized to open on the committee amendment.

**LINEHAN:** Thank you, Mr. President. Good morning, colleagues. Thank you, Senator Briese, for providing an introduction to LB986. I will provide an overview, overview of AM1702. Committee AM1702 is a white-copy amendment that becomes the bill. The changes to LB968 were approved on an 8-0 vote in the Revenue Committee. LB986 as amended was advanced to General File on a 6-2 vote. The committee amendment makes the following changes to LB986: on page 1 of the amendment, line 13 and 15, we have added in new language that the percentage increase in CPI will be an average annual increase for 36 months, ending on June 30 of the year the property tax request is made. The purpose of this change is to take an average of the CPI to minimize the impact of a one- or two-year aberration. Additionally, on page 1, lines 19 through 23, clarifying language is added to the definition of non-property-tax revenue. Non-property-tax revenue will include all state and local sources other than property taxes. Non-property-tax revenue will not include, again, not include special education reimbursements or state grants and donations. This change has been made to ignore fluctuations in the federal revenue, state grants, or donations. Thank you, colleagues, and I ask for your support the committee AM1702 and for your support to move LB986 to Select File. I, I just want to echo Senator Briese's comments about school funding. There's several of us that have worked ever since we've been elected to the Legislature to address school financing. I am-- I do believe that the state needs to pick more up, especially in schools that are unequalized. We've got way too many students in Nebraska that are not seeing what I believe to be their fair share from the state for their education. But I also know that we're never going to get there unless we get in a partnership with the schools on controlling spending. And again, there are many, many schools that do a great job. But we, as Senator Briese said, have outliers and we cannot-- we got to come to some kind of agreement if we're going to provide-- as one bill that's in Revenue Committee right now-- \$714 million on top of the \$1.5 billion we already provide for public education because the TEEOSA is just one bucket of money. There's another \$500 million and now another \$548 million from the property tax credit fund that was in the Imagine Act. We're over \$2 billion with no partnership on controlling tax taking. It's not going to work. We need to show-- we need to get here where you it's a legitimate agreement between public education and the Legislature and the state of Nebraska that we have to work together and control our cost. Thank you very much, Mr. President.

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**FOLEY:** Thank you, Senator Linehan. Mr. Clerk.

**CLERK:** Senator Briese would move to amend committee amendments, FA69.

**FOLEY:** Senator Briese.

**BRIESE:** --that amendment.

**FOLEY:** Withdrawn.

**CLERK:** Senator Matt Hansen would move to amend the committee amendments, AM1716.

**FOLEY:** Senator Matt Hansen, you're recognized to open on AM1716.

**M. HANSEN:** Thank you, Mr. President, and good morning, colleagues. So to be a little straightforward, my AM1716 strikes Section 3, which is a lot of the mechanisms that Senator Briese has just outlined in his opening. I don't necessarily expect this to be accepted as a friendly amendment by any stretch of the imagination, but we deserve to talk about this bill and its mechanisms and its impact on schools. And I appreciate both Senator Briese and Senator Linehan in their openings talked about the big picture because I think that's something we occasionally lose on these bills is when we talk about the bill just on its own without talking about the big picture. And what's happening here-- and I know this is old news for some of the body so maybe some of this is more for Nebraskans or those watching, but the big picture here is we know we are not putting enough into TEEOSA, our school funding system. We kind of collectively as a body know that. I think there's already been some concessions today on the microphone. The problem is there's not an appetite or willingness to put more in unless there's some pretty spick-- strict restrictions upon the schools, which is what LB986 is going to do. LB986 is going to limit schools from doing what they need to do on a day-to-day basis and it's doing that because it's a one-size-fits-all scenario that does not take into account different things. It doesn't take account-- or at least doesn't take into-- different things into account well enough. School districts that are growing aren't going to be able to grow. School districts that have special needs or special challenges are going to be-- struggle and we are going to see this over and over again. As I've said before many times on this microphone, many times in my eight year here, I sometimes have to be a Nebraska state senator and sometimes I have to represent my district in Lincoln. And when I have to represent my district in Lincoln, I have to make sure that there's no harm to Lincoln Public Schools, that I leave Lincoln Public

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Schools in a better place leaving this Legislature than when I entered this Legislature. So far, I think we've been successful at that, but there has been continued attempts that I think will really hamstring and weaken Lincoln Public Schools and the quality of education my constituents expect, the quality of education my constituents sent me down here to support and to encourage and to foster. And that's the thing we see with these issues is-- and I'm sure other people can speak on this too. We talk about some of the things that we talk about not liking what schools do are the programs that parents like, that, that that students like, the things that are desirable as well as just overall, just the cost of running an organization, running a, running a large operation. This bill, among other things, is going to tie it into the consumer price index, which is the price of consumer goods, but ignores any other sorts of things, such as just natural growth of a city annexing new neighborhoods into a school district. Things of that nature aren't going to be factored in well enough to allow a school district to grow as it needs, let alone the cost of rising labor costs and other issues as we see. You know, at a place where-- in Nebraska where labor is at kind of an all-time shortage, we're the highest employment, the lowest unemployment really ever of any state, we're seeing school districts having to be-- offer more competitive wages in a lot of positions. And that's important because so much of the school district's budget is on wages and not on wages of teachers-- sorry, not on wages of the administrators, as I'm sure somebody will get up and accuse later, but on wages of, you know, paras and bus drivers and teachers and like the people who actually run the schools. And we're going to see this is a situation where we are not going to give our schools flexibility to make sure that we have the education support professionals, to make sure that we have the teachers that we want in our community if we pass a one-size-fits-all heavy restriction on this bill. And this is why I've been talking on tax bills throughout the year and this is one of the things that I want to make clear is supporters of LB986 have indicated that these caps are kind of non-negotiable for them. And I want to be very clear that these caps are also non-negotiable in the other direction for me and I'm sure a number of my colleagues. And so when you talk about wanting to move forward, wanting to bring a compromise forward, you both have-- or put yourself in a difficult position where you both are the one asking for more changes and also stipulating strict restrictions. If we want to solve or improve school funding this year, we have to have things on the table, including we can't necessarily make ultimatums, including ultimatums that are base [RECORDER MALFUNCTION] last year, bills that have been killed throughout the years because they place a larger burden, a larger,

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larger burden on school districts than a number of the senators in this body are willing to do. There are a number of us who really want to support our local school districts who trust our locally elected school boards to budget responsibly and respond to their constituents, our constituents when needs arise. When you look at schools and what they spend money on, you know, go-- it is running the operations of the school. So to talk about runaway spending, things of that nature, maybe there's an outlier. Maybe there's a bad decision a school board has made somewhere in the state. Sure, we can probably pick two or three examples of something overpriced or underthought. But that's not the day-to-day operations of our schools. That's not what we need to do. So if you're coming forward and saying we have problems on both school finance, we have problems on property taxes, and the way we're going to solve this is to put strict limitations on our school districts to not allow them the flexibility they need to in order just to provide the quality of education that our constituents expect, I think we're coming from a faulty place. We're coming from a place that's not going to lead to much progress here in the body and not lead to much progress here on this bill. And like I said, I appreciate both Senator Briese and Senator Linehan tying this immediately into the school funding issue and referencing some of the other bills that we've yet to debate this year. This is part of the reason I've spoken up already on multiple tax bills because overall our tax plan is interconnected and by definition it is interconnected with our school funding in the same way it's interconnected with our budget. But because school funding is siloed off separately in TEEOSA, because we have individualized prioritized tax plans, we have to continue looking at it through that lens. And so when we talk about needing to rein in school property tax or school budgeting authority, school spending authority is really what we're talking about, we have to rein in school spending authority and budgeting authority. And then if we do that, we're willing to give them more state money. That's the thing is we know that we have the opportunity there. We've finished with extra money on the floor that we could have given to schools in past years. We have an opportunity to make significant investments this year with some of the funds but if it's conditioned upon putting permanent, long-term restrictions on our schools to do what they need. And I know somebody's going to get up and say, oh, there's exceptions, they can go to a vote of the people, they can do other things. When you actually look at the text of the bill, there are own quirks and other things that are unduly restrictive. For example, yes, you can get appeal to a special election for a little bit of extra authority, but that special election has to pass with 60 percent of the vote. It's more than-- it, it goes against kind of direct democracy of 50 percent

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plus one and instead puts a supermajority on the voters themselves. The opponents of the extra spending of schools only have to muster 40.1 percent of the vote in order to defeat something that an overwhelming majority of the community wants. So when we talk about flexibility or we talk about options, I'm sure we're going to get up and wave, oh, it's not as bad as Senator Hansen is saying, oh, we've given options for local control still. You actually have to look at the text of the bill at that point. You know, 60 percent vote threshold for the special election that's allowed, 75 percent vote for the school board. And even that is not necessarily getting them back to the authority they have today. That's just giving them a little bit more wiggle room than the plain text of LB986. Again, colleagues, this is a lot to do on a lot of pressure and a lot of bureaucracy and a lot of restrictions on our schools that, frankly, our schools don't need right now, they don't need at all because we don't see this problem. Yes, people don't like paying property taxes. Yes, we should help lower property taxes. That's one of the reasons that I fundamentally have no problem with the property tax credit relief fund because that's the easiest way as us as a state to give--

**FOLEY:** One minute.

**M. HANSEN:** --property tax relief to people because we don't collect property tax money ourselves. Again, colleagues, I'll just put this out there. This is inherently tied to all of our school funding proposals. And I understand that the supporters of this bill are going to make this a condition on other things. I'm going to do the opposite. I'm going to make this not a condition of other things. We cannot put severe restrictions on our schools if we want to get things moving forward. And if that's the level and that's the stakes were throwing down at the beginning of this legislative session, we should just kind of know cards on the table, that's the perspective I'm going to be approaching these tax bills with. So with that, thank you, Mr. President.

**FOLEY:** Thank you, Senator Hansen. Debate is now open on LB986 and the pending amendments. Long list of senators in the speaking queue. Senator John Cavanaugh, you're first.

**J. CAVANAUGH:** Thank you, Mr. Lieutenant Governor. Well, I rise in opposition to AM702 [SIC--AM1702] and LB986 and Senator Hansen's amendment, I guess I don't know where I'm at on that yet, but I think we'll have time. So I have general oppositions, as were articulated by Senator Hansen, but I thought I would start with my constructive criticisms. And you know, it obviously goes without saying I do

appreciate Senator Briese and Senator Linehan's work on recognizing the complexity of this issue and coming back with a more complex answer, solution to the problem than they-- than was proposed last year that attempts to address the problems with putting a cap on local entities. I was just sitting here looking up the number of school districts in the state Nebraska-- and I guess depends on how you count-- somewhere between 250 and 286 or something like that different school districts that are all-- every one of them is different. Every one of them has different makeup of the student population, different makeup of the land and the economics of the territory they serve. Every one of them has different considerations and concerns. So that is kind of my fundamental concern about this bill. But I did want to hit-- Senator Matt Hansen talked about this, and this is the part that immediately jumped out to me that bugged me about it, which is Section 5 of AM7-- or I'm sorry, yeah, AM1702, talking about the nature of the election requiring the 60 percent majority of legal voters, as Senator Matt Hansen pointed out. I'm not familiar with that definition in our statutes is what a legal voter is and how that would be determined after the time of the election. There's also the 5 percent of legal voters and that the election has to be held within 30 days after the receipt of the recommendation. So I went and I just looked at our constitution. There's a couple of places in our statute that talk about petitions and referendums and the constitution reserves the referendum initiative power to the people and it defines by petition that it shall be-- different things have different percentages but of registered voters in the state, and then it goes on to define registered voters for that purpose is calculated as the whole number of votes cast in the last Governor-- preceding Governor's election. So if we were-- I don't know if the intention of this would be to use that same standard as the 5 percent of the votes cast in the previous election. I think you'd have a problem attaching that standard using a different definition saying legal voter versus registered voter. And so I think that's a concern, I think-- I, I just don't know what that means, I guess, what a legal voter versus a registered voter is. I would think that we're registering legal voters. And then the 60 percent threshold, I don't see anywhere else the definition in the conversation-- or in the constitution where it talks about ballot initiatives. It does not set any higher threshold for the vote. There is a higher petition threshold for overturning actions of the Legislature, which has been done not that recent, not that far in the past, where if you get 10 percent of registered voters in the petition then it, it delays the enactment of the legislation until after the referendum is voted on, but it doesn't say that there is a required higher than a passing referendum that, that there's a higher vote



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total. So the higher threshold is obviously concerning, and I don't know why it would be necessary in that situation if our whole purpose is to limit this and just put a hurdle in there. And say the voters really do want this. I don't know why we can't set it at just the simple majority like we do with almost everything else. The 30-day requirement again is unnecessarily cumbersome because a lot of times I know where I come from in Omaha when we've had a ballot initiative for a bond, bond initiatives that are put on the, the next regularly scheduled election which obviously people are voting then, saves-- so it's people are already going to participate more, people are going to participate. It's going to save you money because you're not holding a special--

**FOLEY:** Forty-five seconds.

**J. CAVANAUGH:** --election. I'm sorry, one minute. So you are going to have that election on an already scheduled election which means that you're not going to have to send out special ballots, organize the election, those things. So it's not duplicative of expending resources, which I think is particularly interesting, we're having a conversation about saving money and being more efficient. We're having a requirement of an expensive, separate election. So I would say that it doesn't-- shouldn't be required to be held within 30 days. The other language, I think, is there's language in the statute language in the constitution that allows for elections to be on the next scheduled general election or to be not within a certain period, but not mandating that it be done immediately in that regard. So those are just some of the immediate concerns. I'll get back in and talk about some of my other concerns when I have some more time. But thank you, Mr. Lieutenant Governor.

**FOLEY:** Thank you, Senator Cavanaugh. Senator DeBoer.

**DeBOER:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. Senator Briese, with apologies, I haven't had as much time to study this bill as I would have liked. I will continue to do that, but I was wondering if you would yield to some questions for me?

**FOLEY:** Senator Briese, will you yield, please?

**BRIESE:** Yes. Yes.

**DeBOER:** Thank you, Senator Briese. Last year, when we were working on a similar kind of a bill, I think you mentioned it, LB408, one of the

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things I think you remember you and I talked about was the, the gap that comes between the amount that schools are required to raise in order to get equalization aid in TEEOSA. So the local effort rate and the amount that they're able to raise actually if their tax asking is decreased through a bill such as this. And in your introduction, I believe you said that you have come to a way to sort of get around that. And I just was wondering if you could take me through that. So the local effort rate still continues to be the same in TEEOSA, is that correct?

**BRIESE:** Yes, it would.

**DeBOER:** OK, so then if the local effort rate is the same, then, then the requirement that they raise a certain amount of money stays in place. So that's the, the sort of way TEEOSA works. The local effort rate is the amount that a local school district has to raise in order to get state aid. So that's still the same? OK. For the record, he shook his head yes.

**BRIESE:** Yes.

**DeBOER:** OK, so then my question is, how does this bill sort of go-- allow them to raise that money and at the same time not allow them to raise that money? Like, how does, how does it work? Can you go through that with me?

**BRIESE:** Yes, this, this bill simply presents a, excuse me, a cap on tax askings, OK? And that cap can then be exceeded by a reduction in state aid. It's a simple formula. It's designed to address one of the greatest, one of the biggest concerns expressed by you and the opponents of LB408 last year. If state aid decreases, they can exceed their cap by that amount.

**DeBOER:** So that would mean that-- I think maybe I've got this. So if they can raise, let's, let's say, their local effort rate, so that's their, their levy of \$1.05 times their total valuations. Let's say that number is \$100-- obviously, that's very low, but let's just say, and then their valuations, for ease of math, double. So now their local effort rate which would be \$1.05 times the total valuation in their area gets to \$200. This bill says you can't actually go from \$100 property tax asking to \$200 tax asking from one year to the next. So they're required by TEEOSA to raise that \$200 in order to get to that total valuation times their levy. But they can't do that because we don't want them to skip that much up. So how do we-- how does the--

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how does your bill move what the local effort rate is? That's the part I'm, I'm--

**BRIESE:** No, it does not move the local effort rate. And if they cannot raise-- if they can't access, excuse me, access those state aid dollars for reasons such as you're describing, their tax asking cap will increase to compensate for that.

**DeBOER:** Oh, OK, OK. I think maybe I'm getting this now. So in your bill, they automatically get-- so if, if it goes up to \$200 and they can only under this bill, absent this provision, they can only go up to \$105 or a hundred and 250 or whatever, you know, the CPI average is, whatever it is. That \$95 that's between the two, they can actually automatically get that extra \$95 because the, the loss of state aid, because they don't meet their local effort rate, they could raise their tax asking by that amount?

**FOLEY:** One minute.

**BRIESE:** I would have to look at that to determine if that's an accurate assessment of it.

**DeBOER:** So then, so then, so then does this even affect equalized districts because would equalized districts-- would this even affect equalized districts at all?

**BRIESE:** It's intended to, but I'd have to look at that issue.

**DeBOER:** OK. OK, so let's, let's-- because that one I'm not sure yet either, and I want to think through that. But for unequalized districts then, what would happen is it just limits them. None of this TEEOSA stuff comes in because they're unequalized anyway. I mean, if we change TEEOSA-- I guess that's another question I would have is if we change TEEOSA because there are several bills to do that, people are always talking about trying to do that, then we'd have to work around--

**FOLEY:** That's time, Senator. Thank you, Senator DeBoer and Senator Briese. Senator Pansing Brooks. We'll pass over Senator Pansing Brooks for a moment. Senator Lathrop.

**LATHROP:** Thank you, Mr. President. Colleagues, good morning. I am in opposition to LB986, and I, and I have been trying to pull my thoughts together on what I was going to say when I got on the mike because I got a lot of different things running through my mind as I consider yet another bill to limit in another respect what public schools can

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do to operate or to get the revenue necessary to operate. I got a lot of thoughts on this one, but one thing that occurs to me is we have conversations on this floor about public schools, our public school districts, their money. We talk about the quality of education when we're talking about the opportunity scholarships and we criticize these public schools or talk about their shortcomings and a better alternative. But we never talk on this floor about what we want our public schools to do, what we want them to look like, and what's that going to cost. Instead, we bring bills to cap spending, cap their authority, cap this and cap that. But we don't talk about what we want public education to look like. I don't think that conversation has happened since I've been back. We don't say I'd like to see that every classroom has no more than 14 kids and has a para, which by the way is what I saw when I toured Holy Name which is one of the-- would have been one of the recipients of an opportunity scholarship. Is that what we want our public education to look like? I'm good with that. It would take care of a lot of the problems that we hear Senator Wayne and Senator McKinney talk about, but we skipped that conversation and then we talk about caps. And when we talk about caps, implicit in this conversation is that these school districts are wasting money. We can't trust them to do the right thing. We can't trust them to do the right thing. But no one is on this floor telling us where they think they're spending too much. What is it? Are they spending too much on school busses, transporting kids, the lunchroom, teachers, paras, health insurance, all of the things that go into running a school district? So when we start talking about these caps, what do we think is going to happen after we put them in place? What if the school district has a huge surge in the health insurance premium? According to the CIR, that has to be calculated into the average hourly rate these teachers receive. What if that exceeds the cost of the, the Consumer Price Index or the 2.5 percent? What happens then? Maybe that's what's happening now, but we want to solve the problem by putting a cap in place and skip the conversation about what do we want it to look like and what's going to happen after this? And just implicitly suggest that school boards are wasting money. Sometimes I sit in my chair when I listen to this conversation and I think to myself, why did these people run for the Legislature? They should run for the school board if they think that's where the problem is. Because all we're doing now is skipping a conversation about the quality of education that we want to see provided in public schools and we're skipping the conversation about what's going to happen if you pass this, what are we going to do without--

**FOLEY:** One minute.

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**LATHROP:** --what are we going to do without in public education if we put these caps in place? What happens if the health insurance goes up so much that it eats the entire allowable limit in the cap, but there's still increases in fuel costs, in the cost of buying a bus, whatever it might be for the school districts? Let's have a conversation today on this bill about what we want public education to look like. And if you can come up with some examples of where you think they're wasting money that this would get ahead of, I'd be happy to hear it. I think those are more constructive than simply putting one cap and one another limitation and screaming about the high cost of property taxes when the state isn't doing its share. Thank you.

**FOLEY:** Thank you, Senator Lathrop. Senator Blood.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I do stand in support of AM1716. I'm still trying to figure out AM1702. But as written, I do not support LB986 and I want to walk through several things. Just like Senator Lathrop, I have so many things I want to say. I'm sure I'm going to have to be on the mike more than once, but I am in agreement with Senator Briese and Senator Linehan. Property taxes are too high. But the thing that I've seen over the last few decades are lots of grandiose plans to try and punish local government saying that our property taxes are going to go down in addition to other grandiose plans. But yet property taxes have never really gone down. So the concern that I have with this bill is the concern that I always have when we try and cap our local subdivisions, be it our municipalities, be it our counties, be it our schools. So we know that schools are already subject to tax and spending caps. And we also know right now that our schools are really struggling with a teacher shortage. Senator Linehan was just in a meeting, in a meeting yesterday where myself, Senator Vargas, and the Education Committee all brought forward bills to try and address the teacher shortage. The reason I bring that up is because when I see this bill, here's the concern that I have. We hear the chamber and our Governor constantly saying, how do we keep young families in Nebraska? So what we need to be doing and we have done but nowhere to the magnitude of where it needs to be done, is that we need to be increasing financial support to our K-12 education entities so they can implement proven reforms such as hiring and retaining excellent teachers, reducing class sizes, expanding the availability of high-quality education, much like we just heard from Senator Lathrop. So what I can't get my head wrapped around is why are we willing to undermine a school's capacity to develop the intelligence and creativity of our next generation of workers and entrepreneurs? We stand on the floor and we talk about working-- worker shortages. We talk about people starting new

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businesses. What we are doing right now could ultimately affect this because we know as policy makers that Nebraska is a Dillon's Rule state. That means that Dillon's Rule that we-- it construes grants of power to localities very narrowly. So whenever there's a question about who has the authority, really the local government never really gets to receive the benefit of the doubt because state government is ultimately who sets the legislation, who sets the statute. But here's the thing that drives me crazy, and I had a, a conversation with several people on the floor who have been in local government this morning, is that the state keeps pointing to local government, local subdivisions as the reason our property taxes are high. And so they want to cap it and they want to control it, which by the way, these are the same people who keep telling me they want smaller government so this is such a Big Brother thing to do. But yet they keep putting unfunded mandates on these subdivisions, decades of unfunded mandates. And don't forget, by the way, in 2011, some of those, those local governments re-- had the-- some of the local governments no longer receive state aid, which by the way, if you look around 2011, that's when your property taxes really started to soar. That happened here in this Legislature by somebody who's actually in this body. So in recent years--

**FOLEY:** One minute.

**BLOOD:** --when it comes to school, we passed legislation requiring additional training or instruction that did not include additional funding or reduction requirements for our schools. This includes dating violence training, substance abuse training, return-to-learn protocols, suicide awareness and prevention training; all good things. But here we want to cap the schools, but not stop these unfunded and underfunded mandates. This seems ridiculous to me. We want to punish them for doing what we've told them to do without giving them funding and said, hey, you're on your, your own, figure out how to pay for this. So we aren't willing to fix the systemic issues, but we're willing to bring forward grandiose bills that want to cap things and prevent them from spending additional money, which by the way, I don't disagree that everybody should be responsible with tax dollars, but I do disagree in the principle that is behind this bill. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Blood. Senator Morfeld.

**MORFELD:** Thank you, Mr. President. Colleagues, I rise in opposition to the committee amendment and also the underlying bill for a few different reasons. One, to me, this is an issue of local control.

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These elected school boards that make these funding decisions, the ultimate funding decisions are people that are, quite frankly, closer to the people than even us. As far as I can tell, I need to look at how many people that an Omaha school board member represents, but as far as I can tell, these are individuals that represent fewer people than even us in the Legislature. And by virtue of that, in my opinion, are even more closer and accountable to those individuals. So if they're doing something that is way outside the realm of support in their districts then they're going to be held accountable for it in the next election cycle. Quite frankly, we haven't seen that. A lot of the districts that some senators point to as overspending are districts that resoundingly the voters reelect their school board members. So if the voters were upset about the spending in their local school district, we would see a bunch of school board members get voted out. We don't see that. We certainly don't see it in Lincoln. Colleagues, this is about local control. This is about giving local elected officials the ability to continue to make decisions that they think is best for their students and their district and be accountable for it. In addition, we've talked a lot about being able to recruit and attract folks in terms of teachers, in terms of other school support professionals. And I tell you what, limiting it to the percentage that is proposed here is going to make it so that you cannot have competitive wages and be able to provide for the resources and materials needed to run a school district, particularly with inflation right now. This is going to lead to more cuts, more cuts in districts that, quite frankly, have a hard time holding on to the teachers and the support staff that they need to run their schools right now. I see the struggles every single day in our current district, and this is one of the districts that is considered well-funded. So, colleagues, if we're going to continue to have a high-quality public education system, we need to allow local elected officials to make the decisions that they were elected to make. And when I talk to young families, many of which are my friends, or looking at coming to Nebraska, one of the top things they cite is our high-quality public education system. They cite that because they know that in other places in this country, you have to go to a private school to get a quality education. But that's not the case here in Nebraska, and I'm not going to be a part of creating a law that would create limitations that would lead to Nebraska becoming like other states where you have to pay for a private education in order to get a quality one. I'm not going to be a part of that. I'm going to let local elected officials that are accountable to their people, to their constituents, make the decisions they need to make. Mr. President, I

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want to yield the rest of my time to Senator Patty Pansing Brooks.  
Thank you.

**FOLEY:** Senator Pansing Brooks, 1:25.

**PANSING BROOKS:** Thank you. Thank you. Thank you, Senator Morfeld. Thank you, Mr. President. I just wanted to stand up and, and say, too, that, you know, I, I, I cochaired a, a bond issue for Lincoln Public Schools in 2007 or 2008. And during that time, that was a ton of work, and it, it cost about \$200,000 in Lincoln. And I've heard it's anywhere from \$100,000 to \$300,000 to run a, a special election and to be able to do that every year and to come before the voters and assume that the voters are going to want to keep raising the money and keep-- if, if we don't fund schools appropriately, they're going to fail just as Senator Morfeld said. This punishes both the urban and the rural districts by eliminating growth to an arbitrary number regardless of enrollment growth. It allows, it allows districts to override allowable growth, but growth-- the growth rate is the most different for urban districts who are most likely to, to face significant loss. And meanwhile, the urban districts who, who lowered their property tax asking would be penalized for their diligence and for their determination to keep their, their property taxes low. The cap would cap them at such a low rate, it would be very detrimental to the rural districts. So I'm, I'm against doing this. I don't, I don't think that it's a good idea. I trust the local control. We, we talk about local control--

**FOLEY:** That's time, Senator.

**PANSING BROOKS:** --in here all the time. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Pansing Brooks. Senator Linehan.

**LINEHAN:** Thank you, Mr. President. So I want to respond to some of the comments, but first I, I know we love local control in Nebraska and we're not trying to take local control away, but with local control also goes the money. What we have in this situation, and I've handed out, I'll walk through it, just a white sheet of paper. When you look, so go down, it says total state and local funding. So we took out federal spending. It's halfway down the page. So total state and local is \$4,487,341,000. So total state funding before, this is from the last AFR, annual finance report, from the Department of Ed, total state funding before the LB1107 property tax credit refund was \$0.6 billion. You add the property tax credit refund, which is going 100 percent to schools, tax-- taxpayers, we're then at \$2,174,000,000 or



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\$2,175,000,000 if you round it up, which is 48.5 percent of public school cost in Nebraska. The total local now is 51 percent. So what we're saying is we're supposed to pay 50 percent of the bill but not be concerned about the cost. Nobody, if they were dealing with their own money, would make that deal. You do not go into business with somebody or into any kind of enterprise and say, I'll pick up 50 percent of the costs, do whatever you want. You just-- that does not-- that's not responsible. Now respond to Matt Hansen, Senator Matt Hansen, I'm sorry. So I have Lincoln Public Schools increases in their spending. In '13-14, it was 4.44 percent. Inflation was 1.4 percent. In '14-15, it was 5.69 percent. Inflation was 1.5 percent. In '15-16 when inflation was negative 0.5, their spending went up, their tax taking went up-- spending, excuse me, 4.61 percent. In '16-17, inflation was 0.8. Spending went up 5.19 percent. In '17-18, spent-- inflation was 1.7. Spending went up 4.09. We can't disconnect public spending from what people are experiencing who are paying the bill. If you have inflation that low, wages aren't going up, they're not-- you can't raise your spending faster than people can pay the bill. And Senator Briese has a chart when he introduced this in the Revenue Committee that shows the difference in your property tax bill plus your income in the last ten years in Nebraska and it's dangerous. Now finally, I'm going to respond to Senator Lathrop a bit. I most definitely care about the quality of our public schools. I've been on the Education Committee for five years. I would guess besides maybe Senator Pansing Brooks, I have been in more public schools and visited schools the most in the Legislature, and I should. I'm on the Education Committee and I'm on the Revenue Committee and they deal a great deal with our public schools. I, I have said what I'd like our public schools to look like. Senator Pansing Brooks and I worked two years on a bill to make sure third graders were reading. And now we have a situation where poor third graders haven't been in school for, like, a third of their public school time. And it's an issue we're going to have to address because we can't have a bunch of third graders, I don't care if they're in private school or public school or homeschooled--

**FOLEY:** One minute.

**LINEHAN:** --that have lost a year of learning over their first three years, that are going to be able to read by the time they get fourth grade. So there's all kinds of things we're going to [INAUDIBLE]. I've got a bill this afternoon in front of Education to help teachers, beginning teachers pay off their student loans. I do care about public education. I care about public education in Omaha and Elkhorn and

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Beatrice and York and Scottsbluff and Lewiston, Nebraska. Thank you, Mr. President.

**FOLEY:** Thank you, Senator Linehan. Senator Williams.

**WILLIAMS:** Thank you, Mr. President and good morning, colleagues. And like Senator Linehan, I think many of us in here care deeply about education, and I'm very pleased that that's what this discussion is about today. And I also appreciate Senator Briese's willingness to talk and listen and adjust LB986 from what LB408 was last year. There's probably not a topic in the last eight years that I've been in the body that has dominated our discussions more than taxes, in particular, property taxes. And all the time when, when we're talking to our constituents, people want to have good roads to drive on. They want to educate our kids and keep our kids safe in schools. They want to lock up the bad people. And we always are looking for ways to help those that are less fortunate than we are. But at the bottom of the day when we get to the end of it, all of those things that people want, oftentimes they want somebody else to pay for them because they believe our current system is not fair or equitable. I agree absolutely with Senator Briese that we rely too heavily on property taxes to fund our schools. I also agree that our schools need funding restraints. I would argue they have those now. I also support very strongly the fact that we need to maintain local control. At the end of the day, there are a number of big-picture items that, that I can't quite get there on yet. Here's the question. LB986 suggests that it will lower property taxes by putting in place additional spending caps. The assumption there is that we have schools that are overspending and, and Senator Briese talked about this morning the outliers. The fact is there are some outliers, but there are many, many schools that are currently restraining their spending. My first comment to follow that is that the passage of LB986 does not lower or reduce property taxes. I have had constituents call me and say, I think you should support this because it lowers property tax. No, it does not lower property tax. You will not see your tax bill go down if we pass LB986. Second, I want to talk briefly about the four largest school districts in my legislative district: Gothenburg, Cozad, Lexington, and Broken Bow. The actual increase in spending in the last five years in Gothenburg has been 1.23 percent. The actual increase in spending in Cozad for the last five years has been 1.65 percent. Lexington over the last eight years, 1.5 percent. And Broken Bow, leader of the pack for the last seven years, their increase in spending is 0.5. That's half a percent a year. We sit here as members of the Legislature and pat ourselves on the back for what we do with our state budget and the fact that we've been able to not increase by

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more than and slightly less than 3 percent over these last years. And I think that's remarkable. My school districts are doing better than that, and it's based on their local school boards, the local control aspect of that, and I'm still in the position of wanting to support that. I know those people. I live with them. They run for election and they are elected by the same people that elect us. I'm not convinced that we are any smarter than they are in how we control these situations. The other dynamic that--

**FOLEY:** One minute.

**WILLIAMS:** --I think has changed-- thank you, Mr. President-- just recently is the situation we now have with inflation. Sunday night, I had the chance to sit down with the administrators of three of the larger schools in my school district, and the inflation issue right now is hitting them really hard. They are competing with McDonald's to hire paras at the school. And the increase at the school I was talking about, if they were to increase their salary by the dollar amount for the paras that they have-- would blow right through a 2.5 percent cap with that one item. School districts like Gothenburg, Cozad, Broken Bow with roughly \$10 million--\$10 to \$11 million budgets, a school bus alone is \$300,000. That's 3 percent of that budget.

**FOLEY:** That's time, Senator.

**WILLIAMS:** Thank you, Mr. President.

**FOLEY:** Thank you, Senator Williams. Senator Briese.

**BRIESE:** Thank you, Mr. President. Good morning again, colleagues. Senator DeBoer asked me earlier about the impact on TEEOSA. And as I indicated earlier, TEEOSA is a function of valuation in LER. This does not touch valuation, does not touch LER, and I would continue to maintain that this does not impact TEEOSA. And if we do have an unintended consequence or impact, we would certainly take a look at that and try to correct that. But I do appreciate those questions and those comments. And some have suggested, you know, we're talking about strict limitations here. Well, this is not nearly as strict as what we talked about in LB408 last year, it allows for several exceptions to, to allow schools to continue to do their job and provide the education that we expect and our young folks deserve in Nebraska. And someone suggested, well, it doesn't allow any flexibility. Well, that's-- that-- I wouldn't characterize it that way. We have the ability to be flexible depending upon circumstances, changes in student population, LEP, poverty, and we are acknowledging the potential impact of

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inflation. We didn't do that last year in LB408, and that was a concern. And since then, you know, we've had inflationary concerns arise. And so that's why we did acknowledge the impact, the potential impact of inflation in here. And so I, I think that's an important element. I think it's important to do that. And some have suggested, well, this isn't needed. You know, schools, schools are doing fine. Well, I acknowledged that my opening. In the aggregate on the, on the average, schools are being fairly responsible. But I would also suggest to you there's a lot of taxpayers out there that would disagree. For example, the taxpayers in a couple of those districts that I noted in my opening, and I've got countless other examples of outliers that make you scratch your head and you wonder what's going on there. And some suggest, well, the sky is falling here, they're not going to do their job. We can't be doing this. But we have to remember that this bill allows a 75 percent majority of the local school board to override this and along with the public vote of 60 percent, but a 75 percent of the local board. So if we, if we overshoot something here, undershoot something here or wherever you want to characterize it, or if they've got exigent circumstances that demand it be overridden, demand that they go beyond, they have the ability to do that and 75 percent is not that high of a threshold if you have serious problems out there. And so we do acknowledge the need for local control. We do acknowledge the potential for inflationary concerns. This is a very reasonable approach and we have to remember what we're trying to do here. We're trying to do two things. We're trying to number one, ensure that we don't have irresponsible, unreasonable over collection of property taxes in districts to the extent that occurs. And those outliers suggest that, yes, we do have some of those problems there. But number two, and maybe most importantly, depending upon your perspective, the other thing we're trying to do here is put in place a mechanism that can ensure that the next time we talk about education funding reform, the next time we talk about putting more dollars into education, that we have a mechanism in place that can, that can address the main stumbling block to those discussions. You know, we've had multiple failures in this regard. We, we-- I think we had LB640 and LB454 and LB1084 and LB289 and LB974 and LB1106. And the list goes on and on. And again, the main stumbling block was the lack of a mechanism to ensure those dollars yield property tax relief. And this mechanism here is a very reasonable place to land on that issue. It still allows for growth, it still allows--

**HILGERS:** One minute.

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**BRIESE:** --for inflationary concerns, and it still allows for local control. I think this is what we need to have in place to address that concern when we start talking about education funding reform. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Briese. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. So in the past, I've supported the different spending caps. I support this spending cap. But I think in the past, as I've stated, I'll state it again, the schools in my district, these spending caps don't mean anything because they haven't been exceeding them to start with. But in all my years of trying to fix how we fund schools, I have introduced lots of bills dealing with school funding that never had any spending controls in them and most of them didn't even get out of committee. And so then when we start putting spending controls in place, then they don't get out of committee because of spending controls. And last year, I had a bill that gave money to nonequalized schools and the same people that are saying we should give more money to schools and help schools voted against that bill and it didn't have spending controls in it. Let's make up our mind. Do schools need more money or do they need spending controls? Sooner or later, we have to figure out how we're going to fund K-12 and if the system is broke, let's dismantle it and fix it. But to say on one hand, well, we-- no, we can't give schools more money because, you know, those nonequalized schools, those kids don't deserve anything. They don't deserve state help. Those schools can pay for their own with property taxes and the rest will be fine while we give everyone else, the big schools a billion dollars in state aid. Sounds fair to my constituents. I don't think there's any schools in my district that get any equalization aid. And I can't say that they don't get any state aid because they do get a little bit. We get 2 percent, 2.2 percent back in the allocated income tax, which is a piddly amount compared to what everyone else gets. We have schools that get a half a percent of their budget from the state and schools that get 58 percent of their budget from the state. And thank goodness, OPS comes in at least and turns down \$111 million of new money because they think the state is going to put in too much money into their school district and put our General Fund at risk and we'll take over their school. Because at 78 or 80 percent funded, we pretty well own them, but we can't give money to nonequalized schools. That doesn't work. So I'm going to on the next time I get up to talk, if I don't get finished, I'm going to talk about one of the schools in my district and I don't think they need spending limits on them. But what we could do to help them, let's eliminate the CIR because they were in

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budget negotiations recently, and let's just go through the process here a little bit. You know, they offered, I think, a 3.1 percent package. The teachers' group turned it down. They wanted 5 percent. So there were some negotiations going back and forth, and they think they're going to end up around that 3.8 percent. And I just got an email here now that said they did settle for a 3.78 percent increase, I believe. And so when you look at their budget, and I won't name the school, they talk about this 3.78 percent package increase that will increase their budget by 3.1 percent next year. That's if their staffing stays the same and the same teachers would stay, they don't have retirements, because 82 percent is staff pay. Health insurance premiums went up 5.7 percent. That will raise their budget by 2.3 percent. So when you look back and they take their-- an example, you take their certificated staff that's there and you take the total cost of a--

**HILGERS:** One minute.

**FRIESEN:** --staff person, the average, \$91,579 a year with benefits. The whole package. And I know there's beginning teachers don't get enough to make a living hardly, but \$91,000 was the average of their certificated staff. Seems like pretty good pay. So I think we need to talk more about this. But let's talk maybe about how we fund schools. If it's a local issue, let's take the lid limits off. Let's fund it locally. I'd all be for that. Let's take the \$1.05, let's move it up to \$1.50. Wouldn't bother me any. My schools are all below the \$1.05. So let's start talking about how instead of maybe putting price caps on and spending caps, let's, let's talk about--

**HILGERS:** That's time, Senator.

**FRIESEN:** --how we might fund schools. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Friesen. Senator Matt Hansen, you're recognized.

**M. HANSEN:** Thank you, Mr. President. I'm actually really glad I got to follow Senator Friesen because he's doing a good job of illustrating the points in this debate. And I want to be clear, most of my opposition to many of these bills has been about the spending caps. I would be on board with a lot of solutions. I've dipped my toe in the water on a lot of different things. I voted for Senator Friesen's bill that he referenced last year because it didn't, in fact, did not have a spending cap, and I thought it was at least worthy of carrying it forward. So when you talk about the group who insist upon spending

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caps is killing things, think about who that group is. That is the same consistent number of senators, and they have oftentimes the same consistent number of senators on the other side. I am perpetually in a hold Lincoln Public Schools harmless point on debate on these school bills, on these tax bills, and all of these things. I've said in meetings to a number of senators, if you can solve it around Lincoln Public Schools and Lincoln Public Schools comes out harmless, I don't need to improve Lincoln Public Schools, if they just come out harmless, I'm willing to be there. But the insistence is always on these caps, these limits, some sort of poke in the eye of public schools, they're doing the wrong things. We're going to take it away from you. And I, you know, Senator Friesen and others, you know, if you gave Lincoln Public Schools the opportunity to ask their voters for more, I don't think we've ever failed in a bond issue in Lincoln Public Schools. I think the mood in Lincoln might be willing to eat up a lot of that extra local authority, and that could be something we could talk about. But no, we can't do anything on levies other than push them down. No, we can't do anything and all of these things unless Lincoln also cuts, slashes spending. And they slash spending on actual services to students. Senator Linehan talked about the growth in LPS budget over years, including years that it grew, including when inflation was negative. And yes, that happened. Lincoln Public Schools' enrollment also grew pretty much every one of those years. Lincoln Public Schools grew between 1.5 and 2 percent on average every year and since 2008, we've added six new schools. You can't-- we're not just doing the exact same thing in Lincoln year after year after year. We're growing by hundreds, if not thousands, of kids every year and having to hire more teachers, having to build more classrooms, having to build more schools repeatedly because we are a district that is growing. And if you say we're tying you to the Consumer Price Index and you get tiny little things if you get a supermajority or whatever, that just simply doesn't keep up with the fact that Lincoln is growing. We are building more housing. People are moving here, like, the school districts are getting bigger. And how, how-- that's, that's kind of one of the perpetual kind of mysteries to me is representing a school district that's growing every year and we're saying their spending is increasing and we don't like it. Yeah, the number of students there is increasing too. Like, it has to go up some. Like, there's, there's, there's only so many finite things you can change. Like, just simply hiring a new teacher or building a new classroom will cost money. It's a, it's a thing. It's an expense, and it's expense baked in to the minimum expectation of providing education in the state. So to say, yes, funding has grown even in years when the economy was bad and they shouldn't have done that, well, student

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enrollment grew in those years. Like, we, we physically had more kids to serve. There were more kids in LPS's care during the day. Like, of course, spending is going to account for that in some way. Additionally, you know, we've talked about, we've talked about, you know, expenses. I, I think the 82 percent number Senator Friesen mentioned is common in a lot of school districts. Like, a lot of what the pay, the budget of school district is, is simply to pay the people to run the school district, to pay the teachers, to pay the cafeteria, to pay the bus drivers, to pay everyone. And if health insurance premiums go up, if cost of living goes up, if other things go up, that's baked in. And then that's not the [INAUDIBLE], but that's, that's there, too. So if you're ever in a year in which wages have to get more competitive and more kids are growing in the district and something else happens, just a normal thing in the--

**HILGERS:** One minute.

**M. HANSEN:** --course of things, of course, your budget's going to have to have accountability, flexibility. Of course, it's going to have to grow. Colleagues, this is the insistence that simply the fact that you could throw out a number and say, oh, Lincoln Public Schools' budget grew by 3.7 in a year and inflation was whatever-- lower than that, it's like, OK, well, enrollment grew too, maybe something else significant happened. I mean, some of the things we're doing are just facility improvements. Some of the things we're just doing are just hiring a number of teachers, including in years where you were trying to do an improvement of just reduce class size, maybe fill out some things we took in a tough budget year. We've got to catch back up. Colleagues, I know some of your school districts aren't experiencing the same things as Lincoln, which is why I don't want you to treat Lincoln the same way you are willing to treat some of your school districts. Thank you, Mr. President.

**HILGERS:** Thank you, Senator Hansen. Senator John Cavanaugh, you're recognized.

**J. CAVANAUGH:** Thank you, Mr. Speaker. It's a little crowded over here. So-- well, I talked the last time about my opposition generally to the different approach we have and the ballot initiative process to override these limits. And I've been listening to everybody talk and I'm hearing a lot of people like their local school districts and they do things the right way and there's different considerations for all those school districts. Senator Matt Hansen just a nice description of how Lincoln's needs are different than other districts' needs necessarily. And I was-- I've been sitting here looking through the



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bill and looking at these other ways in which the bill allows for changes in the limit. And then there's the section that I'm sure other people have talked about. But the allows for a percentage approved, approved by the affirmative vote of at least 75 percent of the board of such school district. This percentage shall not exceed 7 percent for school districts with a average daily membership of more than 471 students, 6 percent for districts with 471, but no more than 3,000, 5 percent for 3,444 students, but no more than 10,000, and then 4 percent for school districts of average daily membership of more than 10,000. There's some very specific numbers in there as well about the average daily membership of those schools, and I'm sure there's a reason for that. But the thing that struck me about it is we're talking about all the differences in the school districts and, and how much, I guess, consideration of the dynamic nature of the world that is contemplated in this bill and the, you know, we're trying to create an artificial constraint and then allow for the differences. And I guess my question is when we're talking about that, what-- I, I haven't heard anybody stand up here and maybe I missed it, but I haven't heard anybody stand up and say the school district in my district, this X, Y school district is out of control and it needs this to be held in control. I've heard allusions to outliers and, and those sort of things, but I haven't heard anybody specifically get up and say this will fix the problem in my district. So I'm here to tell you, I represent the largest school district in the state, this will not fix the problem in my district. This will cause a problem in my district. This will cause a problem for students, for schools, for administrators. It'll, it'll hurt our ability to serve the population that we are intended to serve. And so we've gone to great lengths, Senator Briese and Senator Linehan and, and I'm sure others have to try to address those concerns, to try to find ways to address all of the potential situations that school districts may find themselves in for necessity, for increasing funding, or how they address their funding. We already have that in place. It is the separate school districts that are elected. Their boards are elected, setting their levies and budgets for that individual school district, for that population, for those considerations. Those people spend time, hours, nights at those meetings talking about poring over the budgets, talking about the concerns and considerations that are specific to their school district and whether or not they need to do that. To say that people are sitting on school boards and acting recklessly with money or something like that is, I think, a disservice to the people who are doing a largely thankless job that pays even less than the, the Legislature because they love their local school and they love

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their school district. They love the kids and they want to help make sure that it's a good-- they get a good education.

**HILGERS:** One minute.

**J. CAVANAUGH:** Thank you. So, you know, a lot of people around here say this is a bill looking in search of a problem or, you know, a solution in search for a problem. I don't-- I think that there is certainly a property tax problem in the state and that there are considerations. But this is trying to create a structure where we already have one. We have different school districts make their decisions based on the criteria, specific criteria to their school district. And it doesn't-- we don't need a law in the state of Nebraska to say everybody should do this and then we consider these other mathematical formulas on the CPI and things like that to determine whether or not you should be-- your specific considerations merit more money. So I appreciate the work, but this is just not necessary and it will cause more problems. So I'm-- again stand in opposition to LB986, AM702 [SIC--AM1702]. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Cavanaugh. Senator Groene, you're recognized.

**GROENE:** Thank you. I stand in support of LB986. I understand what Senator Briese is doing. How property taxes are levied for schools is a lot different than the other, other taxing entities because we have the state aid formula where they take last year's valuations because when they figure the formula for the state aid for the following year, all we have is last year's valuations and they multiply it by \$1 and then they subtract that from needs and state aid fills in. But what happens is now we've, state, we have decided their needs are covered. And in that formula, it might be last year's valuations, but they do have a factor in estimated student growth. So that's all figured in what Senator Hansen was talking about, how they grow every year. But what happens is come September, when they do the levy, it's on the new valuations. So if you have \$100 million in valuations for last year, your needs have been met. You get a tax on \$110 million if the valuations went up 10 percent. It's a windfall profit to the schools. We had already decided what they needed to fund their school and they get a windfall and then they take that number and they compare it to the next year and say, well, no, we only increased it 1.5 percent. They forget that, that area from needs to what they taxed on as additional spending. It's a game. Here's the problem. The farmer who's in an equalized district, the homeowner in an equalized district, their house goes up 10 percent, bam, they get 100-- they get a 10

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percent increase. Because the county or the, or the ESU-- or the NRD will lower the levy some and not take the complete increase. Schools don't do it. Most of them don't do it. I remember Millard, after the light was shined on, I think, by one of the papers, how much their valuations went up, lowered their levy a little bit to like 98 cents. Yeah, we're going to give it back. No, they didn't. They gave about 30 percent of it back. They kept the other 70 percent increase. They get a windfall. They don't want to admit it, but they get a windfall of extra money that the state of Nebraska said you don't need to fund your school. There's where the problem is. That's where Senator Briese's bill comes in. Some farmer gets a 10 percent increase in his land valuation, he gets a 10 percent increase in the taxes he paid because they took the windfall, period. It needs to stop. The way we fund our schools with property taxes in first and state aid in second needs to change and what's on the-- going to be on the floor probably is even makes the problem even worse because local effort is 75 and you can tax at \$1.10, you talk about a windfall. Senator Briese is trying to slow that down. Said no, we're going to give you some of that windfall, but you're not going to take it all. You're not going to take it all. And in a survey the union-- teachers' union did with their teachers, they said they're quitting. Not a single one of them, a third of them said they're quitting that answered the survey, not a single one of them said, pay me more money and I'll stay. You turned them into social workers. You turned them into a, a-- county health department enforcers. You've turned them into babysitters because they can't discipline their classroom. They are quitting, has nothing to do with money. Has nothing to do with how much you pay them. They wanted to teach and we don't allow them. We make them do everything else under the sun. And now they're going to school three and four days off. How do you teach a kid to show up for work every day when he gets out of school--

**HILGERS:** One minute.

**GROENE:** --when he's only trained to go-- get up early and go to, go to school three days a week or four? There's more to just learning math and reading what we do in a school. We teach kids to eat three meals a day, to show up on time, to be responsible. And I kind of have it hard to believe, Senator Williams, at your schools or any school only went up 1 percent the last couple of years when you throw in all the, the CARES money. I'm-- conveniently, I'm sure they left that out because that's just additional spending off to the side. We do not underfund our schools. There's no relationship between spending in any study I've ever seen two outcomes, none. Throwing money at it has never been the answer. Never. And those property taxpayers are owed something

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that they don't get hit with a 10 or 15 percent school tax increase just because valuations went up in the area.

**HILGERS:** That's time, Senator.

**GROENE:** Thank you.

**HILGERS:** Thank you, Senator Groene. Senator DeBoer, you're recognized.

**DeBOER:** Thank you, Mr. President. Senator Groene, I think that was helpful for me trying to understand this a little bit. Let me see if I can "recharacterize" it or I'm not trying to "recharacter," I'm just trying to understand it. So there's two main pots of money, there's other money, but there's two main pots of money that a school district gets. They get their, their TEEOSA aid and they get that from the state and then they get their property tax money. The property tax money is calculated based on their valuations times their levy. So that's the total tax asking amount. That amount is what we're talking about in this bill limiting to slower growth, I guess, the, the amount. The issue that I was asking about is whether or not if the tax asking amount is limited, but the TEEOSA amount asks for them to have the local effort rate times the, the \$1.05 levy-- what I'm asking is, is there a difference between the local effort rate times a-- times their total valuations and the amount that the TEEOSA or that this bill will allow them to raise? So if this bill will allow them to raise 100 and 250 because last year they raised 100 and TEEOSA says that because their valuations have gone up, is there a gap between the two? So Senator Groene, could you yield to a question?

**HILGERS:** Senator Groene, would you yield?

**GROENE:** Thank you.

**DeBOER:** So Senator Groene, do you understand what I'm asking between--

**GROENE:** Yes.

**DeBOER:** OK. So can you walk me through that?

**GROENE:** This bill does not give them less money than what we as a state, through the TEEOSA formula, says they need. They're going to get-- if the TEEOSA formula said the valuations last year would bring in a-- they were \$100 million, valuation is going to get a million. All right? Then you get your state aid fills in the back side. You have the money you need. What's happening is-- but Department of Ed only has last year's valuation, so they have to base the local effort

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on that. But they get to tax on next year's valuations. So that might be \$110 million. So what his bill would say, instead of getting \$10,100,000 on \$100 million and \$1,010,000, whatever that comes up with the extra 10 percent, you can get a windfall of 2.5 percent over what the state said you need to fund your schools. It never goes backwards. It just limits the windfall.

**DeBOER:** But wasn't their TEEOSA amount the year before calculated on the year before that? Isn't there always a year lag?

**GROENE:** There's-- no, not really, because the needs are based on, on a 2.5 percent increase a year is, is already in that of what their needs are. That's based in for the future. It's actually 5 percent because it's two years back. And then that's your new needs number plus you get to estimate your student growth and that's in it. They're not behind.

**DeBOER:** But what I'm saying is, OK, so they have their, their valuations-- you say they're looking at last year's valuations, but the--

**GROENE:** Yeah, it's only numbers they got when they do the TEEOSA.

**DeBOER:** Right. But then they-- but whatever their last year's numbers, their last year's aid was based on, was based on the year before numbers, right?

**GROENE:** Last, last year's valuation, but they get more state aid because, because it's a different-- it's a math problem. You got so many needs. You subtract the local effort based on last year's valuation, it fills in with state aid. But they get to recoup, they get a windfall then because they get a tax--

**HILGERS:** One minute.

**GROENE:** --on next year's valuations would normally go up.

**DeBOER:** OK. Well, thank you, Senator Groene.

**GROENE:** Anyway.

**DeBOER:** OK, I'm still trying to figure this out because I'm trying to figure out how the, the-- I think what's sort of operative is whether or not the using the previous year's tax asking in the TEEOSA formula how that affects things. So I'm still thinking about this, trying to figure it out. Thanks, Senator Groene, for answering my questions.

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**HILGERS:** Thank you, Senator DeBoer and Senator Groene. Senator Blood, you're recognized.

**BLOOD:** Thank you, Mr. Speaker. Fellow senators, friends all, I do again rise in support of Senator Hansen's amendment. I am still perusing AM1702. As written, I do not support LB986. Some of the questions that I-- I'm, I'm writing down as I'm listening to debate that I'm not hearing the answer to-- and I did have to step out for a minute, so perhaps I missed this. But one of the questions that I have that Senator Briese can answer on his own time. If school districts that have gone to a vote of the people exceed the maximum levy limit, will they now also have to go to a vote of the people to increase property tax revenue by more than their allowable growth? Will they need to double override-- have double override votes? I can't see the clarification in this bill, and I think that that's a question that we most definitely need to be-- have answered on the floor today. And then the other thing that I'm, I'm contemplating is school districts really have to provide a lot of services for students, and their costs can really vary greatly from one year to the next. So, for example, a small rural district that needs a, a new school bus or another that sees a huge jump in health insurance, which we see a lot when a teacher or an employee gets cancer or they need a, a transplant, that can affect the insurance of that school. And how will these schools raise enough revenue to cover this cost? So how does this bill address extraordinary circumstances? I'm not seeing clarification in the bill as written, and I find that concerning. Again, I'm in full agreement that property taxes are too high. But as a Nebraskan, I have watched so many bills get passed and so many initiatives move forward. But yet property taxes are not any lower, and the reason is because we don't fix the real systemic issues. Instead, what we do is we point fingers at local government and then now since I've been here, we keep trying to cap their spending, but we're not addressing things, again, like unfunded and underfunded mandates. We did not give back the money that we gave to local government prior to 2011 that was taken away from them, even though they were promised one day they would get it back when our coffers looked better. We brag a lot about how much money we have right now and, and it is something to be proud about. That we came from, there were many of us like Senator Albrecht and I, and I'm trying to think who else started with me, whoever started with me, but you're in my vision right now, we were in the hole and it was really scary. We've come a long ways in six years and it's something to be proud of. And I, I, I actually want to praise Senator Stinner for a lot of that because he has been exceptional in his job and done a good job of explaining things to this body. But saying that, the one thing

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we have never done is fix the systemic issues as to why property taxes are high. Instead, we keep pick, pick, picking away at our local subdivisions saying that Big Brother knows better. Big Brother does not know better. If you are one of these people who constantly stands up on this mike and tells me that you are for smaller government, then I find it puzzling why you're supporting this bill. And I see who supports this bill and I agree with, with our farmers and our ranchers and our cattlemen and cow-calf people and property taxes are too high and they need a break and they want to do something. But they have supported all of these grandiose bills and they're not any better off. So they're not any better off, but yet they keep supporting these bills expecting something to happen without supporting the systemic issues that keep our property taxes high.

**HILGERS:** One minute.

**BLOOD:** So if we want to prevent property taxes from being high, we've got to stop these bills, fix the systemic issues. Do like Senator Friesen said, let's get together and figure out what's wrong and fix it and quit trying to push these movements forward that really are not going to solve the solution. Thank you, Mr. Speaker.

**HILGERS:** Thank you, Senator Blood. Senator Morfeld, you're recognized.

**MORFELD:** Thank you, Mr. Speaker. Colleagues, I want to talk just a little bit more, particularly in response to some of the comments about Lincoln Public Schools. So I think it's important to put everything into context. So yes, inflation has been low leading up until this year, but the growth of Lincoln Public Schools has been high. On average since 2008 or 2009, the district has grown student wise by 1.8 percent per year. For a five-year period, it was growing by 800 students on average per year. And a lot of these students are students that are low income, about half of them are free and reduced lunch, and so many of them are coming in with high needs more often than not and the district has to be able to provide high-quality services to them. So, of course, there's growth, of course, there's more expenses, you have to be able to provide for the students that are coming in. And when you have a massive influx of students, the size of which is larger than most school districts in the state, there are going to be increased expenses and there are going to be expenses that exceed inflation. That's just common sense. So you we can throw out these numbers and we can throw out these facts without any context whatsoever, but that doesn't make it, that doesn't make it necessarily right to make those points without the proper context. And the proper context is, is that we have some school districts that are, yes,

shrinking and we have other school districts that are exploding. And that's why legislation like this is dangerous. In Lincoln Public Schools, over a five-year period, you had an average of 800 more students added to the district each year. That's bigger than most small towns in Nebraska. So, of course, the school district has to be able to account for that, factor that in, and many of these students, they're coming in, but the property tax valuations aren't coming in with them based on their background and the economic realities and factors. So, colleagues, I go back to the fact that this is a local control issue. These are elected school board members that are accountable to their constituents, some of our same constituents, all of our same constituents, and if they are doing something that their constituents are overwhelmingly upset with, there's going to be consequences. They're going to be voted out and they're going to be replaced with somebody different. That is not the case, at least in my district. And I know that's not the case in a lot of your districts. We should not tie the hands of our school districts and those duly elected officials to be able to do their job. They will be held accountable. It's not as if they are not accountable. And, you know, if Senator Friesen wants to get rid of levy lids and all of that stuff, then, you know, I suppose we can have a conversation about that. But the bottom line is, is that this is the wrong approach. It's the wrong approach because it's a one-size-fits-all approach for districts that are very different, some districts which are exploding in terms of student growth and population like LPS which has increased by about a third. I think it was about 32,000 students in 2008, 2009, and now they're at about 42,000 or so students. That's just in 12 years. So, colleagues, this is--

**HILGERS:** One minute.

**MORFELD:** --the wrong approach. We already have accountability. It's called the local school boards that are accountable to the people that elect them, and we don't need to pass LB986. Thank you.

**HILGERS:** Thank you, Senator Morfeld. Senator Lathrop, you're recognized.

**LATHROP:** Thank you, Mr. President. Colleagues, good morning yet for ten more minutes, I guess. Senator Friesen brought up the CIR, and I thought it would be worth just a quick five minutes on the CIR and what it does and what it doesn't do and how it might play into this or a conflict I don't think is thought through in this bill. So the CIR is a place where public employees who are part of a collective bargaining unit can go if they can't agree with their political



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subdivision or the state to have someone determine what the average pay is for the work that they do. The CIR's job distilled to its simplest terms is to determine average compensation for like work under like circumstances. The CIR doesn't just look at pay independent of health insurance and independent of a retirement program. With the reforms that we did a few years back, we make them come to an average hourly rate value. So we value the hourly rate the employee receives as compensation, the hourly rate value of their health insurance, and the hourly rate value of their pension. All those things then come to an hourly rate value, and they're entitled to the average, and the average is determined by looking at other school districts in this case who are similar in size for doing similar type work. OK? So what happens if that happens? You, you get to impasse, you-- Senator Friesen gave an example of health insurance going up 5.7 percent for one of his school districts. By the way, that raises the hourly rate value at which your employees are compensated for CIR purposes. But what happens if your lid is in the way? And the CIR, colleagues, only sets a floor. It only sets a floor. So a political subdivision-- well, here's a great example, the state of Nebraska. The floor for a security guard just starting in Nebraska, they went to the CIR, the CIR said, \$18 an hour. We're paying \$28 because that's what it's going to take to get them in the door to retain them and keep them. So you can pay more and now we're running into a teacher shortage. OK? So what if you got to pay 5 percent more than you're paying right now to retain and recruit staff to teach in your school district? Well, you'd run into a lid and you wouldn't be able to pay that or you'd pay it and then have to figure out what am I going to cut, right? Some of you have been on the county board. Some of you been in school districts. So what are you going to cut? I think this conversation should be about what do we want it to look like? And I think Senator Briese should tell us what he wants public education to look like, and then we can talk about whether his bill promotes that or doesn't. Because what it does right now is it caps things. The implication is that we're wasting money somewhere. I haven't heard anybody. I appreciate Senator Linehan cares about public schools. I believe her when she says it. I believe it. I know she does. I do. I know everybody in here does. But we skip over that conversation about what do we want it to look like or what would we have to change when these kind of bills come up and we say the taxpayer wants controls. OK. They also want a quality education, and sometimes they do this thing where they want both. But we need to talk about what public education should look like. We should also look at what happens if something like this is in place. Do our classroom sizes get bigger?

**HILGERS:** One minute.

**LATHROP:** Are we unable to compensate teachers well enough to get them into schools up in Senator Albrecht's district? They need some room to maneuver. They need some room to, to run their school districts, and putting caps in place restricts their ability to do that, restricts their ability to do that. And no one has talked about waste. Do we want classrooms that have 28 kids in them to be 36? Is that what we're OK with? Do we want no sports? Do we want no special ed or resources put into special education? What is, what is-- what do we want it to look like? And what might we have to give up if we pass these kind of bills? That's a conversation I think we should have over the next several hours so that we can fully air the--

**HILGERS:** That's time, Senator.

**LATHROP:** --issues around quality education. Thank you.

**HILGERS:** Thank you, Senator Lathrop. Senator Friesen, you're recognized.

**FRIESEN:** Thank you, Mr. President. So in listening to the different conversations going on around the room and Senator Morfeld made a good point, Lincoln's schools is growing. They're growing tremendously. And I can point out maybe it's because of our past tax policy of the state overall that has driven all the economic development basically to the east end of the state. It's the incentive programs that came in here and created these minimum-wage jobs that we have out here that we still have to subsidize. And yes, we're growing the eastern part of the state, but we're ignoring the rural parts of the state because we don't send any state aid out there. We fund our own schools. And so maybe the overall tax policy is a part of this conversation, too. What is our tax policy look like in the growth in the state and where are we trying to grow the population? What are we trying to do to the number one industry in the state, which is agriculture? And so when I look at the issues that happen to, to agriculture with a 200-plus percent increase in taxes that they've had to pay over the last ten years and no state aid, all the schools out there lost all their state aid slowly. And now their tax, their, their taxes are totally based on property taxes. All their funding is based on property taxes. So that shift has happened. We shifted all of the funding for schools in-- for 170 school districts over to property taxes. And so we look at the overall policy of this and, and it's absurd kind of what we're doing. One of the things I think everybody forgets about, too, in this, in

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this bill, I do believe that a supermajority vote of that school board can exceed this. And Senator Briese, would you yield to a question?

**HILGERS:** Senator Briese, would you yield?

**BRIESE:** Yes.

**FRIESEN:** So, Senator Briese, if, if for instance, we have some high costs come in and, and health insurance costs exceed what they planned, they suddenly hit this lid and, oh, man, we're going to shut down the school or do what? What is the process of exceeding this lid?

**BRIESE:** Well, the school board can vote by a 75 percent supermajority to exceed it, and that truly is a relief valve to protect schools from those types of circumstances. And so in that manner, the schools are very well protected in my, in my view.

**FRIESEN:** Thank you, Senator Briese. So that to me puts it back to that local control. Yes, the state is saying, here's your lid. Try to live within it. But again, if they choose to do different, here's their process. That was about as simple as you can get. There's no vote of the people, three-fourths majority. You can exceed this onerous lid. So I, I think there's a process that's built into this. But if we don't start to address some of the underlying parts of it, like where does state aid to schools go and we're number 48 or 49 in the country and how we fund K-12, which we have tried doing numerous times and get nowhere. So this lid doesn't seem to me like it's going to do any damage, not if you can three-fourths majority the school board, surely those school board members care about their schools. Maybe we should even make it so that the, the lid limit which can be exceeded by a vote of the people which numerous schools have done in the past, maybe we could change that lid limit to a 75 percent majority of the school board. Let's let them exceed their \$1.05 if they--

**HILGERS:** One minute.

**FRIESEN:** --feel it's really important that their school needs that money and then it will be a local issue and we can see once maybe if the local people will get involved. Another thing I want to talk about down the road is TIF. And in the Omaha paper recently, we all saw where there's a big development happening and they're looking at TIF money coming in at \$300 million over the next 20 years to pay for their subway system or their streetcar. So when we look at a school like OPS and when they TIF a project, that just gives them more state aid, which comes out of our state budget. When they TIF a project in

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Aurora, they don't get any more state aid, those that are paying property taxes just pay a little more. So when I look at it, I'm saying I'm giving \$300 million to Omaha--

**HILGERS:** That's time, Senator.

**FRIESEN:** --to build a streetcar. Thank you, Mr.--

**HILGERS:** Thank you, Senator Friesen and Senator Briese. Mr. Clerk for items.

**CLERK:** Mr. President, the Banking Committee reports LB795, LB811, and LB892 to General File, both signed by Senator Williams. Priority bill designation: Senator Kolterman, LB700-- I'm sorry, Retirement Committee, LB700, and Senator Hilgers, LB933. An amendment to be printed: Senator Hansen to LB986. Announcements: the Government, Government Committee will have an Executive Session tomorrow following their hearing in Room 1507. Government Committee tomorrow in 1507. The Education Committee will have an Executive Session today following their hearings. Name adds: Senator Murman, Morfeld-- I'm sorry, Senator Murman, LB774; Morfeld, LB783; Geist, Murman, Hughes, Ben Hansen, LB933; Hunt to LB1070 and LB1071; Matt Hansen, LB1205; Clements, LB1213. Mr. President, Senator Day would move to adjourn the body until Wednesday, February 2, at 9:00 a.m.

**HILGERS:** Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. We are adjourned.