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Education Committee  
January 22, 2007

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[LB95 LB101 LB150 LB231 LB241]

The Committee on Education met at 1:30 p.m. on Monday, January 22, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB101, LB241, LB150, LB95, and LB231. Senators present: Ron Raikes, Chairperson; Gail Kopplin, Vice Chairperson; Greg Adams, Brad Ashford; Bill Avery; Carroll Burling; Gwen Howard; and Joel Johnson. Senators absent: None. []

SENATOR RAIKES: Good afternoon and welcome to this hearing of the Education Committee of the Nebraska Legislature. This is our second hearing of the new season. We have five bills to be heard and they will be heard in the order listed on the sheet posted outside the door. We will stick to our customary introduction by the introducer, followed by proponent, opponent, neutral testimony, and then a close by the introducer if so desired. We will use the light system. We don't use the light for the introducer. That's one small compensation, or is it, I don't know, for being a member of the Legislature. At any rate, for those who are going to testify, we will use the lights. We will have a five-minute time limit, so please respect that. We give you a warning with a green light up to four minutes, the yellow light, and then the red light at five minutes. Other items, be sure and turn off your...or turn down or however, your cell phones. Oh, yes, when you come to testify, please fill out one of the little forms, stick it in that box, and then as you begin your testimony, tell us your name and spell your last name for us, if you would, please. With that, I'll introduce to you our committee. You guys are out of place. The people from Omaha...we always have that trouble with them. []

SENATOR ASHFORD: Well, you're out of place. []

SENATOR HOWARD: No, you're out of place. []

SENATOR ASHFORD: We're still effective even if we sit in the wrong chairs. []

SENATOR HOWARD: We certainly threw you off. []

SENATOR ASHFORD: That's just our opinion. []

SENATOR RAIKES: Matt Blomstedt is the committee's research analyst and we've got a spot for him over there which he's chosen not to occupy, and Senator Brad Ashford was helping him out in that regard. But he's now moved to the left and a lot of people didn't think that was possible (laughter), but he has, in fact, moved to the left. Next to Brad is Senator Gwen Howard, also from Omaha; Senator Carroll Burling, from Kenesaw; Tammy Barry is our legal counsel; I am Ron Raikes from District 25; to my left is our committee's Vice Chair, Senator Gail Kopplin, Gretna, Nebraska; Senator Greg Adams, from York, Nebraska; Senator Joel Johnson, from Kearney, Nebraska; and Senator Bill Avery, from Lincoln, Nebraska; finally, our committee clerk, Kris

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Valentin. So that's our cast of characters, our half of it. Now we're ready for your half of it. And in fact...there he is. Our first introducer is Senator Phil Erdman, Chair of the Agriculture Committee. That meets today, right? []

SENATOR ERDMAN: Tomorrow. []

SENATOR RAIKES: Tomorrow. Okay, so he doesn't have a good excuse. I was trying to make nice for you, but I couldn't do it. Come on up, Phil, and tell us about LB101. [LB101]

SENATOR ERDMAN: Mr. Chairman, members of the Education Committee, it is an honor to be before your fine assembly again this year. My name is Philip Erdman, I represent the 47th Legislative District, here to present LB101. LB101 places firmly before us a policy decision that I believe is desperately in need of a revision and some would offer that this is a technical change, and I would tend to agree with them. Others would regard this as a substantial change in public policy, but I think before you can arrive at those positions, you have to do a little research to understand how we got here. Those that would argue that this is substantial policy change that we, the Legislature, should tread lightly on, would have you believe that this was a conscious decision made by a previous body of this Legislature. In fact, in reading the history of the statute in question, we cannot find any definitive statement that the intent behind the two-parent requirement for a child to be enrolled in an exempt school was stated. It was simply either an understanding of the practices of the time, or something that did not gain the discussion that other areas of the bill, which was LB928 at the time, had. LB928 dealt with statewide accreditation of all schools. In that legislation there was some discussion about how do we treat homeschools or exempt schools in that process, and there was some more controversial issues that the homeschool community were opposed to that intentionally or unintentionally violated the first amendment as they saw it, and those things were stripped from the legislation. So simply put, the bill that was before the body dealt with a number of issues. It was not a conscious decision on this issue. The issue that's before you is specially only that question. Where we have a parent who chooses to enroll their child in an exempt school, should they be placed a higher burden than a parent who would choose to enroll their student in a public or private school? Currently, if you choose to enroll a student in a public or private school that's accredited by the state, one parent signature is sufficient. Under the law prior to the enactment of a recent compulsory education change...in fact, it only took one parent to dropout of school, but yet we still had a higher burden against those parents who chose to seek the opportunity that our state law allows them to have as an exempt school. So the question that is simply before you, and I will allow other testifiers to present their case and allow if there is any opposition or other testimony and then I will try to answer any questions at closing, is it simply to make sure that the policy reflects the current practices, the current family structures that we have in today's society. You will hear some testimony from individuals who, I

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believe, have been unfairly punished by the statute as it stands today and the interpretation of the Department of Education, but you will be able to hear that testimony. I would imagine you will probably hear some testimony from the Department of Education. And then I will try to close with some additional information that may further clarify the debate. Mr. Chairman, as always, I appreciate the opportunity to bring bills before your committee and to work with you and look forward to doing that on this bill as well. [LB101]

SENATOR RAIKES: Thank you, Senator. Questions for Senator Erdman? Senator Howard has one. [LB101]

SENATOR HOWARD: You know, there are a lot of issues in this that I am concerned about that really raise red flags for me. If a child is in a family that's going through a divorce and consequently joint custody is awarded to the parents, that generally covers issues such as health concerns and educational plans. How would this work if one parent was in disagreement? [LB101]

SENATOR ERDMAN: Senator, that's the crux of the discussion. In fact, if you have that same circumstance and a parent would choose to enroll their child which they had physical custody over into a parochial school, you would have a similar issue because you would have only one parent requiring that. The question that comes up is how do you remedy it? I don't think the proper remedy is the Department of Education. I don't think it's their responsibility to settle these disputes. I think that's settled in family court. I think that's an issue that we can figure out a way to resolve that. The other option that may be before us is to change the way that our process is done. Essentially, what you have now is one parent may sign the form requesting the other person to consent. The alternative would be that you would have one parent sign the form requesting the opportunity to pursue this educational opportunity, and instead of requiring consent, require an objector. And so it would essentially change the process to allow for those opportunities, and those are the things that we've been looking into as we have looked at the history of the bill, both this bill before us as well as LB928. We recognize that whenever we get into the decision about who makes the ultimate decision for the education of children in which both parents are responsible for, that there has to be involvement. You're going to hear testimony today where you have two parents that are responsible, but one is uninvolved, and so I would like to allow those individuals to come forward. And I think your question is the question of the day and that is how do we resolve this issue in the event that there is an objection, as opposed to someone who is passively opposed for other reasons to complying with the state laws as it stands today. So I think your question is the question of the day. [LB101]

SENATOR HOWARD: Let me take this one step further and you might not have the same experience with this that I've had over the years, but when a child is taken into the foster care system, if a parent would request homeschooling for their child, that is not

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acceptable at this time through the Department of Health and Human Services. Public education is the accepted. I've had foster parents who were homeschooling children, but the child who was a state ward remains in the public school system. How would this bill address that? [LB101]

SENATOR ERDMAN: I don't believe this bill would address that specifically. I think that there are probably other statutes that govern the issue of custody of a state ward and in the foster care system as you explain it, and so I don't know that it does, but I would be happy to get some more information possibly before my closing and see if there is a way that this may address it. [LB101]

SENATOR HOWARD: Right, and I would like to point out when you consider that that just because a child comes into the foster care system doesn't imply that the parental rights are terminated. [LB101]

SENATOR ERDMAN: Correct. [LB101]

SENATOR HOWARD: The rights remain intact until there is a hearing and determination on those. So the parent would have certain decision making powers over that child. [LB101]

SENATOR ERDMAN: And those issues are outlined, as you understand better than I, in the foster care process under the event that that child is in custody, and so those issues would be as they are. And this issue as we pointed out earlier, generally points toward a different circumstance, but it may have overlapping concerns, and we will try to get you an answer for that. [LB101]

SENATOR HOWARD: I appreciate that. I think it's something that's important to consider as you move forward. [LB101]

SENATOR ERDMAN: And hopefully we will move forward. [LB101]

SENATOR RAIKES: Okay, other questions? Senator, I gather from what you say that you would consider the two situations different. Number one, you have an absent parent who is in contact and involved and opposes homeschooling, versus an absent parent who is simply not heard from, you really don't know about a specific opinion on homeschooling. [LB101]

SENATOR ERDMAN: Senator, I'll give you an example, and there will be others that will be here as well to testify. There was an individual who was a resident of Colorado. The one parent lived in Mississippi. The other parent, obviously, was a resident of Colorado. Those individuals moved to Nebraska. While they were residents of Colorado, they were homeschooled. The children were in a homeschool environment whether it was

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their own or another setting, but there was no objection. When the individuals moved to Nebraska, because of the way that our law is interpreted in our rules and regs as well as the plain reading, the individual was informed that unless the second parent sent the consent that that individual could be homeschooled in Nebraska, that that child would be essentially considered a truant. And so there is a circumstance where it wasn't an objection to the extent that they were opposed to homeschooling, because they were homeschooled the year before in a different state. The issue at hand was the other circumstances surrounding the family that may have caused that delay in sending the form. The individual that lived in Mississippi claimed they never received the form, a number of things, until finally they got the form signed just in time prior to the student being labeled truant and subject to the penalties under the law. So it is a different scenario where you have an openly...or an involved individual in the process, where you have someone who knows that they have an interest in the actual outcome of that decision. That, in my opinion, is a different circumstance than a parent who is simply absent and not involved in the process or is disinterested in what the decision is. I think those are completely different circumstances and I think there is an opportunity to provide that check and balance in the process. And again, it comes back down to the same circumstances as I understand the law regarding public and private schools. Those circumstances require one parent to make that decision, while there may be other parents that have joint custody or joint authority under the law to be able to make that decision as well. [LB101]

SENATOR RAIKES: Okay. Senator Howard, one more time. [LB101]

SENATOR HOWARD: I think Senator Raikes brings up an excellent point and I would like some definition of how absent an absent parent needs to be. There are certainly circumstances where a parent is paying child support, for example, but really is not in contact with that child. And so how would that leverage in? [LB101]

SENATOR ERDMAN: As you well know, Senator Howard, those issues are generally best left to the courts to make those determinations on the role the parents play in lives of children in regards to custody that is in question. I would say that it would be difficult for us to define in statute an appropriate definition, and the Chairman of the Judiciary Committee sitting next to you would probably concur. We can set the basis and allow the courts to decide in those situations on a case-by-case basis what is in the best interest of the child, who best meets the needs of that individual, and I think those are the questions that we have to already wrestle with in regards to those decisions that parents make for public and private schools currently. As I understand the situation in the event that an individual may seek to have the circumstance where their child support would like to be more involved, they would be able to have opportunities under the law to petition the courts for different circumstances if they felt that things were being done inappropriately and to be able to have their day in court. So I think there are remedies, and I think we should pursue those options outside of rules and regs in the

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event that it is in the result of a custody case or some circumstance and where the court has issued a decree. Logically the place to take that dispute is back to that court and have that discussion there. [LB101]

SENATOR HOWARD: Would you see this bill as superseding the court's authority? [LB101]

SENATOR ERDMAN: Could you clarify how you would see that? [LB101]

SENATOR HOWARD: Well, if this were put into law, I would see this as being a reference for judges when they make decisions regarding placement. [LB101]

SENATOR ERDMAN: Placement in the sense of which parent... [LB101]

SENATOR HOWARD: The custody of the child, be it joint custody or be it individual, with one of the two parents. [LB101]

SENATOR ERDMAN: I would think that in the overwhelming number of cases, Senator Howard, that are currently before the courts, those cases resolve a parents decision to enroll their children in public and private schools, which are currently at the threshold of one parent. This is an example where you probably have 2,000 families across the state out of 1.7 million people; this probably isn't a significant part of that decision. But again as I answered to Senator Raikes' question, I think there would be an opportunity for us in the event that checks and balances need to be put in place, and again, it might be the issue of changing simply the way that the process is done from a consent to an objection. But again, I think those issues could be put in place to try to address some of those concerns. The idea that this would somehow set a precedent that the court would use in cases that may not directly affect them is probably a little oversimplistic. But I think that there are some collateral issues that have to be weighed in any decision. [LB101]

SENATOR HOWARD: I would agree with you on that. Thank you. [LB101]

SENATOR RAIKES: Okay. Thank you, Senator. We will move now to proponents. Before we do that, how many people plan to testify as proponents on LB101? One...two...three. Okay. Opponents? Neutral? Okay, first proponent. Welcome. [LB101]

SEPTEMBER MARTIN: (Exhibits 1 and 2) Thank you. Thank you, Mr. Chairman. Thank you, Senators. I'm very glad to be here this afternoon. My name is September, just like the month, Martin, M-a-r-t-i-n, and I cannot tell you how glad I am to be here this morning. My daughter and I left Scottsbluff, Nebraska, yesterday at 1:30 p.m. and arrived, finally, just before midnight after crawling through ice, snow, and rain. So every minute, though, of that ten-hour drive is worth it to me because I want to share with you

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how very much I care about the passage of LB101 and how important this is and how much this affects our family. As you are aware, the homeschool exemption currently requires that either both parents or both guardians sign the exemption affidavit. What you're probably not aware of is the hardship that this does create for many custodial parents, myself included. I can't possibly convey the full impact of those hardships to you in the few moments that I'm allowed here, but I will do my best to concisely convey what I can and to answer any questions that you have. At the age of 20, I foolishly made a very selfish decision and I decided to become involved with a man that I was not married to. That relationship resulted in an unwed pregnancy. I was very fortunate that I met a man during my pregnancy who became my best friend and who led me to Christ. We were married and I'm happy to tell you, we've been married for over 15 years now. We have three children and we have a foster child. We've been foster parents now for two years and we're just approved for adoption. We've homeschooled across five states for 12 years. My children have all been exclusively homeschooled, and until we moved to Nebraska three years ago there was no problem with our homeschooling. The state in which my daughter, Madison, was born is a joint custody state, therefore, even though Madison's father sees her less than 40 days per year, I technically share joint custody with him. And that's why I'm here today before you. Senator Erdman pointed out that the Nebraska homeschool statute was not consciously worded the way that it was to ensure that children receive a proper education and parenting issues. And further, I would like to point out to you that the requirement for both parents to sign the affidavit does not aid in accomplishing that goal. Actually, as you will be able to see for yourselves in the copies of the studies that I have provided for you today, the empirical evidence demonstrates that the academic and the socialization outcomes for the average homeschooled child are superior to those experienced by the average public school student, and the outcome is not influenced by the amount of legislation or regulation. Homeschooled students regardless of state regulation level, regardless of their parents' education level, and regardless of their race, consistently outperform their public school counterparts by 15-30 percentile points on standardized testing, yet only one parent is required to sign the public school enrollment forms, even in cases of joint custody. And this is reasonable. But it's also reasonable that only the custodial parent be required to sign the homeschool affidavit. A large-scale study of homeschool graduates concluded that homeschool students not only outperformed their public school counterparts academically, but as graduates, a higher percentage of them go on to obtain higher education, they are more satisfied with their lives and careers, and they are also more civically involved. At this point, some of you might be thinking, Okay, that's impressive, but what about parents who aren't doing that with their children, who aren't educating them the way that they should. Well, I can't stand here before you today, or sit here before you, and pretend that that can't happen. I realize that there's what we might call the fringe factor, but that factor exists in every walk of life and every form and every mode of education. And what I challenge you to recognize today is that Nebraskan custodial parents are not more likely to be in this fringe culture than any other parent in Nebraska, and I would like you to concede that homeschooling is the

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legitimate option that should not be under discrimination. Nebraska and Vermont are the only states in the nation that require both parents to sign affidavits, yet there is not one shred of evidence that any child has been protected. In short, this requirement is discriminatory and it does place an unfair presumption of failure upon the custodial parent, and also an unfair burden on all parents, not only the divorced or single. We currently have a family who has decided to homeschool, but dad is serving his country in Iraq right now. As you can imagine, it's a little hard for him to have a timely signature and a notarization on the form that's required, even though he and his wife are married and are in complete agreement, this is placing a burden upon them. Frankly, this law does place the greatest burden upon custodial parents who share joint custody. Please understand that joint custody does not always mean joint responsibility or joint involvement. In my case, my daughter's father has no financial or emotional involvement in her education. He has not returned my phone calls or any correspondence regarding this most important issue, and yet under the auspices of protecting my child, the Nebraska law is actually enabling him to passively stop a thriving and successful 12-year education process. Under this law, the only option left to me is to pursue sole custody, and because of the law, I've had to obtain legal counsel in both Kansas and in Nebraska. My husband and I have to date, paid out \$4,500 in legal fees, and I need to travel to Kansas in March for a hearing, and additionally am required to take an eight-hour class here in Nebraska, entitled Families in Transition. I have all of Madison's academic standings for you. I know that my time is cut off here and I don't want to exceed that, but I do have all of her standings. She is an absolutely exceptional student. She is enrolled as a dual student at Western Nebraska Community College. She is excelling there and will have 21 credit hours at the college at the end of this semester. So I can provide you in writing with her current scores. Do you have any questions for me at this time? [LB101]

SENATOR RAIKES: Okay. Thank you very much, September. Questions for September? Just so I understand, in the case of your oldest child, the father didn't object to homeschooling, but just has not communicated any opinion whatsoever? [LB101]

SEPTEMBER MARTIN: The first year that we resided in Nebraska, he did sign the form. He did not have it notarized. He said he did not have time and would have to take off work for that, so he signed the form and returned it. The second year, he said that he didn't have time to sign the form and that he was not going to sign the form. This year, he did send a letter to the NDE stating that he wanted his daughter to be found truant and immediately placed in the public school system, this despite the fact that she's completed 180 of the 220 graduation requirement hours. She scored 99th percentile on the placement test at Western Nebraska Community College as a 14-year-old, 97th percentile on the reading comprehension portion and is rated 91st percentile on the standard achievement test, that's her national rating. [LB101]



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SENATOR RAIKES: Okay. Senator Avery has got a question. [LB101]

SENATOR AVERY: Thank you for coming. Did you say the father has about 40 days of contact with the child a year? [LB101]

SEPTEMBER MARTIN: Yes. Less than 40 days of contact per year. [LB101]

SENATOR AVERY: And this was allowed in the divorce settlement, visitation or custody agreement? [LB101]

SEPTEMBER MARTIN: That is the visitation that was set up. In fact, I give him additional visitation above and beyond what is in our custody agreement. [LB101]

SENATOR AVERY: Does he take advantage of that? [LB101]

SEPTEMBER MARTIN: Not really...sometimes. Any other questions? [LB101]

SENATOR RAIKES: Don't see any other questions. Thanks for making the long trek. [LB101]

SEPTEMBER MARTIN: Okay. You're welcome. Thank you for allowing me to be here today. [LB101]

SENATOR RAIKES: Next proponent. [LB101]

MADISON CARLSON: My name is Madison Carlson, C-a-r-l-s-o-n, and I'm glad to be here today. Like mom said, we had a really long drive to get here, and I want to thank you for giving me a chance to tell you all how much I enjoy being homeschooled and how I feel about it. Because being homeschooled I can work at my own pace and I can learn the way I learn best. I can pursue the things I'm interested in and I can spend a lot more time with my family than I would be able to in a public school setting. I can spend time with my friends and I have the freedom to volunteer for things and help causes that I feel strongly about. My mom has been homeschooling me for 12 years and she's always been there for me, and she has worked very, very hard to give me a good education. I really love my dad and he's a great guy, but he hasn't really been there. He hasn't really cared about my education except for...until we moved to Nebraska. And it really, really means a lot to me to be homeschooled and be able to work more quickly than I would be able to in a public school setting. And it's really important to me to have the freedom to get the education that I desire and the education that I deserve. Do you have any questions? [LB101]

SENATOR RAIKES: Okay. Thank you, Madison. Questions for Madison? [LB101]

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SENATOR AVERY: I just want to commend you for coming this far and I think you're a very bright, poised young lady with a lot of confidence. You're to be applauded. [LB101]

MADISON CARLSON: Thank you. [LB101]

SENATOR RAIKES: Let me ask you, you talked about visiting with your friends and...obviously you've never been in a public school so you don't have a firsthand comparison of homeschool and public school. Does a comparison come through your friends? [LB101]

MADISON CARLSON: I have some friends that are public schooled and I did go to a private school for one year. [LB101]

SENATOR RAIKES: Okay. All right, well again, thanks for making the trek and have a good trip back. Next proponent. [LB101]

DAVID LOSTROH: (Exhibit 3) Senator Raikes, Senator Kopplin, Senator Adams, members of the Education Committee, my name is David Lostroh, spelled L-o-s-t-r-o-h. I serve as a vice president of the Nebraska Christian Home Educators Association and we are a proponent for LB101. I'm not going to read everything on this testimony. The situations that we encounter at the NCHEA are oftentimes very similar to what September has just said, but we would encourage you to adopt and send out to the floor LB101 because of the fact that it's only the exempt schools that require two signatures, as you have heard. Requiring two signatures for the single parent situation described above in the previous paragraphs present an unfair burden on the single custodial parent. In that the single custodial parent is already carrying the bulk of care, work, responsibility for raising the child, it is unfair that the less involved, often disinterested and even uninvolved in some cases, absentee parent, if you would use that term, can place the burden on the custodial parent to file in family court for further resolution. And all that is needed to achieve that is to simply not sign Rule 12 or 13 paperwork. The burden to challenge in court should be on the noncustodial parent, which is where LB101 would place it. Effectively--and this is in my mind probably the biggest thing--the person that is doing essentially nearly all of the work is the one that would have to go to court to have a judge rule that only one person would have to file the Rule 13 or Rule 12 paperwork, instead of the two that's required by Rule 12 or 13 and even implied, perhaps, by the statute itself. And so the person who is doing the work gets a bigger burden financially to come up with an attorney and so on to press the matter, and generally that has not happened. In Section 3, this third section, I think September adequately covered that, that homeschooling tends not to be related to hardly any of the factors that one might think and so the performance generally of single parents who are doing...ones who homeschool, is generally going to be a good job. Most parents who are looking for an easier method or whatever don't homeschool, because they know that it's a lot of work. So it's in that sense self-regulating and requirements are not needed

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and pressure from the state to do a good job. Other states don't have a requirement for two, as was mentioned by September. I don't think Nebraskans are unusual and we would have more trouble here in Nebraska than in other states. And I think it had been mentioned, but only one parent is required to opt out after age 16 according to the 79-201 and that applies across the board, whether it's an exempt school or a private, public, or parochial. And also requiring two signatures plays an unnecessary burden on cases of military personnel, people moving into the state, we have seen that from time to time, that it's difficult. But the main concern here would be cases like September's, where it's not just a delay, we're trying to obtain a signature, not being able to get one, not being able to homeschool. That is the real crux of why would support LB101. [LB101]

SENATOR RAIKES: Thank you, David. Questions? We often talk about this in the context of a noncustodial parent, but you could have two biological parents living together in a household and disagree on homeschooling and this would be involved in that situation, right? [LB101]

DAVID LOSTROH: Yes, I think that it applies, I think, across the board, because I'm sure there are cases with the public, private, and parochial school where there's some discussion that goes on between the mother and the father. And it may take them some time to work through all of that, and conceivably if they don't agree, they could go to court. Now, generally, I don't think that's likely to happen, but, I mean, it could. It could be where they can't agree and that kind of thing, and so they are going to have to decide one way or the other what they are going to do. In the case here, the burden, financially, to go to court, because that's what it would take if they're really sincere about it and have the funds and the wherewithal to make that happen, it's a huge burden on top of what they are already doing. And so I think there is a remedy, it's just that the remedy ought to be, I think, in favor of the person who's doing all of the work, or at least most of the work. Let the person outside be the one to say, I object to the homeschool. [LB101]

SENATOR RAIKES: Well, but in the case of, you know, two parents living...I mean I may decide that I want homeschooling because my wife is an excellent teacher, and I think she ought to homeschool the kids. She may be the one who objects. [LB101]

DAVID LOSTROH: Well, that's...she might. It's not easy. Generally, those kind of things where the parents are both in the home are going to be, probably, worked out there. One way or the other, if the husband is listening to a mother who doesn't want to do it, I would think in most cases, essentially all cases, he's probably going to go along with what the mother says if they're in the home. I'd be surprised if it went the other way, but with regard to LB101, we're talking about parents who are not in the home, not heavily involved, having undue power to dictate indirectly what the parent who is doing all the work can do, with regard to education. [LB101]

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SENATOR RAIKES: Okay. Don't see other questions. Thank you, David. [LB101]

DAVID LOSTROH: Thank you. [LB101]

SENATOR RAIKES: I think we have another proponent, Deb, come on up. Deb, welcome. [LB101]

DEB BADEER: Welcome. Thank you. My name is Deb Badeer, last name is spelled B-a-d-e-e-r, and I am the home-educating mother of eight children. We've been home-educating for 21 years. And I apologize for not having anything prepared to hand out to you, but came in to observe and lend support and just wanted to, at the last minute, lend, maybe, another view to let you know that there are many, many home-educators in the area here that I have come in contact with through our speech and debate program, as well as through other homeschool conventions. And many of them were really not aware of the situation and haven't had the problems, because they had both parents in the home and didn't have someone overseas or deceased. Many of us were not aware with this issue, but at the same time, even though I haven't had this problem, I am very much in support of the bill. One situation that has come to mind, and it's a personal friend of mine that's a little different scenario for you, she lost her husband about 12 years before she decided to try home-education for a period of a few years. And the requirements inadvertently caused her to have to go back and dig up death certificate from 12 years before to prove that her husband was deceased, and this was really unfortunate and brought undue grief to the family. And if you would like me to, you know, later get you the information and contact information for that mother, I would be happy to do so. So this bill doesn't directly impact me, but I really think it needs to be changed for those people that it is impacting, and the people in the area here that I have been in contact with, although they are not all able to be here today, are very supportive of it as well. As for your what-if scenario, Senator Raikes, you know, because of the demands and the burdens and responsibilities associated with home-education, if you had that kind of disagreement in the home, it would really take care of itself. Because as you know, if you wanted your wife to homeschool and she didn't want to, the books wouldn't get done, and eventually you would need to put them in school or some other situation. So I just don't see...because of the actual practical outworking of home-education, that doesn't become a problem. And the reason, again, that I'm supportive of this and don't see it as a problem or a threat with people disagreeing is that right now when only one signature is needed for a private school or parochial school, those kind of conflicts are being worked out now between family members and we are not seeing a crisis. Same thing for public schools. And if I wanted to get my child out of the public school at this point, again, I would only need one signature to let my 16-year-old legally dropout. The parents wouldn't have to legally agree. So based on that, we would like to see it established as a fair, equitable educational representation, as what's happening in the other school situations. [LB101]

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SENATOR RAIKES: Okay. Thank you, Deb. Questions? The noncustodial parent comes up and several people have mentioned...I absolutely believe it, a lot of work involved in homeschooling. If you have a custodial parent that is responsible for income, how do you make that work? [LB101]

DEB BADEER: If the noncustodial parent is in disagreement? [LB101]

SENATOR RAIKES: If the custodial parent is responsible for income. [LB101]

DEB BADEER: And they are also doing the homeschooling? [LB101]

SENATOR RAIKES: Right. [LB101]

DEB BADEER: I have seen very different creative ways done. Fortunately, I have not had to do it that way, but I've seen people who are nursing and will have two or three days where they have a heavy nursing schedule, and then they homeschool the rest of the time. Especially if they have junior high, grade school-aged students, they are able to get the work done without a problem. Again, it's very demanding, but workable. I've also seen situations where the mother might work part of the day and the dad does the math and so forth while she's gone, then he works at night. So we've seen situations work where even if the one homeschooling custodial parent is homeschooling, it's an effort, but I've seen it done successfully. [LB101]

SENATOR RAIKES: So you're talking about teamwork between a custodial parent and a noncustodial parent? [LB101]

DEB BADEER: Or I've also seen it where the one custodial parent works it out, either brings in volunteer help or has their childcare option while they're working help with some of the classwork while they are working. Or also they'll top-load it, where maybe the child isn't doing a lot of school work while they are nursing, but then they work in the next day, they do a double load on the day when the mom is off. [LB101]

SENATOR RAIKES: Are there situations you know about where people in that sort of a difficult situation will send their kids to public school for some classes or something? [LB101]

DEB BADEER: Yes, or opt for Internet classes, you know, where they have other people supporting, opt for computer classes, opt for video classes. There are a lot of opportunities that really do help them as they get into more complicated grades, yes. [LB101]

SENATOR RAIKES: Okay. Thank you. [LB101]

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DEB BADEER: You're welcome. [LB101]

SENATOR RAIKES: Any other proponents? Opponents? Neutral testimony? Brian. [LB101]

BRIAN HALSTEAD: (Exhibit 4) Good afternoon, Senator Raikes and members of the Education Committee. For the record, my name is Brian Halstead, H-a-l-s-t-e-a-d. I'm with the Nebraska Department of Education. We're here in a neutral capacity on LB101. What I've had handed out to you is a brief, onesheet that explains the process and what documentation is needed in order for parents, or in some cases a single-parent, to file the exempt status form with us at the Department of Education. At the bottom of that page are also some web site links that you can go to to get far more information. You can actually get the forms and everything else. Other than that, I think it's self-explanatory. I'm here more to answer any questions you might have on the subject. I think the presenter, Senator Erdman, explained the beginning part of this and I think he covered it. It is a policy question the Legislature needs to address as to whether it's plural or singular, and that's why you get to do the job. I'd be more than happy to answer any questions you might have. [LB101]

SENATOR RAIKES: Thank you, Brian. Questions? The situations you know about...well, let me first ask, this requirement has to happen every year? [LB101]

BRIAN HALSTEAD: Correct. The forms are filed on a yearly basis. [LB101]

SENATOR RAIKES: Okay, and the situations you know about where this has become a problem typically involves a noncustodial father or do you know that? [LB101]

BRIAN HALSTEAD: It usually involves an absent parent. As to whether they are custodial or noncustodial, I don't know, in the sense of there are situations like you have heard about here today. In that case, the father had joint custody, so he had custodial rights. Now, they may have been limited by the court order. So I don't want to say they're noncustodial, because in some cases if it's joint custody, they both have custody of the child. They are both custodial parents, as that term is used. I noted as the bill is drafted it just says "parent" which could imply that a noncustodial parent is filing the form, even though the court order and everything else places the responsibility with someone else. I don't think that's going to occur, because I think as it's written, most people presume the person filing the paperwork is going to have the child, but I have certainly read about past cases where parents didn't change the court order, child is living with the noncustodial parent, and a whole number of other legal issues come up in those settings. But generally speaking it's an absent parent in some manner, shape or form. [LB101]

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SENATOR RAIKES: Okay. Don't see any other questions. Yes, I do. [LB101]

SENATOR ASHFORD: Senator...as long as we're writing a law and not just chatting about it, the use of the word parent is problematic, right? [LB101]

BRIAN HALSTEAD: It can be...right. [LB101]

SENATOR ASHFORD: If we're going to draft something, we probably ought to use the right...what would you use? Would you use different terminology? [LB101]

BRIAN HALSTEAD: Well, I think if you're going to say parent, custodial parent or something who has the authority to make those types of decisions. Generally speaking, I think, as I listened to Senator Erdman and everybody else talking that supported the bill, they were talking about, I have the child. [LB101]

SENATOR ASHFORD: That seems to be the gist of the testimony and I'm just wondering if that wouldn't be the better.... [LB101]

BRIAN HALSTEAD: So in that case, clearly adding custodial parent... [LB101]

SENATOR ASHFORD: Where would there be a... [LB101]

BRIAN HALSTEAD: ...but that isn't going to necessarily solve the joint custody. One, do you need both of the joint custody or just one of the joint custody? [LB101]

SENATOR ASHFORD: In a nonexempt school situation, do you need one parent, is the way it reads. [LB101]

BRIAN HALSTEAD: The rest of the statutes, as I am aware, to enroll a child in a public or a private denominational or parochial school that's approved or accredited, I believe a single parent is, in fact, what the law states is necessary for that. [LB101]

SENATOR ASHFORD: It doesn't...and then the issues that then flow from that to Senator Erdman's point would be resolved within some sort of...another legal proceeding. [LB101]

BRIAN HALSTEAD: Correct. [LB101]

SENATOR ASHFORD: But from the standpoint of the department, just having some request that a parent has been sufficient for every other type of educational institution, whether or not...the custody doesn't enter into it. [LB101]

BRIAN HALSTEAD: For our purposes, we don't deal with enrollment in the public

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schools or the private denominational or parochial. Those are the school officials that handle that. [LB101]

SENATOR ASHFORD: No, I understand that, but you're an expert. [LB101]

BRIAN HALSTEAD: Well, I would think that if you want to be clear as to who it is this applies, and who it does not apply to. [LB101]

SENATOR ASHFORD: Right. [LB101]

BRIAN HALSTEAD: And if you just leave it singular, you and I both know since we're both attorneys we can construct the factual situation that gets us to the absurd result, and then we are all wondering why we let that happen, so it's possible. [LB101]

SENATOR ASHFORD: Right. Yeah. [LB101]

BRIAN HALSTEAD: So if you're going to say "parent," then probably it's the parent who has some legal authority for the child or can make the decisions for the child on that setting, however you want to frame it. [LB101]

SENATOR ASHFORD: As a practical matter, you know, I certainly buy the argument that the person who is going to be requesting this is going to be the parent who has something to do with the process of homeschooling, if homeschooling is what we're talking about. [LB101]

BRIAN HALSTEAD: That's what the... [LB101]

SENATOR ASHFORD: And that's the logical...that if we're writing something here, maybe it would be better to clarify it. That's all. Thanks, Senator Raikes. [LB101]

SENATOR RAIKES: Thank you. Okay, thank you, Brian. Any other neutral testimony? Senator Erdman to close. [LB101]

SENATOR ERDMAN: (See also Exhibit 8) Mr. Chairman, members of the committee, I appreciate your attention this afternoon. I think there's some value in our discussion, and hopefully that will be the basis for us to be able to move forward. A number of things, and I will try to go through them briefly. Again, we gave you the example of Madison's case as September pointed out. Under state law, she can enroll that child in Scottsbluff High School or Community Christian Public Schools in the state or Nebraska, even with the objection of her father that lives in Kansas. So there's already an example where other circumstances have those issues currently before the state on our policy on choosing the educational options for your children. So we're not creating some new example here. We are simply looking at the realities of what is available to



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other families and other circumstances in trying to apply that. In the event that there is a biological disagreement, you can have that same disagreement now in public and private schools. In our area, as is available in a number of communities, and especially in Lincoln, you can choose which school your child would attend. You can attend Lincoln High, Lincoln East, Lincoln Northeast. Where would you like to attend? And so those disagreements can be held now, and I want to make sure that our discussion is clear that we're not simply bringing a new issue to the group that hasn't been thought of in other circumstances. It's obviously working. And Senator Ashford's point is exactly right. If we're going to write the law, let's make it clear. But if you're going to do that, then you have to go back and change all of the other laws that specifically describe a parent. And that's what... [LB101]

SENATOR ASHFORD: I understand that. I fully appreciate that point. [LB101]

SENATOR ERDMAN: And so that's in 79-201(3)(d). I mean, that is still there, and I do think that there is probably some opportunities for that. The ultimate question that keeps coming back is who should the burden be on? Should the burden be on the individual and is kind of the discussion that we have heard, both through the neutral and the proponent testimony. The parent who is going to be actively involved in this is, logically, the person who is going to seek this opportunity under law. Should the burden be on them, as the parent or custodian or however the term may be arrived at? Should the burden be on them to accomplish something that they have the right to do in the other two circumstances, should they choose public or private? Or should it be on the objector? Our process now puts the burden on the individuals, like September, and I think that is unfair and I think that's inappropriate at this point, and I'm hopeful that we can move forward. Finally, let me say this, the interpretation of the language, I think, is key. And this gets back to Senator Ashford's point. Both Colorado and Arkansas use the plural "parents" in their determination of who may be able to file the forms necessary for a child to be enrolled as a homeschooled student, but neither of those states make any effort to specifically enforce the plural. So we have a number of examples, and if you were going to say that this is an outcry nationwide, you would see a number of states that would be going to a two-parent or clarifying, unlike Colorado and Arkansas, clarifying the language that it needed to be both parents in order to protect the welfare of that child. In fact, Nebraska and Vermont are the only two remaining states that require parents seeking this opportunity to meet this high burden. And in fairness to them and in recognition of our other options that we have for public and private schools, I'm hopeful that we can clarify the language, work through the issues and move forward with LB101. [LB101]

SENATOR RAIKES: Thank you, Senator. Senator Avery has got a question for you. [LB101]

SENATOR AVERY: Senator Erdman, would you say that homeschooling is not the

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norm in Nebraska? [LB101]

SENATOR ERDMAN: I would say that it is not the predominate educational opportunity in this state. I would respectfully say that to the families who are homeschooling, it's the norm to them. To those of us that were raised and attended public school...it is not the norm to me because I'm a product of public education. So to say whether it is...it's relative to the individual, and if you get a group of homeschoolers together, they think it's normal to be homeschooled. So it's probably hard to answer that definitively, but it's probably...it is not the predominate method of educating children in the state of Nebraska based, sheerly, on the numbers. [LB101]

SENATOR AVERY: And we do have rules and regulations that govern homeschooling? [LB101]

SENATOR ERDMAN: Yes, we do. There's information, that I believe Ms. Martin has distributed to you. We're what we're considered a moderate regulation state regarding homeschools. There are, generally, three classifications: high regulation, moderate regulation, and low or no regulations. We're in the middle. We're in that moderate category, and so there are rules and regulations that parents who seek the opportunities that Rule 12 and Rule 13 provide for them, that they have to comply with it, they have to follow, and so it's not on the low end. And that's something that I think is a misnomer in our society is that people who choose to homeschool are simply trying to avoid the requirements and responsibilities that come with education if your children was in a public school. It's simply not true. It's just a different set of rules that they follow. [LB101]

SENATOR AVERY: But having two signatures is a part of that regulatory process? [LB101]

SENATOR ERDMAN: Having two signatures is simply to begin that process, at this point; it's not the process to begin any other circumstances. And I think if our goal is to provide the appropriate educational opportunity, including parental involvement in the education of our children, hoping for the best outcome for them educationally and successfully, I wouldn't see that there's any definitive resource that would say that the two-signature requirement is a benefit. In fact, September pointed it out, her example is probably not for all homeschooled families and kids that exceed as well as her kids have done, but the research nationwide and the information that you have shows that those children are at about the same level if not exceeding their counterparts in public and private schools as well as between states that have high regulation, moderate regulation and low regulation. So to me the idea is that if we're going to place the burden on individuals who actively want the opportunity to educate their children on a daily basis, and under the leadership of Senator Raikes and working on an issue that we worked on last year, providing them the opportunities to use the public and private schools in facilitating their educational opportunities, I don't know why we would want to

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stand in the way of a parent that's going to be that involved in their education. [LB101]

SENATOR AVERY: Thank you. [LB101]

SENATOR ERDMAN: Thank you, Mr. Chairman. [LB101]

SENATOR RAIKES: Thank you, Senator Erdman. That will close the hearing on LB101 and we'll move to LB241. Senator Hudkins is here. Welcome, Senator. [LB101]

SENATOR HUDKINS: Thank you, Senator Raikes and members of the Education Committee. I am Senator Carol Hudkins, H-u-d-k-i-n-s. I represent the 21st Legislative District. Today I am bringing LB241 which has its origins in a Legislative Resolution offered by former Senator Doug Kristensen in the early 1990s. My bill, LB251 (sic), when adopted and signed by the Governor will provide for a full partnership between the state of Nebraska and the local school districts in providing for the common schools of our state. It does this by making the teachers in our public schools employees of the state for purposes of compensation. Compensation in this bill includes salary, insurance and retirement. It does not include the payments made to teachers for extracurricular activities, such as coaching a sport. That cost is still borne at the local level. The other major change of the bill is to repeal the current state aid to schools formula. By doing this, and with the extra \$500 million that the Governor has pledged to K-12 education, the cost of this bill is a wash. I'm seeing you're shaking your head, that makes me nervous. The estimated cost we had when drafting this legislation was about \$2 million...\$2 billion, excuse me, billion with a "b." We currently spend \$1.5 billion on state aid, and with the Governor's \$500 million, we arrive at \$2 billion. The benefits of the bill are as follows. The state will bargain with the teachers over what the compensation packages will look like. The result will be a uniform compensation package statewide. This result is one that I have heard the NSEA has wanted for some time. I hope they testify in positive fashion for the bill, achieving this result for them. Through this bargaining process, the state can work with the teachers to provide effective incentives to pull the right kind of teachers into hard-to-educate areas. The state will no longer have to work with a convoluted formula that has been taken over by the exemptions that we have created. The local school will still be responsible for the costs of administrators, custodial and support staff, buildings, books, and the hiring, firing, assignments to and disciplining of teachers. The local schools will no longer have to worry about the vast fluctuations of state aid in trying to plan their budget. The Legislature will no longer have to fight any battles over whether a given condition is one that should be taken into account in identifying the quantity of state aid a given school should receive. A-bills will be attached to bills, such as the one from last year that would have mandated all-day kindergarten. Since the bill would require more teachers and the state pays for those teachers, the A-bill would give the Legislature a firm idea of the costs associated with the policy. The issue that this bill doesn't address directly is student-to-teacher ratios. However, I believe that two things exist that make it possible for this legislation to pass

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without direct legislation. First, there are numerous studies that have been conducted that has identified classroom sizes of about 25 to be the most appropriate size. There is also the accreditation process that has a student-to-teacher ratio component that will help give direction on this issue. The bill also lowers the levy lid. Whether that needs to happen or not, or if it should go lower, I will leave to the judgment of the committee. The other benefit of this bill is that it is an automatic and long-term reduction in property taxes to the tune of \$500 million statewide. Now that is property tax relief. I think I will save the rest of my comments for the closing, but I would attempt to answer any questions that you might have. [LB241]

SENATOR RAIKES: Okay. Thank you, Senator Hudkins. First, Senator Ashford. [LB241]

SENATOR ASHFORD: Well, I just have to comment on Senator Hudkins, it's such a...I admire your thinking, creative thinking, so, you know, to come up with a proposal that...you're thinking about the problem. I appreciate that. I don't have any other questions, but I appreciate your creativity. [LB241]

SENATOR HUDKINS: Thank you. Well, and creativity...we're always being told, think outside the box. [LB241]

SENATOR ASHFORD: Well, that's what you've done. [LB241]

SENATOR HUDKINS: I've done that. I was watching people enter the room and I thought, oh, there's this one and there's this one, and there's this one, and there's two more, and I'm just dying to see what they're going to say. And I will wait to explain that again in my closing. [LB241]

SENATOR ASHFORD: Well, I guess, just to follow up, there are states...I'm sure you've looked and your staff looked at other states where the state has taken over specific responsibilities that the local school districts have traditionally had, like construction costs and other insurance costs and things that the local public schools have generally paid for, but now the state pays for it. So it's not inconsistent across the country for states to pick up additional costs in relieving those districts of property tax and obligations and creating uniformity. Would that be generally correct? [LB241]

SENATOR HUDKINS: That would be. Thank you for those comments. [LB241]

SENATOR RAIKES: Senator Kopplin. [LB241]

SENATOR KOPPLIN: Just clarification on some figures. They were going faster than my little mind can think. When you start to get to the b's, it gets hard for me, but I believe you said it would be \$2 billion to fund this, but it could be done with a \$1.5 plus

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the \$500 the Governor is recommending. [LB241]

SENATOR HUDKINS: That's what I said. Yes. [LB241]

SENATOR KOPPLIN: That tells me everything the Governor has recommended you would put into teachers' salaries? [LB241]

SENATOR HUDKINS: Yes. [LB241]

SENATOR KOPPLIN: Okay. Thank you. [LB241]

SENATOR RAIKES: Any other questions for...yes, Senator Johnson. [LB241]

SENATOR JOHNSON: I don't know much about this kind of stuff, I'll say that up front. But I guess the thing that kind of pops into my head is does this allow so that...I'm always concerned where somebody else pays the bill and then somebody else gets to make the rules. And when I'm on an expense account, I'm not very careful with how I spend my money. But if it's my money, then I'm kind of careful about what I might do. And I guess that's what I wonder here if this is just a massive tax shift. And yes, it does help property taxes, I can see that. But whether it's this or whatever, what's the obligation then, or the carrot and the stick, if you will, for the local schools to be frugal and decisive in the way they go about making their policy decisions? [LB241]

SENATOR HUDKINS: Well, written in law, perhaps not, but I would hope that the superintendents and the school boards of all of our public schools throughout the state are not going to be doing anymore than they need. They are still going to be under the authority of the State Board of Education. They are still going to have to answer to their taxpayers concerning things other than teachers' salaries, and if they have, an example, 40 freshmen high school English students. Are they going to have two or three freshmen high school English teachers? I don't think so. [LB241]

SENATOR ASHFORD: Can I just have one follow-up question? [LB241]

SENATOR RAIKES: You may. [LB241]

SENATOR ASHFORD: Senator, and this may be getting...it's too technical for me, but I'll ask it anyway. Does this bill assume then that there would be a standardized salary system? [LB241]

SENATOR HUDKINS: Yes. [LB241]

SENATOR ASHFORD: Then arguably the NSEA, for example, would negotiate one single contract for all teachers across the state. [LB241]

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SENATOR HUDKINS: Yes. [LB241]

SENATOR ASHFORD: And there are differences today between districts based on certain factors, but those would eventually go away and there would be one single...that's what you envision is one single... [LB241]

SENATOR HUDKINS: Yes. [LB241]

SENATOR ASHFORD: And when you calculate the cost, you're looking at it as one single cost across the state. There wouldn't be variations. [LB241]

SENATOR HUDKINS: A teacher in Omaha... [LB241]

SENATOR ASHFORD: A teacher is a teacher is a teacher. [LB241]

SENATOR HUDKINS: A teacher is a teacher, absolutely. [LB241]

SENATOR RAIKES: I can't resist, could this be described as forced consolidation of teachers onto one salary schedule? (Laughter) You don't have to answer that. And I crowded ahead of... [LB241]

SENATOR JOHNSON: Just one little thing, I kind of remember Senator Kristensen doing this. Was there anything in there about the things that I mentioned of doing away with local control, and usually the person that supplies the money, asks for control. Was there any of that in Senator Kristensen's original bill? Do you remember? [LB241]

SENATOR HUDKINS: I do not remember exactly. It was not a bill. It was a resolution, and I do not remember all of the various points. [LB241]

SENATOR JOHNSON: Thanks. [LB241]

SENATOR RAIKES: Senator Kopplin had a...oh, I did want to...you mentioned a couple of time the Governor's \$500 million. That's the \$583,700,000 additional...are you getting that off the Fiscal Note or were you thinking of something else when you said that? [LB241]

SENATOR HUDKINS: No, this comes from the Governor's comments in his State of the State Address, where he was going to more fully fund education, and that would necessitate more money from the General Fund going to schools throughout the state. [LB241]

SENATOR RAIKES: But I think that...wasn't that \$170 million? [LB241]

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SENATOR ASHFORD: I think that may be a different number you're thinking of. The \$170 was the additional state aid money. [LB241]

SENATOR RAIKES: Okay. [LB241]

SENATOR ASHFORD: But then you're talking about the difference between the \$2 billion and the \$1.5 billion. [LB241]

SENATOR HUDKINS: It's costing us for state aid education now and...\$1.5...and with this Fiscal Note of this bill they said \$2 billion, and then if you subtract the \$500 million that the Governor is going to be wanting, of course that has to go through the Appropriations Committee, wanting to put towards education, the figures are roughly even. But, my goodness, whenever you're talking about millions and billions, just a little thing can make quite a difference. [LB241]

SENATOR RAIKES: Well, the gist here is that the state would pay teachers' salaries, and then, in effect, provide nothing else to a local school system. Is that kind of what you're... [LB241]

SENATOR HUDKINS: Pretty much, because depending upon the school, the salaries of teachers are quite a bit. I mean, if you take their salaries, their benefits, all of that, it's anywhere from 65-75 percent of the school's budget. [LB241]

SENATOR RAIKES: Okay, now we currently strive toward what we call equalization in school funding. This would take us in the other direction. Am I reading this correctly? So that I'm a school district that is property rich, my teachers' salaries are going to be paid by the state, and then whatever additional expenses needed is applied with a levy on a relatively high valuation per student, versus you are a low-property school district and so chances are your school levy, even though in both cases may be lower than now, your school levy is likely to be a lot higher than mine. [LB241]

SENATOR HUDKINS: There is also a provision in this bill that would lower the levy. [LB241]

SENATOR RAIKES: Okay, so it would be lower for both of us, but it would probably be a lot lower for me being a property-rich district than it would be for you being a property-poor district? [LB241]

SENATOR HUDKINS: That's a possibility. [LB241]

SENATOR ASHFORD: Well, that's what was encouraging, Senator Raikes. [LB241]

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SENATOR RAIKES: Westside speaks out. [LB241]

SENATOR ASHFORD: I thought...immediately I saw some immediate good points there. [LB241]

SENATOR RAIKES: Senator Burling has a question. [LB241]

SENATOR BURLING: Thank you, Senator Hudkins. Did you address or did I miss decisions on RIF and tenure and how many teachers each unit would need? Where is that decision made? [LB241]

SENATOR HUDKINS: Yeah, the hiring and the firing, the assigning of teachers, that would be left up to the local schools. [LB241]

SENATOR BURLING: So and then we would pay whatever they agreed on or, no, it would be the same. That's right, you said it would be the same, salaries would be the same. Okay. Thank you. [LB241]

SENATOR RAIKES: Okay. Senator Hudkins, are you going to stick around? [LB241]

SENATOR HUDKINS: You bet. [LB241]

SENATOR RAIKES: You've got closing, closing material. [LB241]

SENATOR HUDKINS: I do. Thank you. [LB241]

SENATOR RAIKES: All right. How many do we have to testify as proponents for LB241? Okay, I'm used to those kind of bills, personally (laughter). Opponents to LB241? Okay, Mark, and just to finish...come on up, Mark. Neutral? Okay. Get ready for your close. [LB241]

MARK McGUIRE: Senator Raikes, members of the committee, my name is Mark McGuire, M-c-G-u-i-r-e, 605 South 14th Street in Lincoln. I am an attorney for and a lobbyist for the Nebraska State Education Association. And being the only opponent, apparently, if at the conclusion of my remarks you vote to advance this, I probably shouldn't have come up here, but we'll take the chance. NSEA represents approximately 2,300 K-12 teachers across the state. Obviously they would be affected by this bill. There has not been any discussions, that I'm aware of, leading to this bill, but we've kind of got it and we're responding to it. I will not address, directly at least, the fiscal impact of the bill, but will leave that to others more qualified, except to say that in reading it, I can see there's lots of things done of a financial nature that would need to be considered. On page 30 of the bill, line 10, Section 15, purports to create a teacher's bargaining unit on a statewide basis. That sounds simple enough, but I get confused by



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what follows. First question I have is if teachers are to be state employees, then are they or are they not covered by the State Employees Collective Bargaining Act? LB241 is less than clear about that. It does make reference to the state's negotiator shall do certain things, but clearly there is not a clear delineation that the employees are under the State Employees Collective Bargaining Act. If they are covered by the State Employees Collective Bargaining Act however, then the bargaining unit, there is a bargaining unit already defined in Sections 81-1373, that is bargaining units defined for state purposes under teachers and the description is which unit is composed of employees required to be licensed or certificated as a teacher. The next piece I don't understand how this fits together is the language used in LB241, which requires the appointing of a "bargaining unit" which, reading on in that section talks about...or basically would be 49 persons would be this bargaining unit, one from each legislative district. This is not a bargaining unit. A bargaining unit has already been defined, as I have earlier indicated. It might be some sort of bargaining agent, but it certainly is not a bargaining unit. In labor law and in Chapter 48-801, it would provide that all 23,000 K-12 classroom teachers constitute the bargaining unit. So that language and as those concepts permeate the bill, my problems continue. Another thing you would have to think about is that if the teachers were to be under the State Employees Collective Bargaining Act, well then a whole different bargaining cycle takes place. Right now, that beginning process for a two-year period is underway, and indeed the special master proceedings would now be what's taking place. As those get resolved, they would be reported to the Legislature within the time frame established by the State Employees Collective Bargaining Act. And that process will repeat itself every two years, and I simply point that out as a matter to be thought about in terms of how to proceed forward. And bargaining is different in the State Employees Collective Bargaining Act than it is under Chapter 48-801. 48-801 is primarily premised upon Section 48-818, which talks about establishing wages for persons employed doing the same or similar work under the same or similar working conditions. The State Employees Collective Bargaining Act sets salaries, adopts a final offer, and that's a whole different concept, but adopts the final offer that's the "most reasonable." So if state employees are treated as significantly different than if the standard is to be Chapter 48-801. That is something that if I were voting on this bill, I would clearly want to know and clearly have understood and be able to work the figures through mentally so I know exactly what is occurring in terms of salaries to be paid. As I read LB241, what it says is, on the financial side, all 23,000, 24,000, whatever it is, teachers are to be treated as a singular unit for financial purposes, but nonfinancial matters can still and would still be negotiated at the local level. I have difficulty in seeing how that bifurcated bargaining actually would work, and work very successfully. It's hard to unravel the ball of things that go into collective bargaining, but obviously the main lead horse in the whole thing is the finances. And... [LB241]

SENATOR RAIKES: So what you're saying is that you want a statewide salary schedule and a statewide benefit schedule? [LB241]

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MARK McGUIRE: Probably could be considered, yeah. I think they go hand-in-hand. It certainly... from this body's perspective the amount that's paid for health insurance for 23,000 people is also a significant number. Is that to be discussed or negotiated locally or at the state level? I mean, I think these are the kinds of issues that are in here, and then you have just the bargaining itself, in terms of what remains of it at the local level if all the money issues are taken off at the state level? [LB241]

SENATOR RAIKES: Well, you have, I think, clearly carefully read and looked at the particular technical aspects. I guess what I'm hearing you say is that there are issues, but probably they could be resolved one way or another. What I'm trying to get you to say is, philosophically, is this a good approach or isn't it? [LB241]

MARK McGUIRE: Philosophically, probably no. I use the word probably for a reason. I mean, it could be doable. I could be worked out. [LB241]

SENATOR RAIKES: Done in other states? [LB241]

MARK McGUIRE: There are other states that have a statewide salary schedule. I'm familiar with the state of Washington that has a system...and at least they did when I learned this, it's been a couple of years ago, but has a process whereby a state salary schedule...the structure of the schedule itself is set at the state level by the legislature. X dollars is put into that schedule, but then it is subject to being increased at the local level. There can be an add-on, if you will, from the local school district and say, well, that's a fine base schedule. [LB241]

SENATOR RAIKES: There's no subtract-froms? It's all add-ons? [LB241]

MARK McGUIRE: It's all add-ons, and then some of the add-ons...or perhaps at a certain point in time, some of the add-ons came about because of local referendums or voter approval-type of things. And don't look at me for total accuracy on that, because...as to is all that operating costs money or is some of that facility money, you know, but I don't know, but there's that kind of system out there. So to finish up your question, yeah, there are processes that can be found and employed, but they are difficult and there are lots and lots of ramifications. [LB241]

SENATOR RAIKES: Okay, Brad's got a question. [LB241]

SENATOR ASHFORD: But it might theoretically be easier to negotiate one collective bargaining agreement rather than...how many do you negotiate now? How many collective bargaining units does NSEA negotiate? [LB241]

MARK McGUIRE: There's probably at least 250. [LB241]

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SENATOR ASHFORD: So if we were to negotiate one, that might be a savings of time and... [LB241]

MARK McGUIRE: We have spent... [LB241]

SENATOR ASHFORD: Not that you're not efficient in doing all 250, but I mean, you could, theoretically. [LB241]

MARK McGUIRE: Theoretically. There has been a lot of work that's gone into analyzing that very issue, and there's mixed results, and we're talking about people who are really into school finance and all of that, and have made those kinds of studies and analyses. Like anything that massive, it's not going to be tremendously simple, and you could start with some kind of basic questions I think you were alluding to before. [LB241]

SENATOR ASHFORD: I don't want to belabor it. I was just getting to the...and then the second, I'm not trying to cut, but just some basic questions. I could see some efficiencies in negotiating one contract versus 250. I mean, you're right, there are lots of issues involved, and that I'm not denying it. The second question, I've always been sort of interested in this one, is at what point does the funding, if the state now pays 40 percent or 35 percent or maybe theoretically when we did LB1059 it was going to be 45 percent, at what stage does the state become an essential party to the collective bargaining? I mean, and if the state is paying 45 percent, is it 50 percent? If the state pays 50 percent of the cost of primary...and I'm just asking theoretically, does the state become an essential party to those 250 contracts anyway? [LB241]

MARK McGUIRE: Well, what the state is doing, obviously, is relevant to how people do that bargaining, and they look with great anticipation as to those numbers when they come out, because I'm sure that powers the train. You know, you have the philosophical things that I think you were referring to earlier, Senator Ashford, of okay, what's the statewide schedule exactly going to look like? And is everybody going to get bumped up to the Westside level, or is Westside going to get broken down to the Banner County level. Now you're talking the real political side of it. [LB241]

SENATOR ASHFORD: I certainly wouldn't want to personalize it, but I would think that a particular school district would be, if in fact we did this, I mean looking at the CIR and the way it's structured, I could foresee a situation where the state and the district...where the district could negotiate benefits beyond the state participation, possibly, or add-ons or whatever. I mean, I don't think this is such a crazy idea is what I'm getting at. It seems to me that it makes some sense from a collective bargaining perspective to negotiate one contract and allow districts to...and I remember when Senator Kristensen introduced this before years ago, but it does have some interest. I think it's an interesting idea. [LB241]

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MARK McGUIRE: Yeah, and I'll agree with you completely. I'd rather talk... [LB241]

SENATOR ASHFORD: I mean you're going from what's...maybe you're going from 40 percent of state participation to 60 percent of state participation. Arguably you're not talking 0-60, you're talking about 40-60, which is 20 percent more state participation. At what point is the state an essential party? [LB241]

MARK McGUIRE: Yeah, and I guess I would refine the question, were they an essential party, whereas are they acknowledged to be an essential party, because I think there's a difference in there. No, am I saying it's a totally wacky idea? No. [LB241]

SENATOR ASHFORD: Well, at least I got you to admit that. [LB241]

MARK McGUIRE: Okay, yeah, you did. [LB241]

SENATOR ASHFORD: I'm sorry, Senator Raikes, to belabor the point. That's all I have. [LB241]

SENATOR RAIKES: Well, any other comments? [LB241]

MARK McGUIRE: We'll call that the...I'd be happy to respond to questions. [LB241]

SENATOR RAIKES: Senator Howard. [LB241]

SENATOR HOWARD: Thank you, Senator Raikes, and I apologize because I was presenting a bill in another committee... [LB241]

MARK McGUIRE: Certainly. [LB241]

SENATOR HOWARD: ...so I missed much of the introduction, but there's a point I would like some clarification on. If the teachers would all become state employees, and they're represented by their own union right now, as you know the state employees have their union, the AFSCME union, how would that work together? How would the bargaining take place or would there be one union? [LB241]

MARK McGUIRE: There are several aspects of that. I see no problem in that the teachers who are state employees, and there are currently teachers who are state employees, and they are in bargaining units of ours, of the NSEA, and they're in York and Geneva and places like that. So that in my view that the 23,000 teachers would, you know, continue under their own separate bargaining unit, and I think that the State Employees Collective Bargaining Act contemplated that, so I don't see that, per se, as being a problem. The statutory creation that's proposed to be in here of what's

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erroneously referred to as a bargaining unit consisting of one person from each legislative district. I can in my mind understand some political reasons why that was probably there. That's, as I said, (a), is not a bargaining unit, and (b), it's defining a bargaining agent is what I think the effort is. But then you have a "agent" consisting of 49 people. That's like all of you together are a bargaining unit, and that's probably not going to work too well. And so there could be separate unions, if you will, representing different segments of the 12 or 13 categories of state employees that the State Employees Collective Bargaining Act identifies, if that helps. [LB241]

SENATOR HOWARD: But they would all be state employees, they would be under this bill... [LB241]

MARK McGUIRE: As I understand this, they're all state employees for pay purposes but not for hiring, firing purposes. Promotion, assignments, school calendars, all of those things, as I read the bill, are clearly left to the local school boards. [LB241]

SENATOR HOWARD: Would that include retirement benefits as well, because there's a vast difference in retirement programs? [LB241]

MARK McGUIRE: I believe the bill, I'd have to go back and look at it, but I believe it states that the state would pay the state retirement for those. I better look at that, but I think it's provided for that state retirement is covered in here. You run into...I think it was Senator Johnson's issue, or Kopplin, one of you gentlemen, I'm sorry, basically raised the issue of does he or she who pays, call the shots or not. And this is set up on the "or not" model, that one entity pay, another entity, the local school boards, would have the control over other aspects of it. Again, I suppose that's doable, but it would need to clearly be something that's recognized. I think it could lead to and create some problems, but that's clearly a front burner issue that was raised. Yes, Senator Raikes. [LB241]

SENATOR RAIKES: So you're kind of doing the bob and weave here for me. You know you said, no, this is not a good idea. We shouldn't be looking at a state salary schedule everybody, but then...well, then this is not a wacky idea. [LB241]

MARK McGUIRE: Well, there's variations up form wacky, you understand. (Laughter). [LB241]

SENATOR RAIKES: Okay, that puts a lean on it. Okay. [LB241]

MARK McGUIRE: You know, okay, fine, you can say there's people...we are opposed. I don't think it's totally thought out and considered and I think there's some serious problems that come about. [LB241]

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SENATOR RAIKES: So your concerns more arise from what I will call the details, although admittedly very important details, than necessarily from the general thrust. [LB241]

MARK McGUIRE: It seems to me that the gut issue really comes down to which tax is going to finance this. You know, is it the property tax that's carrying a big load of it, or is it much greater state aid? That's what we're really talking about here, about where does the money come from. [LB241]

SENATOR RAIKES: Certainly as I read it, the proposal as it is now is that it would be more state money. [LB241]

MARK McGUIRE: Right. Yeah, and that's where I hear the big numbers. And that would be, obviously, I guess, in lieu of a portion of the property taxes that are currently paid. [LB241]

SENATOR RAIKES: Yeah, I think the property tax reduction spelled out was five cents, but unless you want a huge increase in school spending, I think the property tax reduction could be as much as 40 cents, if I'm not mistaken. But maybe I'll be corrected here. [LB241]

MARK McGUIRE: One of the things to be considered is from the state's side, and one of the big, huge unknowns is to whom is the state going to compare itself? We have a very clean system now. A lot of people, maybe, don't like it, but it's understood, and that is all collective bargaining in the state involving teachers is ultimately drawn against a backdrop of what would the CIR do in any case where they are charged with finding a rate of pay that's comparable to the prevalent. And a rate determination is a pretty established science in terms of size and geographical distance. Now, however, we, under this bill, would be under a whole new regime in that the only way you could do comparisons, in my opinion, would be to compare state to state to state. And depending which states, could make a tremendous difference. And to determine an average pay, I guess, from other states, could be indeed challenging. But you might be compared...and that's then becomes the fight in another form. Where are those comparisons to be made, Minnesota and Colorado, Texas, Illinois? [LB241]

SENATOR RAIKES: You shouldn't have said that. Now you've got two more. Senator Kopplin. [LB241]

MARK McGUIRE: Well, I wanted to give them something to talk about, you know, all this challenge. [LB241]

SENATOR RAIKES: Senator Kopplin. [LB241]

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SENATOR KOPPLIN: Well, as I listen to this and try to think is as you were thinking, sometimes it would be a good bill, sometimes it wouldn't be. But, to me, the key thing there is so much money, so to make it work, certainly a lot of teachers are going to be happy because their salary is going to go up, but you have a whole lot of unhappy teachers whose salary would have to go down, or we don't have the money to pay for all of this. Wouldn't that be correct? [LB241]

MARK McGUIRE: That would be correct. [LB241]

SENATOR KOPPLIN: Okay. [LB241]

SENATOR ASHFORD: He's absolutely right. I mean obviously under the CIR rules, we would simple take states that are one half as large or twice as big that provide educational...I mean, that's the same criteria used today comparing school districts within the state, so you would use that same criteria, and in Minnesota, Iowa, and arguably within a geographical area. So not that we would use Bill Harding's (phonetic) approach, but we would use some approach where it's geographical, and you would have Minnesota, Iowa, Kansas, South Dakota, Colorado would be comparable. So if you're a teacher, it would seem to me this would be a tremendous benefit to have these teachers be state employees and have their salaries compared to those states, Iowa, Minnesota, Kansas, Missouri potentially. Especially if the local districts could still have the ability to pay higher salaries under certain circumstances. I mean, I don't see how a teacher could lose under that deal. It would just...you'd get a bigger...because Nebraska's teachers are now 36th or 37th in the country. [LB241]

MARK McGUIRE: Right. [LB241]

SENATOR ASHFORD: Well, they would be higher if we compared them to Minnesota, I mean I don't know for sure, but I guess it would be higher if we compared them to Minnesota, Iowa, Missouri, and those states. [LB241]

MARK McGUIRE: But the issue raised by Senator Kopplin is also the issue, okay, how then is that...as you well know from your days in the CIR, you ultimately determine how big is the pot of money, and then the schedule merely distributes that money. [LB241]

SENATOR ASHFORD: But you can order the state to pay more money. [LB241]

MARK McGUIRE: You can order more money. You then come down to, okay, what is the schedule to be adopted and where are those dollars going to flow? [LB241]

SENATOR ASHFORD: I agree with that, I mean we still can order the state to pay. [LB241]

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MARK McGUIRE: Oh, absolutely. [LB241]

SENATOR RAIKES: Okay. Well, we require so much testimony on each bill and you're the only one, so...(laughter). Okay. Any other opponents, I think we're on opponents? [LB241]

MARK McGUIRE: Thank you. [LB241]

SENATOR RAIKES: Thank you, Mark. Neutral testimony? Okay, Senator Hudkins. [LB241]

SENATOR HUDKINS: Thank you, Senator Raikes, for all of the discussion. Frankly, I was expecting much more, but I'll take what we got. Senator Howard, the answer to your question about finance arrangements is found on page 28 and 29, so you can look that up. A question was posed to a lobbyist for one of the many school organizations that are seated behind me at this time, and I won't name any names, of course. The question was, would your organization support this bill? The lobbyist indicated that the group would be opposed to this bill, and when asked why, the only comment was, well, we've always opposed it. Well, as I pointed out earlier, this proposal has only been before this body one time based upon my research, and at that time it was in the form of a resolution and not a bill. We have all heard the phrase, if we continue to do what we've always done, we're always going to get what we've always gotten. In this case, that would include higher property taxes, disproportionate teachers' salaries across the state, fluctuations in state aid, depending upon many factors, and this bill would correct those problems. The time is now for us to take steps to have a substantial impact on property taxes, and this is the only bill out there that will have this size of impact, with little or no impact on other taxes, thanks to the Governor's commitment to K-12 education. I received a couple of e-mails, I'll just give you a couple of sentences from those. One happens to be from a teacher in Millard and it says, beyond making K-12 costs more predictable and eliminating salary competition between schools, which inevitably drives up property taxes, this bill makes weak school board members a zero-factor in the negotiations process. Another comment, he's...it's a man, yes...he's been a teacher for 20 years, and I believe what you are doing is a step in the right direction. Another gentleman who is a superintendent in the south-central part of the state, had a question and we wrote back to him, and I'll read just a couple sentences there. One thing is certain, while this bill requires a new way of thinking, it will be a much simpler decision model than the current formula which looks at daily average membership, poverty, special needs, English as a second language, transportation, and so forth. The ability for a school to make earlier and more certain decisions during the budgeting process would be greatly enhanced. As far as the details that were talked about from Mr. McGuire, I would be happy to work with the committee or anyone else in figuring out what those details would or should be. And I thank you for your time. [LB241]



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SENATOR RAIKES: Thank you, Senator. Questions? [LB241]

SENATOR JOHNSON: Just one comment. If you succeed in getting this bill passed with the amount of money involved, I want to have my picture taken with you, because I may get a bill passed that will be the biggest by weight, and yours will be the biggest by impact. [LB241]

SENATOR HUDKINS: Okay, you're one of eight, Senator Johnson. [LB241]

SENATOR JOHNSON: Mine is a thousand pages in length. [LB241]

SENATOR HUDKINS: Well, you're one of eight and so now it's up to you. [LB241]

SENATOR RAIKES: Senator, is this property tax relief or is this a tax shift? [LB241]

SENATOR HUDKINS: I think it could be seen both ways, Senator Raikes. A tax shift, because the largest share of education costs would not be born by property taxpayers. And you and I both know that we pay property taxes whether we have a crop or not. We have people in the state that want the best education possible, and so if they want that, then hopefully they will be willing to help pay for it. Right now sales and income taxes helps pay for state aid to schools. If we're eliminating the state aid to schools, then I would say it's a tax reduction and a tax shift, but then who says that the property tax is the fairest way to pay for schools in the first place? [LB241]

SENATOR RAIKES: Okay. I'll accept that. [LB241]

SENATOR ASHFORD: The state aid that's projected over the next biennium is somewhere in the neighborhood of...it's a \$170 million more than what it was before, not counting special ed, whatever that number is. This going from up to 60 percent or 70 percent of the cost of primary and secondary education would be born by the state in salaries. [LB241]

SENATOR HUDKINS: Yes. [LB241]

SENATOR ASHFORD: That number, whatever that is, would be the additional amount of state dollars...it may be \$500 million, you're suggesting that that may be the number, or whatever, but that number would be the amount of additional state dollars that would go in and then there would be a commensurate reduction in property tax dollars that would have to go to pay those salaries. Right? I mean, that's in its simplest form. [LB241]

SENATOR HUDKINS: If I understand you question... [LB241]

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SENATOR ASHFORD: Well, I mean in its basic form, we're taking that additional amount of spending that go to pay salaries and the state is going to take that over, and whatever that number is, in all probability, is an additional amount of state dollars that would have to go in. [LB241]

SENATOR HUDKINS: Yes. [LB241]

SENATOR ASHFORD: Okay. [LB241]

SENATOR HUDKINS: But the state... [LB241]

SENATOR ASHFORD: No, that's not a bad...I'm just trying to understand it. [LB241]

SENATOR HUDKINS: But the state is then not obligated to pay the exorbitant amount of state aid to schools. [LB241]

SENATOR ASHFORD: No, but the cost of...I know, but maybe I'm missing the point, the labor cost, the cost of paying teachers' salaries amounts to 65...maybe including administrators in that too...it's 65-70 percent of the overall cost to run the schools, that would be what the state would pay. [LB241]

SENATOR HUDKINS: And I don't believe that administrators are included in this. No. [LB241]

SENATOR ASHFORD: All right, then the teachers would be 60 percent, so it would be going from 38 percent to 60 percent of the cost. [LB241]

SENATOR HUDKINS: Yeah, and in years past, we have always said, we want, the state, want to pay more of the education costs and that has fallen further and further behind. [LB241]

SENATOR ASHFORD: Thank you. [LB241]

SENATOR RAIKES: Any other questions? Thank you, Senator. [LB241]

SENATOR HUDKINS: Thank you. [LB241]

SENATOR RAIKES: That will close the hearing on LB241 and we will move to LB150 and Senator Adams. Senator, welcome. [LB241]

SENATOR ADAMS: Well, thank you, Mr. Chairman and committee members. What you have before you, LB150, I find myself suddenly... [LB150]

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SENATOR RAIKES: We're trying to drop you a hint of brevity of your introduction. [LB150]

SENATOR ADAMS: Boy, I guess so. You started out on me this morning on the floor and now it just continues. [LB150]

SENATOR HOWARD: It's a cruel place. [LB150]

SENATOR ADAMS: (Exhibit 5) Maybe I'll get all of beatings taken care of in one day. Not likely. First of all, I will state my name, Greg Adams, A-d-a-m-s, representing the 24th Legislative District. A moment ago as I was preparing my thoughts in anticipation of coming up here, I realized that a month ago I was a teacher, and today I'm asking you to raise the permit and certification fees on my former colleagues, but they have not been raised since 1991, and that is the crux of the bill that I present to you today. More definitively, the numbers would be, with the passage of this, that in the public school right now, the fee is \$45, it would be raised to \$55. In the nonpublic, it's \$30, it would go to \$40, and then there would be a \$10 increase in what it costs a teacher to add additional endorsements to their certification. And it really is that simple. And this has not been done since 1991. There are people here from the Nebraska Department of Education with additional testimony who can probably answer more definitive questions than I can, and there should be or should have been included in your materials a letter from the NSEA as well, saying that the time has come for this to happen. I think in the past...and those who plan to come up and testify can be more specific about this, but there have been attempts to raise this in the past and I believe those things have gotten tangled up with other legislation that has caused this particular item to kind of fall to the wayside. With that, I would field questions. [LB150]

SENATOR RAIKES: Put differently, a tech bill in the Education Committee is not an automatic. Senator Avery has got a question for you. [LB150]

SENATOR AVERY: Senator Adams, currently we are charging \$45 for a public certificate, right? [LB150]

SENATOR ADAMS: Correct. [LB150]

SENATOR AVERY: And \$30 for non. [LB150]

SENATOR ADAMS: That's correct. [LB150]

SENATOR AVERY: What's the reason for that disparity? [LB150]

SENATOR ADAMS: That I can't tell you. Maybe one of the testifiers coming up from the

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Department of Ed can help. [LB150]

SENATOR AVERY: I have another question. With this \$10 increase, does that mean that it will cover the cost of certification, or not? [LB150]

SENATOR ADAMS: It's to go into subsidizing the cost of certification as well as the Professional Practices Commission, their expenses. [LB150]

SENATOR AVERY: Generally, I'm for increases in fees if it covers costs. [LB150]

SENATOR ADAMS: Right. [LB150]

SENATOR AVERY: But not necessarily to generate more income. [LB150]

SENATOR ADAMS: That's what this is intended to do. [LB150]

SENATOR AVERY: Thank you. [LB150]

SENATOR RAIKES: Senator Howard. [LB150]

SENATOR HOWARD: I just want to know for sure, the teacher's certification fee, is that an annual fee or is that a one time after you graduate? [LB150]

SENATOR ADAMS: I'm trying to remember the last time I did mine, but I don't believe it's annual. [LB150]

SENATOR HOWARD: So basically one. Okay. [LB150]

SENATOR RAIKES: Of course the question is, how do we compare with other states. Is this going to make our fees...(laughter). [LB150]

SENATOR ADAMS: This will really put us through the roof. [LB150]

SENATOR RAIKES: Anything else? Thank you, Senator. [LB150]

SENATOR ADAMS: Thank you. [LB150]

SENATOR RAIKES: I assume you're going stick around? [LB150]

SENATOR ADAMS: I will. [LB150]

SENATOR RAIKES: How many proponents do we have for LB150? Two. Any opponents? Neutral? Okay. [LB150]

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MARGE HAROUFF: (Exhibit 6) Good afternoon, Senator Raikes and members of the committee. My name is Marge Harouff. I work in the Nebraska Department of Education, I've done that for a long time, and one of my responsibilities is to chair the adult program services team, and on that team is the teacher certification section. And so I can answer those questions, but I also have the person who really can answer the questions right behind me to follow, and that is Jim Putman, who is the director of the teacher certification section. I will say to you, before I turn this over to Jim, that teacher certification is a cash-funded operation, and the only source of support we have is the fees that we get for certificates. And as Senator Adams said, we have not had a raise in the fee since 1991, and if you do simple math on cost of living increases over that period of time, we are falling rapidly behind. We also invested two years ago in a new computer program to speed up our processing of certificates, and that was a costly process but we believe it was worth it. It's still being tweaked, as are most computer systems being tweaked, but we do more certificates now than we have ever done before. And Senator Howard, your question about how often the certificate. Certificates pay a renewal fee. When you buy your first one when you graduate from college, it's a set price, and it's the same set price when you renew it five years later, or after you have taught for several years under the current system, you get a standard certificate that's good for...instead of five years, it's good for seven years. And once you complete a master's degree or higher and renew your certificate, you're eligible for a professional certificate, and it's good for ten years. So for each of those certificates, you pay \$45. So with that, I would be happy to answer any questions you have, or I can turn it over to Jim who knows more about teacher certification than I do. [LB150]

SENATOR RAIKES: Just one...I'm not sure I understood what you said. Did you say that whatever price you pay when you get your first certificate, you will always pay that same price? [LB150]

MARGE HAROUFF: As long as our fee is the same. [LB150]

SENATOR RAIKES: Oh, but you will pay the current fee, whatever it happens to be when you renew. [LB150]

MARGE HAROUFF: You pay the current fee, yes. There is one fee for a certificate, the certificate fee. Right now it's \$45. [LB150]

SENATOR RAIKES: Okay. [LB150]

MARGE HAROUFF: And that certificate is good for either five years or seven years or ten years. [LB150]

SENATOR RAIKES: Okay. Senator Avery has got a question. [LB150]

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SENATOR AVERY: How much do you think each certificate costs today to issue?  
[LB150]

MARGE HAROUFF: I don't know that we have a good handle on that, and I'm not sure that we would know how to go about figuring that. We issue...this last year we issued over 10,000 certificates. I know that is done by a talented staff, but a small staff; it consists of Jim and four analysts. So we have five people who issued those 10,000 certificates. [LB150]

SENATOR AVERY: But you do know that your costs have been going up since 1991.  
[LB150]

MARGE HAROUFF: Our costs have been going up each year. Our revenue has also been going up because we've been issuing more certificates, but quite frankly, and Jim is tired of hearing me say this, we're eating our seed corn, because the cost of doing business are less than the revenue that we get from the certificates, even with more certificates. And so we need an increase in the fees, and unfortunately that's in statute.  
[LB150]

SENATOR AVERY: Can you answer the question I had for Senator Adams then? Why do we charge \$45 for public school teachers and only \$30 for nonpublic school teachers? [LB150]

MARGE HAROUFF: Yes, I can answer that question. Private school teachers do not have access to the Professional Practices Commission, and of the \$45 that is paid by public school teachers, \$13 of that goes to support the Professional Practices Commission, which is the commission that deals with complaints about teachers and administrators, as well, and is the one who hears those complaints and makes recommendations to the State Board of Education for actions upon their certificates.  
[LB150]

SENATOR AVERY: And so the \$10 that would be added to the nonpublic school teachers certification or certificate, that would cover what, since you don't... [LB150]

MARGE HAROUFF: That will cover increasing costs. We will continue to pay \$13 of whatever the fee is to support the Professional Practices Commission. But there will also be a common fee increase for the nonpublic school teachers as well, even though they don't have access to the Professional Practices Commission. [LB150]

SENATOR AVERY: Thank you. [LB150]

SENATOR RAIKES: So the sheet that was handed out shows your equity balance of

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\$270,000, and then expenses exceeding revenues by about \$45,000 or so. So you've got enough equity to last you for another six or seven years without a fee increase, is that... [LB150]

MARGE HAROUFF: Well, that's why we have Jim here to explain to you the kinds of things that we need to be doing, and that some of those things are going to cost additional money. [LB150]

SENATOR RAIKES: Okay. [LB150]

MARGE HAROUFF: So unless there are other questions for me, I really think that Jim can probably answer those questions better than I. [LB150]

SENATOR RAIKES: Okay. I don't see any other questions, so thank you, Marge. [LB150]

MARGE HAROUFF: Thank you. [LB150]

JIM PUTMAN: Good afternoon. My name is Jim Putman, P-u-t-m-a-n. The reason for the fee increase requests...first of all, as Senator Adams mentioned, we have had the same fee since 1991, and you can see from the sheet that I had handed out, we are spending more than we are taking in. One of the main reasons for the expenditure increase is over the past four years we have spent approximately \$190,000 on new technology for the certificate issuing software. We have also brought the certification application online. People can now apply for their teaching certificate from their home, from their school, from a library, and I think that's a tremendous value to the people within our state. We need to continue to refine our certification software. For example, we are going to be asking for some of what we call edit checks in there, which will be stopping an analyst when they're not completing a particular process, when they are headed toward something that may lead to a mistake or something. What we're attempting to do is to find ways of, if you will, goof-proof the system, and I think that's what a lot of programs have in them where it stops you and you must complete all of the systems. We also need to continue to refine our online capability. For example, we have a system where a school administrator, a parent, can look and see what the certificate of a teacher is or an administrator is. And we think that is a benefit for administrators to make sure that in the hiring process they know that the person has the certificate. We're also trying to look for including the option of paying for certificates by credit cards. This is something that we've begun looking at, and things just haven't worked out in that regard yet. The other thing that we're looking for that is going to be, hopefully, a great help to us is to work with a digital scanning system to manage the flow of our paperwork. Currently we have file folder after file folder after file folder of documents that are stapled together, paperclipped together and other things like that. We think that if we can have a digital scanner, we can better manage that, make the applications

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more available to our analysts. And then the other thing that is a growing need for an increase in here is we received notice from the State Patrol that the cost of processing fingerprints has gone up as of June of this year. That increased an additional of \$5. Are there questions that you have of me? [LB150]

SENATOR RAIKES: Okay. Thank you, Jim. Questions? Senator Howard has got one. [LB150]

SENATOR HOWARD: I'm just trying to compare this with the cost of licensing for social workers. This certification is issued initially, and then it's good for a number of years, five years, seven years, ten years, depending on circumstances or whether the teacher goes back and gets her master's degree. [LB150]

JIM PUTMAN: That is correct. [LB150]

SENATOR HOWARD: Is there an additional licensing fee for a teacher? [LB150]

JIM PUTMAN: No. [LB150]

SENATOR HOWARD: They're getting a bargain. It's probably three times that for social workers in this state to be licensed annually. [LB150]

JIM PUTMAN: Many of the professional organizations have yearly fees exceeding what we're asking for over a five-year period or a seven-year period. [LB150]

SENATOR HOWARD: Thank you. [LB150]

SENATOR RAIKES: Any other questions? I'm just curious, you know, a lot of the things you mentioned as increasing costs are what I would call technological. Quite often isn't the argument made is, buy this machine or buy this software and it will save you money? [LB150]

JIM PUTMAN: That is correct. That is what the argument is. [LB150]

SENATOR RAIKES: Okay. So you're saying that's not the truth though. [LB150]

JIM PUTMAN: I'm saying that there are continuing costs with changing a certification issuing process, yes. For example... [LB150]

SENATOR RAIKES: I mean, does the product change some way? [LB150]

JIM PUTMAN: Actually, as we initially put it in, it had some deficiencies for what we need. For example, we are being asked to enter more and more information on a



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certificate, including such things as...well, our system now is being asked to enter No Child Left Behind, NCLB-qualified on our web site. You know, we just continue entering more information on it. [LB150]

SENATOR RAIKES: But the cost of storage for that information is nothing. I mean, so where's the cost? The cost is have you got more people? [LB150]

JIM PUTMAN: Programming. [LB150]

SENATOR RAIKES: Programming or data entry? [LB150]

JIM PUTMAN: It's programming, primarily, because with our online application we actually get reduced costs of data entry, because if a person applies online that then shifts into our certification system, and, for example, a person who enters their application from Scottsbluff would put their name, their address, etcetera, all the personal information in, so we don't have to do that. And the intention is to make us more efficient. [LB150]

SENATOR RAIKES: But not less costly. [LB150]

JIM PUTMAN: Well, the issue is we've spent roughly \$190,000 for this particular system, and now we're having to go in...we want to bring additional enhancements to it. [LB150]

SENATOR RAIKES: Okay. Senator Avery has got a question. [LB150]

SENATOR AVERY: Aren't most of these costs you're talking about, software, scanners, other hardware that you might have in mind, aren't they one-time costs? [LB150]

JIM PUTMAN: The software is going to be a continuing cost, because we're going to want to improve it on a continuous basis. It will not be... [LB150]

SENATOR AVERY: Upgrades. [LB150]

JIM PUTMAN: Upgrades to it, yes. It will not be of the nature of the initial \$190,000 that we've spent over the past four years, but there will be continuing tweaks. [LB150]

SENATOR AVERY: I can see from the numbers you have given us that your equity has dropped. How do these numbers over the past four years compare with 1991-2001? Were your equity numbers higher in 1991 and slowly came down to where we are today at \$269,000? [LB150]

JIM PUTMAN: Sir, I don't know. [LB150]

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SENATOR AVERY: How much equity do you need to operate efficiently and without additional cost to the program? I see that, you know, \$270,000 is a sizable amount of equity, and that would more than cover the kind of additional costs you're talking about. You might find that in another three or four years that equity will be lower, but maybe it's not low enough now to justify a fee increase at this moment. I'm not opposed to raising fees, I just want to make sure. We're going to raise fees on teachers who are already underpaid...I know \$10 is not a lot of money, a couple cups of coffee, but it ought to be justified in terms of increased costs, not one-time costs, but ongoing costs of issuing these certificates. [LB150]

JIM PUTMAN: The kinds of costs that I would anticipate would be ongoing, for one thing, our analysts are in the state bargaining unit, and, you know, we've heard some discussion in that regard. There is an increasing salary that goes on from that. One of the things that we have had to spend recently has been an amount for overtime on people, you know, just simply to get the work done on that. And so that takes an amount of money on that too. [LB150]

SENATOR AVERY: That's a persuasive argument, which is not...it's not here. Thank you. [LB150]

SENATOR RAIKES: Jim, thank you for your testimony. Any other proponent? Any opponent? Neutral? [LB150]

SENATOR ADAMS: I'm waiving closing. [LB150]

SENATOR RAIKES: Senator Adams waives, so that will close the hearing on LB150 and we'll move to LB95 and Senator Flood. Senator Flood, you're looking well, better than I expected. [LB150]

DENISE PEARCE: Thank you. I'll pass that along. Good afternoon, Chairman Raikes and members of Education Committee. For the record, my name is Denise Pearce, P-e-a-r-c-e, and I work for Senator Flood, who represents the 19th Legislative District. I'm here today on his behalf to introduce LB95. I won't be taking much of your time. LB95 is simply a cleanup bill to correct an apparent drafting error. It amends Section 79-862 of the code, which relates to the reimbursement of expenses for those appointed or retained by the Professional Practices Commission. Generally, the reimbursement of expenses for state administrative departments is governed by Sections 81-1174 through Section 81-1177. You will see on page 2, line 17 of our bill, that current law erroneously references Section 81-1174 and Section 81-1177. LB95 proposes to fix that error by simply striking "and" and inserting "to." That is all I have. [LB95]

SENATOR AVERY: Was Senator Beutler not present this day? I'm sorry (laughter).

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[LB95]

DENISE PEARCE: Sir, I'm not sure. [LB95]

SENATOR RAIKES: It's good we have folks like you watching for this sort of thing. Any questions for Denise? Thank you, Denise. [LB95]

DENISE PEARCE: Thank you. [LB95]

SENATOR RAIKES: Do we have any proponents for LB95? Opponents? Neutral? Close? Close is waived, so that will close the hearing on LB95 and we'll move to LB231 and Senator Kopplin. [LB95]

SENATOR KOPPLIN: Okay. This will open the hearing on LB231. Senator Raikes, would you like to open? [LB231]

SENATOR RAIKES: Thank you, Senator Kopplin. Ron Raikes, representing District 25, here to introduce LB231. LB231 deals with the transfer of the Early Childhood Training Center from ESU 3 to the Department of Education. The Department of Education has and has had the authority to operate that Early Childhood Training Center in the department. They have chosen over the last, I think, maybe 10 or 15 years to contract the service instead to ESU 3 where it has been performed. They have made the decision to transfer that function now back into the department, so this bill, LB231, spells that out, and also spells out specific options and requirements for the transfer of employees, having to do with vacation time, and an employee that once worked for the department is returning, and so on. The department is here to give you some detail on exactly why this move. I think the only thing they have said and what I am aware of is that this would not increase costs. I would assume then that if there's not a cost reduction...maybe there is a cost reduction, but I think there's the feeling, probably, that there's some other advantages to be gained by making this change. So I will stop and address any questions, and hopefully somebody is here. [LB231]

SENATOR KOPPLIN: Okay, are there questions for Senator Raikes? Okay. Thank you, Senator Raikes. Proponents? [LB231]

MARCIA CORR: (Exhibit 7) Good afternoon, Senator Kopplin and members of the committee. My name is Marcia Corr, C-o-r-r. I'm with the Department of Education in the area of early childhood, and I'm here giving proponent testimony on behalf of the State Board of Education and the Department of Education. First of all, I would like to just a tiny bit of background about where the training center came from in the beginning. About 30 years ago, there was some special projects that were in-service projects related to giving training for those who worked with the young children, infants and toddlers, and preschool-age children. The work was done with Munroe-Meyer. Out of

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that project from 1988-91 it was called the Early Childhood Special Education Training Support Center. Then in 1990, when we had the legislation in the Early Childhood Act, which was at the same time, that act put into place those first early childhood program pilot projects. It also established the Early Childhood Training Center under the jurisdiction of the Department of Education. The mission of the training center at that time was identified to coordinate and expand training for professionals who work with young children and their families. And that following year, in 1991, the Quality Childcare Act, which identified a portion of those Federal Childcare and Development Block Grant Funds that came to the state, to go to the training center to help support training for childcare providers. From the beginning there was always an interest in bringing together all of those folks who work with young children and their families to provide training, to improve the quality of programs and services for them. Right now LB231 is asking as this grew from being a contracted program with the ESU, we have so much happening in the field of early childhood. We're expanding so much. The center has, from the beginning, operated entirely on funds from the Department of Education, and 90 percent-plus of those funds, really are federal funding grant sources from special education, early intervention, as well as preschool-age funds, and then add to that the childcare and development funds. We have a bit of Head Start-State Collaboration funds, a bit of Even Start TA funds, some of the state technical assistance funds for Early Childhood Grant Programs go there at this time, as well as the state preschool special education funds to provide training for those programs. As Senator Raikes indicated, this bill proposes then to transfer the staff from...at being employees at ESU 3 to becoming employees of the Department of Education and we are proposing then that their sick leave that is accrued, at this point, be transferred to the department, as well as their vacation leave accrued up to the maximum allowable by the state, the 280 hours to come to the department. The training center staff will continue to work the same as they have, except they would be directly accountable to the department. As Senator Raikes mentioned, those who may have been employees of the department in the past and have gone to become employees of ESU 3 at the training center, would be entitled if in the past five years they were an employee, to have that service in the department recognized. The bill also makes a statement that the ESU would not be required to reimburse NDE for any of the value of the accrued sick leave and vacation leave transferred. One of the pluses of this also as far as the state and the fiscal impact, is that we anticipate that there will be no additional increased funds needed for this because it would be the same federal dollars as well as the same state dollars that would help to support those activities. They do currently have 12 employees at the Early Childhood Training Center, and those 12 FTE then, in transferring to the Department of Education, would add to our personal services limit in the state. So it would appear that we are having that increase, but we, in fact, would not have any fiscal impact of that. When I mentioned about how much is happening, we know that we've had the expansion of the Early Childhood Grant Program, we have the new birth-to-three endowment program training for those working with infants and toddlers. We have the rollover to state aid, as a result of the legislation. Thank you to Senator Raikes for

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introducing two years ago. We have much more emphasis on partnership development between schools, communities based programs, Head Start across the state. We've implemented early learning guidelines, birth to three and three to five, there are federal mandates around the assessment of young children that we call Results Matter, and we have lots of training to do in that area. We believe this will really streamline our process for getting the work done to have that be a direct responsibility of the Department of Education. [LB231]

SENATOR KOPPLIN: Okay. Are there any questions for Marcia? Senator Adams. [LB231]

SENATOR ADAMS: A foolish question, I suppose, but just as a point of inquiry, if the Board of Education had the authority to transfer this to ESU 6 in the first place, why does it take legislative language now to get it back? [LB231]

MARCIA CORR: Actually we do not need the language to take it back. What we really need this language for now is to transfer those employees to the Department of Education. [LB231]

SENATOR ADAMS: Okay, and may I ask another...if this comes back to the Department of Ed, you don't perceive that in any way jeopardizing further grant opportunities from the fed, do you? [LB231]

MARCIA CORR: No, and we really have looked at that closely to be assured that we can work within the limits of those funding streams. [LB231]

SENATOR ADAMS: Thank you. [LB231]

SENATOR KOPPLIN: Are there other questions? Senator Avery. [LB231]

SENATOR AVERY: Ninety percent of this money is from the federal government? We generally refer to that as soft money, and I have some experience with soft money. It's not predictable and it's not reliable. How confident are you about that 90 percent...is a big chunk of what you do? How confident are you that it will still be there in five years? [LB231]

MARCIA CORR: Well, when of course, we know that's not an absolute with that soft money. It is the same funding source that has been in place for those programs since 1990, and has had some increases, some fluctuations of funding. But there's also a real push at the federal level around early childhood to really support the inclusive practices and the early intervention, getting children while they're young. [LB231]

SENATOR AVERY: I think it's a good program. I worry about soft money, though,

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funding so much of it. What would happen if we lost that 90 percent? Would the Department of Education be able to absorb it? [LB231]

MARCIA CORR: If we lost that funding, probably we would not, but the same thing would happen even if they stayed at ESU 3. If we lost that funding, there would also be a reduction there. [LB231]

SENATOR AVERY: Thank you. [LB231]

SENATOR KOPPLIN: Okay. Other questions? Seeing none, thank you, Marcia. Are there opponent to testify? Seeing none, neutral? Senator Raikes, would you like to close? He waives closing, and that would end the hearing then on LB231. [LB231]

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Disposition of Bills:

LB101 - Indefinitely postponed.  
LB241 - Indefinitely postponed.  
LB150 - Advanced to General File.  
LB95 - Advanced to General File.  
LB231 - Advanced to General File.

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Chairperson

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Committee Clerk