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Education Committee
February 11, 2008

[LB873 LB879 LB988 LB1079 CONFIRMATION]

The Committee on Education met at 1:30 p.m. on Monday, February 11, 2008, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointment, LB873, LB879, LB1079, and LB988. Senators present: Ron Raikes, Chairperson; Gail Kopplin, Vice Chairperson; Greg Adams; Brad Ashford; Bill Avery; Carroll Burling; Gwen Howard. Senators absent: Joel Johnson. []

SENATOR RAIKES: Good afternoon and welcome to this hearing of the Education Committee in the Nebraska Legislature. We're pleased you could be here this afternoon. Our schedule this afternoon includes a confirmation hearing, followed by hearings on four bills. They're going to be heard in the order listed on the little sheet outside the hearing room door. If you would like to testify, we'd be pleased to have you do so. As you come to testify, and you can either testify as a proponent, opponent, or a neutral testifier, following the introduction by the introducer and preceding the close by the introducer, if desired. We'll use our light system and that limits your testimony to five minutes, so we'd appreciate it if you would honor that. As you come forward, tell us your name, spell at least your last name for us for the transcriber, and then proceed with your testimony. I'll next introduce the members of our committee. At some point, I think, to my far right will be Matt Blomstedt, who is the committee's research analyst; next to him Senator Brad Ashford from Omaha; Senator Gwen Howard from Omaha, is already there; Senator Carroll Burling from Kenesaw is next. To my immediate right is Tammy Barry, the committee's legal counsel; I'm Ron Raikes, District 25; to my left is Senator Gail Kopplin, our committee's Vice Chair from Gretna, Nebraska; Senator Greg Adams from York; Senator Joel Johnson, I think has returned. At least he was around today, he is recovering from back surgery, from Kearney, Nebraska; Senator Bill Avery is from Lincoln; and Kris Valentin, on my far left, is our committee clerk. So that's our cast. Please turn off your cell phones, or otherwise disable them so they don't disrupt the hearing, and other than that, I think we're ready to proceed. So we'll begin with the confirmation hearing, and is Clark Anderson here? Clark, please come forward, have a chair. Welcome. [CONFIRMATION]

CLARK ANDERSON: Thank you. [CONFIRMATION]

SENATOR RAIKES: And tell us a little bit about yourself, Clark, and why you're interested in this position. [CONFIRMATION]

CLARK ANDERSON: (Exhibit 1) My name is Clark Anderson. I was raised in Paxton, Nebraska, Keith County, which is school in Paxton, Nebraska, went to college in University of Nebraska in Lincoln, graduated from the University of Nebraska Med Center in Omaha with a pharmacy degree back in 1973. As soon as I got out of college, I went back to Ogallala and bought a pharmacy and have been there my entire life. I'm married to my wife, Eileen Anderson, we have two children, a daughter, Megan, that's

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married and lives in Lincoln--is a dietician here in Lincoln. Our youngest daughter is a school psychologist that lives in Minneapolis, Minnesota. But I have served on various committees over the years: University of Nebraska's President Advisory Committee, ran for University of Nebraska regent three years ago, was unsuccessful in my first run, but have always been very interested in education and trying to better the education for our students in Nebraska. [CONFIRMATION]

SENATOR RAIKES: Okay, thank you, Clark. Are there questions for Clark? I would be interested in a rendition of your stump speech for regent. What were you proposing? [CONFIRMATION]

CLARK ANDERSON: Well, you know, I ran against Mr. Hergert from Scottsbluff, that was my first experience in an election and he had had quite a few chances in different elections. I ran also against Don Blank, that had been in the University system for quite a while, so I knew it was going to be an uphill battle, but I learned a lot. I only got beat by about 1,000 votes in the primary from Mr. Hergert. But primarily, one of the things that I was trying to mention then was that Nebraska was losing quite a few students to our surrounding states, and I kind of thought that Nebraska should be a little bit more aggressive in recruitment of our students. Also, I know the state of Wyoming was very competitive with their tuition. Basically, a Nebraska student could go across the state to Wyoming and go to school there for the same price that they could go in-state to Nebraska. So, those were one of the things that I was wanting to propose was for the University of Nebraska to look at some of those things. And I saw that just this past year one of the things that I kind of had proposed was looking at some of the adjoining counties around the state of Nebraska and offering those students the ability to come to Nebraska for the same tuition that our in-state students can do, and I see that that was proposed by the university this past year. I think it will help build a base for more students coming to Nebraska. And, also, I felt like there was maybe a lot of money that could be saved with the four campuses going on, some combining of some of the different department heads and stuff with the university. And so I was trying to implement the idea that I thought that maybe I could watchdog at the university, could maybe save some of the taxpayers some money. [CONFIRMATION]

SENATOR RAIKES: Well, you mentioned the C word, it was combined not consolidated, though, so you escaped on that one. Any questions? Senator Adams has one. [CONFIRMATION]

SENATOR ADAMS: Mr. Anderson, what do you see as the purpose of the role of the Coordinating Commission? [CONFIRMATION]

CLARK ANDERSON: Well, I think for one thing making sure that all students in Nebraska have an equal chance of attending secondary education at an affordable price, that we don't turn away anybody, and so I think part of my job on that committee

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would be to make sure that the curriculum of the different colleges and state schools--that they're upgraded and that we make sure that we offer the courses that is needed for these kids to get a degree. Also, I think as far as buildings that come online and that the different colleges are asking for, for research and that kind of thing, that we take a good look and make sure that it's money well spent as far as the state's concerned. But I'm very interested in education, always have been. I think it's part of the reason that I was successful in my business is because of my degree. And now where I'm kind of semi-retired, I want to be able to continue with my work with education in Nebraska. [CONFIRMATION]

SENATOR ADAMS: Can I ask one more? [CONFIRMATION]

SENATOR RAIKES: Yeah, sure. [CONFIRMATION]

SENATOR ADAMS: In the scheme of secondary education, where do you see the community colleges fitting? [CONFIRMATION]

CLARK ANDERSON: There is definitely a role for community colleges. I think there's a lot of times where a student gets out of high school and is not sure that he wants to attend a big university. Sometimes there's a community college close to their home, they can start off, if they're successful in their curriculum. You know, after one or two years they can always transfer to a larger college. I think it's important to know that sometimes price with a community college is a little bit less than a major university, and so I think it's important for students to know that they can achieve a good education sometimes not a long ways from home, but can be successful with a degree right from a community college. [CONFIRMATION]

SENATOR ADAMS: Thank you. [CONFIRMATION]

SENATOR RAIKES: Any other questions for Clark? I don't see any, thank you for being here, and thank you for your willingness to serve in this position. [CONFIRMATION]

CLARK ANDERSON: Thank you very much, I appreciate it. [CONFIRMATION]

SENATOR RAIKES: Do we have proponents for Clark Anderson? Opponents? Neutral testimony? Okay, that will close the confirmation hearing, and we'll now turn to LB873. Senator Kopplin, welcome. You been here before? You look familiar. (Laughter) [CONFIRMATION]

SENATOR KOPPLIN: I believe I did once already this year, we'll see. Chairman Raikes, fellow members of the Education Committee, for the record my name is Gail, G-a-i-l, Kopplin, K-o-p-p-l-i-n. I represent Legislative District 3. I'm before you today to introduce LB873. This bill would add a student growth adjustment to the calculation of formula

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needs in the state aid formula. It's basic purpose is to help school districts that are experiencing significant enrollment growth by allowing them to project enrollment growth and have that reflected in the current year state aid payments. Beginning with the 2009-10 state aid calculations, LB873 would provide a qualifying school district the opportunity to estimate and report anticipated enrollment increases in a timelier manner. As a result, the school district would receive funding at the time the students are enrolling as opposed to one year in arrears. A qualifying school district is defined as a district which projects formula student growth of 25 students or more greater than the number of formula students used in the calculation of aid for the school fiscal year. Currently, school districts receive state aid based upon the students enrolled during the previous year. School districts experiencing enrollment growth presently do not receive the funding at the time of need. Growing districts, such as Gretna, Elkhorn, Bennington, and Papillion-La Vista, among others, are handicapped by the current calculation and they're always having to play catch up. This bill would address that situation. In the event the district overestimates the number of students used in student growth adjustment, the bill also provides for student growth correction to be used by the department in the calculation of state aid beginning in 2011-12. Thank you for attention, and I will be happy to answer any questions you may have. [LB873]

SENATOR RAIKES: Thank you, Senator. Senator Howard has a question. [LB873]

SENATOR HOWARD: Thank you, Chairman Raikes. I just wondered if you could tell me where the number 25 came from? Is that just a conservative estimate of what you would see as the number of students that would be coming in? [LB873]

SENATOR KOPPLIN: I think this may go back historically. There was a time when 25 students was the breaking point for districts to receive funds. That disappeared many years ago, and 25 just kind of stuck. [LB873]

SENATOR RAIKES: It was once chiseled in stone, maybe. (laughter) [LB873]

SENATOR HOWARD: Sounds like as good a number as any. [LB873]

SENATOR RAIKES: Other questions for...Senator Burling has one. [LB873]

SENATOR BURLING: Thank you, Senator Kopplin. This program has been in place for some time now. Why do you think this wasn't done this way sooner, is there a logistics problem? Is there anything that really has prevented that from happening before? [LB873]

SENATOR KOPPLIN: No, as I mentioned before, historically there was a time when you were allowed to use 25 students in figuring budget growth. That only lasted a couple of years and since then, you do get your funding but it's always a year in arrears. And it's

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not when your growth is actually there. I think it's come to really the forefront for many people with the development of the learning community, which doesn't account for that growth factor. I think last year we originally in the bill that came out of committee had a growth factor in it, but it disappeared during debate. So it's not a new idea. I'm asking that it be put down. My primary concern is those districts in the learning community that are growing rapidly and now are in a different type of financial situation. [LB873]

SENATOR RAIKES: Other questions? Senator Avery. [LB873]

SENATOR AVERY: Thank you, Mr. Chair. Senator Kopplin, what you're calling for is an estimate of student growth. [LB873]

SENATOR KOPPLIN: Correct. [LB873]

SENATOR AVERY: Right, and then the ability to get funding for that estimate in the year you make it. [LB873]

SENATOR KOPPLIN: Correct. [LB873]

SENATOR AVERY: What happens if the estimate is badly off? Is there some adjustment for that? [LB873]

SENATOR KOPPLIN: If the estimate is way too low, that's the district's fault. There's nothing that can be done. If it's way too high, the following year the state department would reduce state aid by that amount. [LB873]

SENATOR AVERY: So it would not be a permanent gain that one could game the system? [LB873]

SENATOR KOPPLIN: No, if you overestimate it, you lose it the following year in your state aid allocation. [LB873]

SENATOR AVERY: You would lose that amount, but you would have already gained it for one year. Is there a payback provision here? [LB873]

SENATOR KOPPLIN: Well, that would be a payback because if you had \$100 coming in state aid and you had overestimated \$25 before, you're only going to get \$75. So you are paying it back the second year. [LB873]

SENATOR AVERY: Okay, thank you. That's all I have. [LB873]

SENATOR RAIKES: Senator Howard has another. [LB873]

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SENATOR HOWARD: Thank you, Chairman Raikes. Senator Kopplin, I would say this is a benefit to all the school districts to have the opportunity to not have to wait for that money that's due for an entire year, and I've looked at this issue, too. So I think while it would benefit the growth factor, I think it would also have some beneficial pieces for the other school systems, such as Omaha, such as inner city. [LB873]

SENATOR KOPPLIN: It is not...I mentioned the learning community, because that's what I'm most interested in, but it does not fit just the learning community. If the Lincoln Public Schools have growth, they qualify, Hastings has growth, they qualify. [LB873]

SENATOR HOWARD: Good, thank you. [LB873]

SENATOR RAIKES: Senator, a couple of maybe more technical aspects of it. You have a 25 student qualifier, is there a percentage qualifier as an alternative? For example, 25 students, you mentioned Lincoln Public Schools on 32,000 student base is not a very big percentage. On the other hand, 25 students for a 200-student school district would be a... [LB873]

SENATOR KOPPLIN: I think this bill is simply numbers. Twenty five students starts the process, and then it does take you back to the beginning, number one student. So... [LB873]

SENATOR RAIKES: Okay, that's my other issue. So, if I have 24 students, I don't get anything. [LB873]

SENATOR KOPPLIN: If you have 24 students, you should probably recruit someone for one more student. (laughter) [LB873]

SENATOR RAIKES: My point exactly, my point exactly. Because we definitely have a cliff there. And obviously in a bill we'll hear a little bit later, we'll hear why we start with the 26th student--because of that cliff. But maybe there's something in between that makes sense. [LB873]

SENATOR KOPPLIN: That's basic...well, there could be. But that's basically the difference between the two ideas is which student you count first. Number one or number 26. [LB873]

SENATOR RAIKES: Okay. [LB873]

SENATOR KOPPLIN: I think that's about the only difference between the two ideas. [LB873]

SENATOR RAIKES: Okay. Okay, I don't see any other questions. I hope you can stick

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around. [LB873]

SENATOR KOPPLIN: I'll be around. [LB873]

SENATOR RAIKES: Are there proponents? I see one. Welcome, Terry. [LB873]

TERRY HAACK: (Exhibit 2) Thank you. Good afternoon, Senator and Chair. My name is Terry Haack, I'm superintendent of schools for Bennington Public Schools, testifying in support of LB873. I also have the knowledge that Elkhorn and Gretna are in support of this bill as well. I'd first like to commend the committee. Their body of work over the past several years has brought about some changes, and positive changes, to the state aid formula. LB1024 and LB641 have also moved education community in the metro area forward in solving problems for all students. I ask that you take another step forward to help growing districts like Bennington, Elkhorn, and Gretna. As you know, each of these three districts are growing in student population at a rapid pace. An example, Bennington has grown 55 percent over the last three years. Elkhorn has grown 284 students K-12; last year, Gretna 139, Bennington 119. Unfortunately, all of these students fall outside the state aid current formula. LB873 provides a student growth adjustment for enrollment. This adjustment will allow districts to apply to NDE, as you've heard. The current TEEOSA formula factors last year's student growth. The current TEEOSA formula then is inaccurate when it looks at growing districts. An extra disabling factor is added to small and rapid growing districts in the learning community. It is projected that Bennington would lose between \$400,000 and \$500,000 due to LB641's shared property tax provision. In order to recapture this lost revenue, Bennington will need to request a levy override from its property tax owners to simply maintain a current funding system. I have prepared a spreadsheet that kind of outlines what it would look like, if I may. Within the spreadsheet that's coming out, you will notice that I have gone back three years, and what I have done is taken the enrollment figures off the NDE web site and I've also tried to look at just K-12. As you'll see, and I'll talk to later about the fiscal note, it does describe that there might be a concern with the pre-K. So looking at just K-12, and in the blue shaded areas you can see those districts that qualify and what the state aid amount would be going forward. As you can just look at Bennington, the second line down, in the 2005-06 year, Bennington would have been \$600,000 more in state aid if it would have recaptured all of the projected students. Now keep in mind that it is a projection, so in reality Bennington would not have asked for all of them because it would have been too close of a call. In '06-07, it would have been \$665,000, and in '07-08, this current year, approximately \$737,000. Now that is using the current formula and cost group cost. If you look down at the lower right hand, page 73 asks for GFOE. So you can see what LB873's bill would do in actual dollars, and in Bennington's case, that would be a little over \$1 million in state aid through LB873. Why do you ask do we need this money? You have to look at personnel, I can give you an example of our kindergarten classes. Kindergarten three years ago was 38, then 67, then 88, and 110, therefore, more personnel. You also need supplies for those things. You need operation

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costs to keep buildings going, transportation. Not only would the three districts that I speak for today benefit from the advancement of this bill, according to my calculations there's 25 public schools that exceed the 25 student limit. According to enrollment figures provided by NDE, Grand Island grew 98 K-12 students, Scottsbluff 93, Lexington 87, York 45. In summary, I encourage this committee to advance LB873 out of the Education Committee and onto the floor of the Unicameral for further debate. I thank you for your time this afternoon. [LB873]

SENATOR RAIKES: Thank you, Terry. I do appreciate your speaking for the Elkhorn and Gretna districts. My understanding is that they're lead by people who are shy perhaps, unable to express themselves (laughter). [LB873]

TERRY HAACK: We certainly want to limit the exposure that Dr. Breed has before the committee (laughter). So we thought it best that we do it in this manner. [LB873]

SENATOR RAIKES: Questions for Terry? Well, the issue you get at here, or at least one of them on your spreadsheet, is whether or not you start with 26 or go back to 1. [LB873]

TERRY HAACK: Exactly. Senator, you asked Senator Kopplin why 25? And if you look at it, just in cost-group cost, the standard cost group cost for next year for example--or this year, \$6,200. You lose approximately \$155,000 by not counting 25 students. In a district like ours that has a \$7.5 million budget, that could be three teachers quite easily. So there is, and I agree there needs to be a threshold, but once you reach that threshold, then you should start at student 1 and not at student 26. Or as LB988 has student whatever one percent is. Even Lincoln Public Schools still has to fund 1 through 400, or 1 through 330. So, I would say start at zero once you reach that threshold. [LB873]

SENATOR RAIKES: Okay, do you have a thought as to you deal with the issue of gosh, I'm at 24? [LB873]

TERRY HAACK: I think there is a difference, you have to put a cut somewhere and as explained in history long before me, I'm sure I was in junior high when that happened, but when 25 seems to be an architectural number for a classroom. And so most classrooms don't exceed 25, but it seems to be a good starting point. There are several school districts that are at that 20 to 24, and I really don't have a good answer for those districts to get to that level. [LB873]

SENATOR RAIKES: Okay. [LB873]

TERRY HAACK: So your answer is no, in brief. I don't have an answer. [LB873]

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SENATOR RAIKES: Okay, any other questions? I don't see any. [LB873]

TERRY HAACK: I would suggest that, I know the fiscal note is out and there is a problem with pre-K, and I would suggest that that is accurate. Pre-K does not add a lot to the funding formula, and so the fiscal note suggests 35 percent, I would say it would be higher just from what I know goes into the funding formula. So I think this bill and the fiscal note is high given out. [LB873]

SENATOR RAIKES: Okay. All right, thank you. [LB873]

TERRY HAACK: Thank you. [LB873]

SENATOR RAIKES: Other proponents, LB873? Steve. [LB873]

STEVE COLEMAN: Senator Raikes, Education Committee, thank you. My name is Steve Coleman, C-o-l-e-m-a-n, I am assistant superintendent of Papillion-La Vista Schools, one of those other growing schools that for some reason Terry didn't mention. I appear in support of both LB873 and LB879, but as a growing school district we have long sought a new avenue to seek state aid support in the year that the growing enrollment actually occurs. We've worked in that regard with Senator Raikes, your office, for many years, and I think we've come close a few times and I think we're getting closer, and that's encouraging. Both of these bills recognize the pressure felt by growing school districts. We do appreciate the efforts of Senator Kopplin in bringing these measures forward and encourage their advancement. In terms of the numbers that are projected in the bill and what has been done historically, as you look back at the spending authority issue for example, there is a number of 25 or 1 percent, and that number could be paralleled in this regard as well. But just the recognition of that growth in the year that the growth actually occurs through the state aid formula I think is necessary, and we encourage that bill advancing. [LB873]

SENATOR RAIKES: Okay, thank you, Steve. Questions for Steve? Detail for me a little bit the student growth that you've experienced at Papillion? [LB873]

STEVE COLEMAN: Student growth in numbers has varied anywhere over the last, I can speak somewhat intelligently about the last eight years or so, that it's been just over 100 students in a year to as much as 500 students in a year. So that growth percentage has ranged anywhere from about 1.25, 1.5 percent to a little over 5 percent. [LB873]

SENATOR RAIKES: Does that rate of growth continue in at present or not? [LB873]

STEVE COLEMAN: It certainly does. [LB873]

SENATOR RAIKES: Um-hum. Okay. Thank you for being here, Steve. [LB873]

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STEVE COLEMAN: Thank you. [LB873]

SENATOR RAIKES: Other proponents, LB873? [LB873]

VIRGIL HORNE: Senator Raikes, members of the committee, my name is Virgil Horne, V-i-r-g-i-l H-o-r-n-e. Senator Howard, Senator Wickersham was working with this back in the day. His concern was that if you use just a percentage, some of the very small schools could get two students move in and that would meet the percentage basis, that's why that 25 students was put in there, as I recall, anyway. And back to Senator Avery, your question, you don't have the goods, you don't get the money. It just pretty much boils down to that. So your estimate, if it's extremely high, you'll have that money for one year but the next year you're going to have to explain to a lot of folks, including your taxpayers, why your state aid went down and how far off you missed that. I think if you looked at the history of the projections, obviously most school districts have a good idea of how many kids are born in the district. You've always got that level of kids who are moving in and out of the district, but there's a process that you can look at births in your district and determine to some degree what your kindergartens are looking, potential to look for, and what your student growth might be. If the committee felt like they had to have a combination of things, maybe a one percent and 25 students would be a way to look at it. I think in the original bill that goes back 1990 I'm thinking, I know we worked on it then, that was some of the kind of things that got involved. I don't necessarily recommend that because in some cases where you have larger districts that are growing, one percent of their student body is quite a bit, but it still can have a dramatic impact on the number of teachers you need and the number of classrooms you need, and perhaps in some cases, more importantly, the amount of supplies that you need, because we have had some years in the Lincoln Public Schools where their student growth was almost exclusively refugees or someone of that nature, very high numbers I should say. And when that occurs, you find that you have to have more supplies immediately and if you have transient students, and I use that word probably improperly, if you have students that move a lot within your district, we know from history that we have to replace the supplies when they move. So if you have students who move around within a district a great deal, that causes a need for additional funds. In those cases, this type of help with the rapid student growth would help, I'm sorry with student growth--we used to call it rapid student growth. With your question, Senator Raikes, as far as how do you solve that cliff effect? I don't have a good answer. But in some ways, it's a little bit like annexation to some degree. If we're held accountable for annexation immediately, why not support the students that we have there as well immediately with TEEOSA funds, because there's no way you can get cheated out of this money. The school district, if this bill were to pass, has it coming to it, and if they don't produce what they're supposed to number-wise, the state gets it back. So the worst-case scenario is you lose the interest off it for not even for a year. That concludes my testimony. [LB873]

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SENATOR RAIKES: Okay, thank you, Virgil. Senator Avery. [LB873]

SENATOR AVERY: Thank you, Mr. Chair. Is it possible for us to think of the number 25 as some critical threshold where when you reach that number of additional students, that's when the additional resources become critical, or are you just pulling a number out of the air? If you are, that doesn't make any sense to me. [LB873]

VIRGIL HORNE: Well, and I agree with you, it doesn't make any sense. The original reason for the 25 was what I have said, that it was easy for some school districts to get to a percentage because they were so small to start with that three or four kids could make a tremendous difference. So from the standpoint of saying that's a good number, I can't say if that it's a good number or not. It's a place to start. Quite frankly, if you're held accountable for this, why not start at one student? [LB873]

SENATOR AVERY: Well, it would be helpful for me if I had some idea of how many new students must you have enrolling, or expect to enroll, before you have a real impact on your resources? [LB873]

VIRGIL HORNE: This is going to sound like a smart aleck response. [LB873]

SENATOR AVERY: Don't say it (laughs). [LB873]

VIRGIL HORNE: Well, I need to, though, for you to understand why I'm saying it. If you will tell me what grade level they're in and the level that they're coming through your school district, then I'll tell you the number that you need. But if you get 25 students and they all happen to be within the first three grad levels, that can have a tremendous impact on the school district. In Lincoln, you could say well, if you get 25 kids in Lincoln that's not a problem if they're spread all over Lincoln. That's not a problem in a smaller school district if they're spread at the two elementary schools or the one elementary school and they're in different grades. But if all 25 of them show up in the same grade, you've got a problem. [LB873]

SENATOR AVERY: Yeah, or if they all show up in need of English training. [LB873]

VIRGIL HORNE: Exactly, and even this Legislature, and in my opinion in its wisdom, has said that if you have classes of 20 or fewer, we're going to give you more state aid. That's an incentive. So when you say what's the number, I can't tell you that because you have to have more data to understand what the impact may be. [LB873]

SENATOR AVERY: Let the record show that he said we are wise. (laughter) [LB873]

VIRGIL HORNE: I'm not also under oath, am I? (laughter) [LB873]

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SENATOR RAIKES: Any other questions for Virgil? I think, Virgil, at least at times I've heard you talk about...you don't necessarily experience an increase in the number of students, the absolute number of students, but there is a significant change in the demographic mix so that you have the same total number of students, but you have more poverty and ELL students and fewer nonpoverty, non-ELL students. [LB873]

VIRGIL HORNE: My only correction of that, and if I didn't say it I should have, is that you also in some cases get more gifted students, which also cost more. But the demographics do change, yes, sir. [LB873]

SENATOR RAIKES: And this wouldn't, this particular proposal doesn't affect that? If LPS, for example, had a significant change in the demographic mix of students one year to the next, with no increase in numbers, 24 students--then this wouldn't affect you. [LB873]

VIRGIL HORNE: No. If I understand your question correctly, I would say no. Obviously it would be impacted by other parts of TEEOSA, but this particular bill would not be impacted by that. [LB873]

SENATOR RAIKES: Well, I think TEEOSA, as it is right now, does not allow you to forecast a change in demographic mix. [LB873]

VIRGIL HORNE: No, it doesn't. No. [LB873]

SENATOR RAIKES: Okay, thank you. [LB873]

VIRGIL HORNE: Thank you. [LB873]

SENATOR RAIKES: Other proponents? [LB873]

JOHN BONAIUTO: Senator Raikes, members of the committee, John Bonaiuto, B-o-n-a-i-u-t-o, supporting the bill with the opportunity to have some flexibility and responsiveness for growing districts. It's a discussion we've had before, and I think that having the opportunity to deal with cliff effect is something the districts would not mind having that challenge given that responsiveness. I think that when the growth happens, districts are budgeting closer to the bottom line and have less flexibility, and so when they have to add staff and buy supplies, and if that growth puts that kind of pressure on the district, this would be a good relief bill. With that, I would conclude. [LB873]

SENATOR RAIKES: Okay, thank you, John. Questions for John? I don't see any, thank you. [LB873]

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JOHN BONAIUTO: Thank you. [LB873]

SENATOR RAIKES: Other proponents, LB873? Welcome, Jay. [LB873]

JAY SEARS: (Exhibit 3) Senator Raikes, members of the Education Committee, I'm Jay Sears, J-a-y S-e-a-r-s, and I represent the Nebraska State Education Association and we're here to support LB873. You've heard all the reasons. I'm not a numbers person, so don't ask me about the state aid formula. All I can tell you is if I get 25 new kids in my class on top of my other 25, I've got lots of problems. So we're here to support LB873, and I'd be glad to answer any questions you have that don't deal with numbers. [LB873]

SENATOR RAIKES: Okay, qualifier on the questions (laughs). It worked, I don't see any. Thanks for being here. Any other proponents, LB873? Are there opponents? Is there neutral testimony? Senator Kopplin to close. He waives closing, but he is going to be on the carpet to introduce LB879. Senator, please. [LB873]

SENATOR KOPPLIN: Chairman Raikes, members of the Education Committee, my name is Gail, G-a-i-l, Kopplin, K-o-p-p-l-i-n, and I represent District 3. I'm here today to introduce LB879. LB879 would create a construction, expansion, or alteration adjustment in the school finance formula. School districts that are adding instructional square footage are faced with a variety of expenses that exceed the funding provisions contained in the current state finance formula. These expenses are part of a new startup or operating costs, such as additional staffing, curriculum materials, or equipment associated with the opening of a new building or the expansion or the remodeling of an existing building. These expenses are new, and the current formula does not recognize the need in a timely manner. Beginning in the school year 2009-10, LB879 would allow a school district to apply for the adjustment before October 15 of the school year immediately preceding the school year for which the school aid is being calculated. The adjustment would only be available to the district for two years. For the first year, the adjustment would equal the statewide average general fund operating expenditures for formula student multiplied by 20 percent of the architectural capacity of the new construction or expansion, and 10 percent for the second year, both years based on 25 students per classroom. The qualifying district would be any school district which increased the square footage used for instructional purposes through either the construction of facilities, or the expansion or alteration of existing facilities. I believe this would be an important step toward assisting school districts statewide by providing them with funds that would assist them in building new facilities or modernizing aging or out-of-date facilities to provide enhanced learning environments for our students. Thank you for your consideration and attention, and I will answer questions. [LB879]

SENATOR RAIKES: Thank you, Senator. Senator Burling has a question. [LB879]

SENATOR BURLING: Thank you, Senator Kopplin. Is there a definition in statute of

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instructional? Not all your buildings are instructional I'm assuming, so is there a definition of... [LB879]

SENATOR KOPPLIN: I don't think we put a definition in instructional. [LB879]

SENATOR BURLING: I thought maybe it was already in the statute, that's why I asked. [LB879]

SENATOR KOPPLIN: It may be, Senator Burling, I don't know. We would be talking about classroom-type buildings. [LB879]

SENATOR BURLING: Okay. [LB879]

SENATOR RAIKES: Other questions? Senator, detail for me a little the justification of this kind of an expense. Now you, assuming that your previous bill is in effect, you're already going to get credit in the formula for students that are there. So you're basically saying even if you accurately reflect the number of students, you're still going to have some expenses that are not accounted for. What kind of expenses are those? [LB879]

SENATOR KOPPLIN: Senator, when a school district passes a bond issue, I mean, it's a hard job but that's the easy part because you get your building, but then you have to furnish it, you have to buy new curriculum materials, you have to staff it. Those are all immediate expenses that appear simply because you built the building. So it is a big jump in your local costs until things begin to straighten out. As years go by, you no longer need that. But there is a big jump simply because when you open a building, you got new custodians, you got new staff of all kinds that has to go into that new building, and it is a big jump in expenditures for that first or second year. [LB879]

SENATOR RAIKES: Okay. You mention in here remodeled building. I assume this wouldn't apply if you're going to remodel the building and not add square footage? [LB879]

SENATOR KOPPLIN: It would depend on how you are going to remodel. If you're going to remodel to make the building look better or correct asbestos problem or something like that, no, but if you're remodeling in such a way that you're creating more classrooms, yes, there would be an expense. [LB879]

SENATOR RAIKES: Okay. I don't see any other questions. Thank you, Senator. Proponents for LB879? Mr. Riley. [LB879]

KEVIN RILEY: Senator. My name is Kevin Riley, R-i-l-e-y. I'm the superintendent of the Gretna Public Schools, and I'm speaking in favor of LB879. Bennington and Elkhorn also support this bill. And, yes I'm worried... [LB879]

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SENATOR ASHFORD: How do you know? (laughter) [LB879]

KEVIN RILEY: And I am concerned when Roger comes up to represent us for LB988 (laughter). Over the past few years, we've come to you and asked that the state aid formula more accurately reflect the changing demographic in our state to focus on the increase in poverty and limited-language children. I think if we look at state aid certification for February 1st, LB1024 and LB641 were successful and we're moving in the right direction. However, LB1024 and LB641 inadvertently punishes growing districts within the learning community. By imposing a common levy on the learning community, growing districts can't access the funds they need when they grow and open buildings. We have two major sources of funding, as you know--state aid and property tax. State aid growth is one year in arrears, but we're able to connect the dots by the increase in our property tax valuation that's brought in by more students, more houses, etcetera. Under the common levy, we no longer can access that increase at anywhere near the same level that we currently can. The cost of opening a new building is expensive. Historically in Gretna, or most recently is probably a more accurate term, we open an elementary and it's at capacity within two to three years, and then we build another. Most recently, Thomas Elementary opened for the 2004-2005 school year, and early in the '06-07 school year, we were at capacity. We opened Palisades Elementary in August of 2007. Cost from the general fund, and a little from the building fund, is just under \$2.3 million; \$1.4 million of that went to staffing. But the \$840,000, that went for furnishings, utilities, office and library furniture, desks, tables, chairs, computers, servers, routers, switchers, printers, licensing, copiers, trash service, insurance, phone system, security, library books and AV materials, blinds, signage, playground equipment, landscaping required by the county--which I haven't got over yet, etcetera. In the 11 learning community districts, historically we have been at or near the bottom of the per person cost ranking and at or near the top of the tax levy due to our bond levies. By all indications, we stand to lose when the common levy is imposed. We've never been here asking for money for ourselves. We're asking only to break even, and LB879 would help us get to that break-even level. Thank you. [LB879]

SENATOR RAIKES: Okay, thank you, Kevin. Questions for Kevin? What, sort of off the subject a little bit, but have noticed a valuation impact of the recent housing situation in your area? [LB879]

KEVIN RILEY: What has ours done lately? [LB879]

SENATOR RAIKES: Yeah. [LB879]

KEVIN RILEY: Ours has been averaging probably in the 13 to 14 percent increase. [LB879]

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SENATOR RAIKES: Well, your student growth has averaged what? [LB879]

KEVIN RILEY: We've been anywhere from 6 to 13 percent. [LB879]

SENATOR RAIKES: So the valuation increase has outpaced student growth by a few percent? [LB879]

KEVIN RILEY: Yes, that would be accurate. [LB879]

SENATOR RAIKES: Okay. Senator Avery. [LB879]

SENATOR AVERY: Thank you, Mr. Chair. Your testimony seemed to be as much against the common levy as it was for LB988, is that the bill? [LB879]

KEVIN RILEY: LB879. [LB879]

SENATOR AVERY: Well, one of those (laughter). Would you like to elaborate on that? I mean, is the common levy that onerous? [LB879]

KEVIN RILEY: It is for us in regards to our growth, yeah. I don't think that I'm up here only stating that, that the common levy is a bad thing. It hurts us as a school district, and mostly because of our growth. If we were staying the same in terms of our numbers, and quite honestly if the common levy wasn't in place, I wouldn't be here today. [LB879]

SENATOR AVERY: Then I presume that you would take that to the next level and oppose the learning community and your participation in it? [LB879]

KEVIN RILEY: The learning community is much bigger than just that. As a school district, we have supported the idea that the 11 school districts in the metro area need to work together. We are connected in many ways, we are connected socially, economically, spiritually, and you can go right down the line. And if you look and see how major metropolitan areas develop, a learning community of some sort tends to be the direction that many of those metropolitan areas have gone. So I'm not speaking against that in any way, shape, or form. But the inclusion of us in that learning community takes away our ability to access the full power of our valuation increase because we are a smaller district. And it appears, because that spin hasn't occurred yet, but it appears that those school districts with high numbers of agriculture acreage are the ones that lose the most in terms of the common levy. And the 11 superintendents have agreed that none of us should be penalized financially for being in the learning community. So for us, it's the common levy part of it that hurts us in terms of sustaining our growth in paying our bills when we open schools. When I talk about \$2.4 million that we spent for the Palisades Elementary, that doesn't include the renovation at Gretna Elementary that occurred this summer. It doesn't include the major renovation of Gretna

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Middle School that we will conclude March 1. The pressure on your school district is immense during that time, and one of the reasons that the difference between our valuation increase and our numbers increase is these are one-time costs. I'll only purchase library equipment probably once for that school, for any of those three schools in which we renovated each of those libraries. It's the one-time costs that hurt you when you're opening those buildings, and we have to have access to the finances to be able to do that, Senator. [LB879]

SENATOR RAIKES: Senator Ashford. [LB879]

SENATOR ASHFORD: Kevin, thanks for all you...I didn't know you before last year. You've done a great job representing your interests throughout as we've talked over the last year. Just a couple general questions. Do you receive state aid now? [LB879]

KEVIN RILEY: Yes. [LB879]

SENATOR ASHFORD: And how much state aid do you receive in whole numbers this year? [LB879]

KEVIN RILEY: This year we're receiving \$4.6 million. [LB879]

SENATOR ASHFORD: And how much do you collect in property taxes? [LB879]

KEVIN RILEY: This year, we'll be just over \$12 million. [LB879]

SENATOR ASHFORD: Okay. And the \$4.6 million does not include the growth factor or the construction factor that we're talking about in the past two bills. [LB879]

KEVIN RILEY: No, it doesn't. Correct. [LB879]

SENATOR ASHFORD: And arguably, the changes in the formula on the state aid side would also impact the common levy calculation. [LB879]

KEVIN RILEY: Correct. [LB879]

SENATOR ASHFORD: The way it's set up under LB641 and LB1024. [LB879]

KEVIN RILEY: Correct. [LB879]

SENATOR ASHFORD: So if we...assuming that we're able to successfully do these changes that you would pick up both in the property tax side and on the state aid side, additional revenue. Theoretically, you would receive state aid for the growth factor in excess of \$12 million. [LB879]

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KEVIN RILEY: Your needs would go up, correct. [LB879]

SENATOR ASHFORD: Theoretically, as long as there is money in the pot, you would receive additional state aid? [LB879]

KEVIN RILEY: Correct. [LB879]

SENATOR ASHFORD: The issue then is how much of the property tax you would receive back to the district in with the common levy factor? [LB879]

KEVIN RILEY: We would only receive the difference of whatever we ended up with as a learning community. That would be our minimum effort rate, might be \$.93. [LB879]

SENATOR ASHFORD: Right. [LB879]

KEVIN RILEY: We would be able to access from \$.93 to \$1.03. We would get \$.10 of our own valuation. [LB879]

SENATOR ASHFORD: Right. [LB879]

KEVIN RILEY: And that's where we lose. And the growth factor, as I see it, would only break even. [LB879]

SENATOR ASHFORD: But you lose, and I understand that, but you lose because the money is being distributed back to all the districts based on their needs. [LB879]

KEVIN RILEY: Correct. [LB879]

SENATOR ASHFORD: I guess here's the question, and I don't doubt your concern and I think what you're voicing is real and it has to do with how do you run your schools and how do you build new schools. I don't think there's any, there's no funny money here. This is real, hard cost of running a school. [LB879]

KEVIN RILEY: Right. [LB879]

SENATOR ASHFORD: What I'm having a little bit...when you say you're losing, in effect, what we're doing is we are trying to make sure that there are no winners or no losers in effect, because valuation...and there could be issues involving ag land, I grant you that. But theoretically, what we're trying to do is have the money redistributed back to the districts based on needs. [LB879]

KEVIN RILEY: Right. [LB879]

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SENATOR ASHFORD: Theoretically, what's wrong with that? And I know there are issues involving individual districts, I understand that, but theoretically if we redistribute the money based on needs, aren't we fulfilling what is a good goal? [LB879]

KEVIN RILEY: And we'd be asking you to recognize that the growing districts have a need. See, we'd be losing about \$874,000 in year five is what we figure. Until that's spun by the State Department of Ed, we don't know for sure. But we're anticipating a loss of \$874,000 in property tax money because of the common levy. [LB879]

SENATOR ASHFORD: But you are assuming, are you assuming five years of growth in property tax valuation and other state aid calculations? [LB879]

KEVIN RILEY: But you lose access to it each year. [LB879]

SENATOR ASHFORD: But you're getting it back as well. [LB879]

KEVIN RILEY: If this were in effect... [LB879]

SENATOR ASHFORD: Well, I guess that's what I'm asking. [LB879]

KEVIN RILEY: If this were in effect, it would be a wash for us. Correct. If LB873 and LB879 were in effect, it'd be a wash for us. [LB879]

SENATOR ASHFORD: So you wouldn't be a loser. [LB879]

KEVIN RILEY: Correct. [LB879]

SENATOR ASHFORD: And that...and compared to other districts, if we accept the concept, and I know you've accepted the concept of the learning community in a positive way and for all the reasons you mentioned today, and I agree with you about them. The economic, the spiritual, the idea of people being able to access educational opportunity throughout the two-county area, I know you support...I mean, you've always supported that philosophically and in a positive way, and that's helpful. But if we can in effect allow that to happen, if we can figure out a way to get the formula right, so that districts like yours who are in a different...like Bennington, or Elkhorn, are in a unique situation because of your growth compared to like a Westside or even an OPS, or whatever it is, that it's a pretty good deal. [LB879]

KEVIN RILEY: It would...we would break even to where we are now. [LB879]

SENATOR ASHFORD: But not only financially, if you break even and if you get the other benefits of having mobility, open enrollment, the idea of a platform in place that

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will encourage private dollar investment in education, that's an improvement over where we were before where we had fighting and internecine warfare, and no... [LB879]

KEVIN RILEY: There's no doubt that we have a great opportunity in the metro area when 11 school districts are working with each other as opposed to against each other. There's no doubt about that that the kids are the winners in that type of a situation. [LB879]

SENATOR ASHFORD: Right. Right. [LB879]

KEVIN RILEY: When the superintendents sat down this summer and this fall, it became very clear that all 11 of us, 11 of us have never been on the same page, but 11 of us agree that there should be no financial losers in this thing. Break even, if there's winners, I don't care. If OPS receives more money because of their limited language and increase in poverty, good. [LB879]

SENATOR ASHFORD: And isn't that really, isn't that...the problem we were faced with last year, but I mean, Senator Raikes and Senator Howard and Senator Kopplin have been faced with it a number of years prior to this, is the issue of the disparity. [LB879]

KEVIN RILEY: Um-hum. [LB879]

SENATOR ASHFORD: And that there has been a significant loss of ability for those kids to learn in some cases in the inner city schools, and this is our solution. And other than finding some, dealing with some of the issues involving financing, we're getting there with this learning community. [LB879]

KEVIN RILEY: We made great progress in the state aid certification. I think that what Senator Raikes and the Legislature envisioned is coming true, and we're moving in the right direction. Again, all we're asking is that we break even. I've gone from 97 kindergartners in 2000-01, next year I have 304 that are eligible. Now 20 percent of those generally register, so we'll figure 250, 260 by the time August rolls around. That's how quickly and how much pressure has been put on us at the lower levels. I'll graduate 155, and I'll see 250, 260, maybe even 270 in terms of kindergarten. Roger is seeing the same thing, Terry is seeing the same thing, because that's where the land is. As the metropolitan area grows, it's where the land is. The developers go, a lot of young families start there because quite often the housing that is built in that area is more affordable. And so the growth continues, and we really think it's important for the metro area, and all districts, be viable. I think between 11 districts, as we agree, that there should be no financial losers. I think the reason is not just fairness. The reason is is that the Legislature has handed us a huge issue to deal with... [LB879]

SENATOR ASHFORD: Right. [LB879]

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KEVIN RILEY: ...and we need to be focusing there rather than on finances. [LB879]

SENATOR ASHFORD: And by losers, what you're saying, is if you have to levy property tax higher than another district, you're losing in effect. [LB879]

KEVIN RILEY: No, mine is that we're already levying the most we can. We cannot access it without a levy override, and when you're at \$1.33 like we are, which is the highest in the learning community, for me to go ask the community for additional money to replace what we've lost--which for us like I said is \$874,000--that isn't going to happen. [LB879]

SENATOR ASHFORD: And that's in the fifth year? [LB879]

KEVIN RILEY: The first year it's \$754,000 and it just grows a little bit each year until year five. Again, that is speculative. We don't know for sure, it could be a little worse than that, it could be a little better than that. Until the numbers are spun next year, we don't know that for sure. [LB879]

SENATOR ASHFORD: Okay, thank you, Senator Raikes, and thanks for your positive input. [LB879]

SENATOR RAIKES: Senator Avery has some positive input. [LB879]

SENATOR AVERY: Thank you. Maybe. How did you come up with the money with past expansion, new schools being built, how did you come up with the money for operating start-up costs, that sort of thing? Equipment...what did you do? [LB879]

KEVIN RILEY: Well, when your valuation goes up, 12, 13, 14, 15 percent, you are able to access it there. [LB879]

SENATOR AVERY: Okay. [LB879]

KEVIN RILEY: Okay, in the learning community, the common levy won't allow us to get but a portion of that increase. [LB879]

SENATOR AVERY: Have you, is it possible, I presume you issue bonds, right, to build schools? [LB879]

KEVIN RILEY: Correct. [LB879]

SENATOR AVERY: Is it possible to take the money from the bond issue, let it accrue some interest while you build the schools, and then that interest could be used to pay

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for the start-up cost. I believe Lincoln did that with two new high schools. [LB879]

KEVIN RILEY: You can do that. You can put that in there, but then you come down to, from our perspective, historically we've said we really don't want to borrow money for 20 years for school desks. We don't want to borrow money and pay for money for 20 years for textbooks that are going to cycle through every seven years. So it's a philosophical thing, and we've chosen not to do that. But one of the things that hit us in this last bond issue is that once we pass the bond issue for just under \$21 million, just before we were going to bid those buildings, steel shot through the roof. Gas went to \$3 a gallon. And it affected everything in the process of building a school building. So we saw our bids come in significantly higher than what we had anticipated in the bond issue. And maybe we're stupid in not padding a bond issue, but I think it's important that you work from a level of trust with your community. We had figured in some increase, we just didn't figure in the increase caused by the steel industry because of all of the construction in China. That really affected, and so that ate up a lot of those dollars that in your interest income that might have been able to be used for something like this. [LB879]

SENATOR RAIKES: Thank you, Kevin. Other proponents, LB879? [LB879]

JAY SEARS: (Exhibit 4) Senator Raikes, members of the Education Committee, I'm Jay Sears, J-a-y S-e-a-r-s, and I'm representing the Nebraska State Education Association, and we're in support of LB879. It's been my privilege for the last two years, thanks to the Legislature passing LB1024 and LB641, to work with the presidents of the 11 local education associations in the learning community. That group of professional educators are sometimes excited about the learning community taking place and the opportunities that are there, but they have great discussions about what happens with the funding and the building for many of their sister school districts when they're growing so fast and building buildings faster than bond issues can be passed. And one of the things that they've talked about, and one of the reasons NSEA is here to support LB873 and LB879, is trying to level the playing field for all 11 school districts, and all of those teachers and kids in those 11 school communities. Starting up schools is not easy, and some of those districts that are part of the learning community are growing faster than we've ever seen in the state of Nebraska. And so these two bills, along with some of Senator Raikes's bills on TEEOSA, are kind of promises about how we take care of the funding process so that no one loses in this, and so that people can come together and work for the benefit of children in the whole learning community. It's very tough to bring 11 different local education association presidents together and come to consensus when they realize that some of their districts will be hurt by the common levy unless something is done with the state aid funding formula. So that's why we come to you today in supporting these two bills. We look forward to working with you as a committee to find ways to make sure that the learning community works, that there is significant and adequate funding for all of the kids in the learning community. That concludes my testimony, and I'd be glad to answer questions if you have them. [LB879]

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SENATOR RAIKES: Thank you, Jay. Questions for Jay? I don't see any. Thank you very much. Other proponent testimony, LB879? Is there opponent testimony? Neutral testimony? Senator Kopplin waives closing, so that will close the hearing on LB879. [LB879]

SENATOR KOPPLIN: Okay, we will open the hearing on LB1079. Senator Raikes, if you'd like to open please. [LB1079]

SENATOR RAIKES: (Exhibit 5) I would, thank you, Senator Kopplin, members of the Education Committee. Ron Raikes, here to introduce LB1079. LB1079 deals with an issue that we have been around the horn on, so to speak, before...well, I guess the committee on the floor in the discussion I introduced a bill a year ago dealing generally with this subject area in that of legal expenses by school districts. That bill went to Judiciary, I think the proposal that came out of Judiciary was somewhat different than the one that went in, but that's okay. We discussed it a little bit on the floor this session before it was bracketed or some such fate, but anyway, out of that discussion, frankly, came a recommendation or a lien if you will, that even though that bill may not have been the best way to deal with the issue, the issue did need to be dealt with and considered, and so that is the motivation for me in LB1079. LB1079 amends 79-1003 by excluding any legal expenses in excess of .15 percent of the formula need for the school fiscal year in which the expense occurred from the definition of general fund operating expenses, which then is used to calculate need and state aid to schools. Let me explain a couple things. The .15 percent is the result of some tabulations involving legal expenses by school districts, and I think what I can tell you is that if you looked at all legal expenses for all the schools for the year, which we included--which 2006-07, .29 percent. If you took out the one largest district in the largest spender in terms of legal expenses, the average for the state was .14 percent. So the cutoff here is at .15 percent, or the average for all except OPS on legal expenses. Now let me make it clear: Does this mean that if a school district incurred for whatever reason, or decided to incur I guess for that matter, legal expenses, they would not be able to pay them? No, it does not mean that. It would not impose any restriction on a school district to cover legal expenses, and you can certainly imagine situations in which that would be essential. For example, if you had a suit filed against the school for any number of circumstances you might imagine, school bus goes over a bridge or whatever. The school district would have all of the ability they now have to incur whatever legal expense they needed to incur in order to defend themselves, or whatever they had to do in a legal setting. What this does do is say that any amount of legal expense above that .15 percent is not counted in GFOE for purposes of calculating state aid for the certification...the state aid payment in the next year. If you look at the fiscal note, the bottom paragraphs, I'll just read that for you: The decrease in general fund operating expenses reduces the cost grouping cost in the state aid formula. This means all school districts in the cost grouping will receive less state aid. Using 2006-07 data and applying the factor to total

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needs for the 218 districts, that would be 218 standard cost group districts, NDE estimates that the cost grouping cost would have decreased by \$10.51 in the standard cost grouping. The decrease would have resulted in approximately \$3.1 million less state aid being provided in the 2008-09 school year, assuming all districts were equalized. Any decrease in state aid pursuant to this bill will occur beginning in 2009-10. So this is a situation, or this is a proposal in which school districts are allowed to incur the legal costs. But legal costs beyond a certain amount do not drive the needs calculation, and therefore the state aid, in following years. So I hope I've made that clear, if not... [LB1079]

SENATOR ASHFORD: It seems clear. [LB1079]

SENATOR RAIKES: I'll quit. [LB1079]

SENATOR KOPPLIN: You'll quit. Are there questions for Senator Raikes? [LB1079]

SENATOR ASHFORD: Poor lawyers. [LB1079]

SENATOR HOWARD: Poor lawyers. Senator, thank you. [LB1079]

SENATOR KOPPLIN: Senator Howard. [LB1079]

SENATOR HOWARD: Chairman Kopplin, thank you. Can you give us a little of the history as to what has brought this on? I know some it, I know some of the discussion we've had on the floor, but I'd like to just for the record have some reflection on what has brought about this concern for this matter. [LB1079]

SENATOR RAIKES: Okay, I'll mention two sources of the concern, and one of them a little bit more long standing, one of them more recent. The more long standing one is legal expenditures by school districts for, you know whether I agree with them or don't agree with them, which become a significant amount of money. And certainly to be straight, I'll mention OPS. Expenditures per student in OPS if I remember correctly in one of the recent years were around \$80 a student, where as the average for the state is like \$14 a student. So they were significantly above the average...so that's one of the, you know, why are we funding school districts, so to speak, so that we can use this money to incur litigation costs or legal costs rather than educating students? Although I realize there are counter-arguments to that. The other thing, and the other source of it comes up in the next bill, LB988, and that is what sorts of expenditures are you going to allow to drive the needs calculation, and therefore the state aid that the state is obligated to pay? Certainly, legitimate state and local spending, in my view, ought to be a driver for those kinds of expenditures. But if there's federal grant money that comes or if there is a significant, private donor, for example, that makes a contribution to one or more school districts, certainly, we would not discourage them from doing that and

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hopefully the money goes to a good purpose and is used well. But that should not drive, in my opinion, state aid from hereon after. So there are two factors, one of them is what appeared to me, at least in one instance, questionable amount of legal expenditures by a school district. The second thing is do you allow those kinds of legal expenditures to drive state aid to obligate the state, if you will, for increased expenditures. And the fiscal note shows about \$3 million. [LB1079]

SENATOR HOWARD: I appreciate the explanation. Do you see this bill as penalizing the school districts that have sought to have a legal decision on matters that they have disagreed with? I'll just ask that point blank. [LB1079]

SENATOR RAIKES: Actually not, because the impact of this proposal would be on state aid, state aid paid to all school districts. And for example, if you had a school district that incurred legal expenses above this .15 percent, but was accurately represented in the needs calculation in the sense that the cost factors that they really incur were correctly included in the needs calculation, it's not at all clear to me that they would be penalized. [LB1079]

SENATOR HOWARD: Thank you. [LB1079]

SENATOR KOPPLIN: Other questions? Senator Ashford. [LB1079]

SENATOR ASHFORD: Just to go back over the 1.5, (sic) and that's based on the...you can not exceed 1.5? (sic) [LB1079]

SENATOR RAIKES: Right. You would recognize up to that amount of legal expense in the GFOE number that is used to calculate needs. Anything over that, the school district could spend it, they could do what they chose or decided they needed to do. It's just that that would not drive additional state aid. [LB1079]

SENATOR ASHFORD: And they could take it from any place they wanted to? [LB1079]

SENATOR RAIKES: Right. They would have whatever funding sources, um... [LB1079]

SENATOR ASHFORD: And this issue could also apply to other services, but it has been the legal fees that have been inordinately high in a relative sense in some districts. [LB1079]

SENATOR RAIKES: Well, yeah, you could certainly point to that, but as I mentioned one of the topics we'll deal with in LB988 is... [LB1079]

SENATOR ASHFORD: I get that point, yeah. [LB1079]

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SENATOR RAIKES: Yeah. [LB1079]

SENATOR ASHFORD: It is difficult to get ones arms around, conceptually, some of what is going on because you have, since I've been in involved in legislative life since 1986, you have increasing participation by the state in the cost of education. I mean, now we're almost at a \$1 billion or whatever it is, and I think when I left the Legislature it was around \$400 million or \$500 million, or somewhere in that. So it's... [LB1079]

SENATOR RAIKES: That's an interesting point. We have an increasing participation in absolute dollars, but we're declining in percentage. [LB1079]

SENATOR ASHFORD: We're declining in percentage. The cost of education is very, very high. And so, are we...and we have these school districts, and we have a number of school districts and they're independent, they have their own reason for being. They have their own identity, and they run their own schools and they have their own issues and needs, and that exploded really in the Omaha area with the fighting over boundaries and so forth and so on. I mean, it is...and, quite frankly attorney fees sort of drive that because litigation begets litigation. And so we have this sort of anomaly. We have substantial state aid, desire to be independent individual school districts. Each school district has its own law firm, has its own everything. So we almost in a way set up confrontation and conflict when we get into an issue of boundaries for example, and so forth and so on. I guess my point in all this is that one of the ideas behind the learning community and cooperation and collaboration was to get at that issue, is to say there are other ways to spend you money other than fighting each other. And that if when we talk about winners or loser, and all due respect to Kevin, when we talk about winners and losers, there's also the cost side of doing business, which I agree Kevin is talking about the higher cost-related growth, which I think is a very legitimate point and you have recognized that, too. But there also, say if this thing works--especially the Omaha area--if this thing works, and if we can work collaboratively and bring people together and work on focus schools and divide the costs and maybe not have boundary disputes, you're going to save. That's going to have an impact on cost. And what you're saying in this bill and the next bill basically is we want to encourage that, but at the same time...we want to see some results. We want to see these cost savings actually happen. Isn't that theoretically... [LB1079]

SENATOR RAIKES: Well, yeah, and certainly if the things that you're talking about, which certainly are the vision around the learning community, happen--and I'm very pleased at the progress that has been made--this bill will be superfluous, we won't need it because there won't be anybody that incurs...well, although there's still school districts outside the learning community and they may fight each other... [LB1079]

SENATOR ASHFORD: They don't seem to be doing it quite as much... [LB1079]

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SENATOR RAIKES: But at any rate, yeah, this deals with a circumstance that if it arises...and it may arise also for a circumstance different than what you might be thinking about with the learning community, a suit filed on behalf of a student for some reason or another... [LB1079]

SENATOR HOWARD: That's outside. [LB1079]

SENATOR ASHFORD: I guess my reaction would be, and I support the idea of what you're getting at, is that they have very little control over situations where they are sued and where they're forced to defend themselves and that might be something that would be outside of this, but that theoretically when you're at \$80 a student, something is fundamentally wrong with something. I mean either it's gotten so bad that can't stand it anymore, we're going to have to sue everybody we see...but it seems to me we've addressed to some degree that in LB641, at least for Omaha. [LB1079]

SENATOR RAIKES: Well, and your point about the necessary legal expenses if you will, is a good one, but what's done in this particular proposal is that even if it is a necessary and agreed upon legal expense, you certainly do not deny a school district the opportunity to pursue it and pursue it much the same they do right now. What you are saying, though, is that beyond .15 percent is not going to be counted in the GFOE that drives the needs calculation. [LB1079]

SENATOR ASHFORD: And my only, I'm hopeful that we, as are you obviously, is that with we have done here is that we still are all government. We're all government, I mean the school districts are government, they're not private businesses, they're government. And it always was interesting when we had the comment about there's too much government in LB641 or too much government in LB1024, we're all government, they're all government. They're paid by the public, they're paid by taxpayers, so the hope if that the efficiencies that are created, the opportunities for efficiencies in LB641 will address some of these issues. [LB1079]

SENATOR RAIKES: I agree. [LB1079]

SENATOR KOPPLIN: Senator Howard. [LB1079]

SENATOR HOWARD: Thank you, Senator Kopplin, and I appreciate you, Senator Raikes, I appreciate you saying that this could be superfluous and it certainly appears that way to me. If we do a good job, we do our work to address the funding mechanisms in the learning community, that was a key issue with OPS, frankly. I mean, the cost clearly exceeded the funding that was available to educate the student, and I think by putting in something like this where we heavy handed and say we're going to limit you irregardless of the issue, although you did put in issues that were outside of this particular restriction, I think that sends a message that's really counterproductive to

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what you've been working so hard to send. I know you want to keep down the legal costs, I appreciate that, but at the same time you've tried to unify these school districts to work together. [LB1079]

SENATOR RAIKES: Okay. [LB1079]

SENATOR KOPPLIN: Other questions? I have a couple. They're easy. In the last discussion on the attorney's bill or whatever we wanted to call it, I think you had a chart that showed legal expenses for various school districts. They range from millions of dollars down to zero. Well, that kind of suggests to me that maybe schools are not reporting their costs in the same manner. Does your bill do anything about that? [LB1079]

SENATOR RAIKES: That's a good point, Senator. We're using AFR report, and so I do remember the zero entry that you're talking about and thinking to myself surely they hire an attorney to do something. So that's a good point, and I think if we proceed with this we should do what we can to make sure the information is accurate. Although again, the impact of this would only be on the state aid calculation, it would not affect any one district in their ability to do legally what they want to do. [LB1079]

SENATOR KOPPLIN: And that's my second question. I'm a very slow learner at times. Let's say there's a small district in the state. They have very small legal bills, but they screw up on a special ed placement or something and suddenly they're sued and they are sued big time. Their legal costs are going to be way beyond that 1.5 percent... [LB1079]

SENATOR RAIKES: O.15. [LB1079]

SENATOR KOPPLIN: ...or whatever it is, so what really happens to them? They just pick up that money out of their general fund somewhere else? [LB1079]

SENATOR RAIKES: They would do exactly what they do today. [LB1079]

SENATOR KOPPLIN: Okay, what's that? [LB1079]

SENATOR RAIKES: Well, however they would manage those legal costs today, they would manage it under this scenario. What this would say, though, is that when the department gets around to doing the calculations for state aid certification the following year, they would look at School District X and say, well, okay, School District X spent \$200,000 last year on legal fees, .15 percent for them is \$10,000. So there's \$190,000 spent by School District X that is not going to be a part of the GFOE that we're going to use to calculate needs for the next school year. So every school district, School District X and all the others, would be impacted by that. [LB1079]

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SENATOR KOPPLIN: Other questions? [LB1079]

SENATOR ASHFORD: And we're just talking, if this is just the state aid portion of this, I mean, we're simply saying that the state aid formula would be limited, receipts would be limited. The amount of money you could use...it would go under the amount of money you would receive in state aid the next year based on what you spent the prior year. [LB1079]

SENATOR RAIKES: Well, it wouldn't be just for the individual school district, it would be for everybody. [LB1079]

SENATOR ASHFORD: Right. I mean, should we be paying more than that for attorney fees is the issue. [LB1079]

SENATOR KOPPLIN: Okay, thank you, Senator Raikes. Are there proponents for LB1079? That's the closest you've come in two bills (laughter). Are there opponents to LB1079? [LB1079]

SENATOR ASHFORD: I wonder how many there are. [LB1079]

SENATOR HOWARD; Do you want to ask Gail? [LB1079]

SENATOR ASHFORD: Just for the heck of it. [LB1079]

SENATOR HOWARD: How many opponents? [LB1079]

SENATOR KOPPLIN: Pardon? [LB1079]

SENATOR HOWARD: Do you want to ask how many opponents? [LB1079]

SENATOR KOPPLIN: How many opponents to this bill are there? Okay. [LB1079]

SENATOR HOWARD: At least two. [LB1079]

SENATOR KOPPLIN: At least two. [LB1079]

JOHN BONAIUTO: Senator Kopplin, John Bonaiuto, B-o-n-a-i-u-t-o, representing Nebraska Association of School Boards. I was an opponent of the bill that was in Judiciary last year and Senator Ashford was kind enough not to throw me out of the room and I will be an opponent to this bill. [LB1079]

SENATOR ASHFORD: You're too nice of a guy for that. [LB1079]

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JOHN BONAIUTO: And a lot of the concerns that I have were discussed in the committee discussion by Senator Raikes, and Senator Raikes and I visited a little bit before the hearing about this. Taking the learning community issues out of the discussion and I look at school districts and how complex the operation of school districts has become, and it is a business and I look at the personnel issues, the contractual issues, negotiations. You used a special education example that is very real. There are liability issues, and so I look at this and think that the state and state aid is part of the partnership that we have with K-12 public education, the local taxpayers and the state operate together in meeting legitimate needs that a district has in operating that school district. And so I know this is an unpopular issue in how certain dollars are spent, but the attorneys fees...when a district needs a good attorney, they really need a good attorney to help them out in navigating difficult and complex situations, and it is a legitimate expense that the district has. And having worked with the attorneys that represent school districts, those attorneys really are quite dedicated and try to do as much as they can for the districts, and this isn't something where it's a cottage industry where people are making a lot of money. I think that when you look at the legal expenses statewide, it's quite low actually when you look at a percentage of how much we're spending for K-12 public education. So I would hope that there might be a different solution than to pick a number, but this is an arbitrary number and maybe it needs to be higher if you're going to pick a number. And I don't know what the right number is, but if a district had spent \$60,000 last year on legal expenses under this bill and these were legitimate expenses for personnel negotiations or some other kind of liability that the district had, then they would be able to claim \$12,000 in state aid and approximately that much. So depending on how the calculation was made, the expense is there but the partnership with the state is not. So I would hope that this could be revisited and looked at in a different way possibly. [LB1079]

SENATOR KOPPLIN: Are there questions for Mr. Bonaiuto? Senator Howard. [LB1079]

SENATOR HOWARD: Thank you, Senator Kopplin. John, can you just kind of give us some thoughts on what you would see as the fallout from this sort of restriction, this sort of cap on an expenditure? [LB1079]

JOHN BONAIUTO: You know, and this is one of those bills where you're picking an expense. This is an expense that is frowned upon and it's going to be limited. Well, the fallout is basically that the district could spend the money for the help that they need in legal representation, but that money is just going to come...the majority of it is going to come out of tax dollars. It's going to have to be a local source of revenue because state aid is only going to pay a very small percentage of it, and I don't know that this is going to reduce the legitimate legal expenses that are out there. It's just the money is going to come from, the majority of it is going to come from the local tax dollars and less from state. If there was a way to channel this and say you can't use state aid to sue the state,

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I guess that's one area but I don't know how you limit how people use their resources in this respect. It's just a different pot of money is going to be used to pay the bills. [LB1079]

SENATOR HOWARD: Okay. Thank you. [LB1079]

SENATOR KOPPLIN: Other questions? Senator Avery. [LB1079]

SENATOR AVERY: Thank you, Mr. Vice Chair. I recognize that there are times when you have legitimate reasons to hire lawyers and take legal action, but my observation is that the highest expenditures of legal fees seems to have been directed at actions we have taken in this body that the school district didn't like, didn't agree with, or felt like they might have to incur some costs or some penalties. But when I look at \$2.9 million, that's a lot of money to use to educate kids, and I think that sometimes we lose sight of that. You know, how much money are we putting into things that don't do much to educate kids? Eighty dollars per student at OPS could do a lot to help kids at risk. And I'm suggesting here that maybe this is not such a bad idea. In fact, maybe we ought to make that number even lower. You suggested higher, I think that's probably not the way I would want to go. So I probably am going to support advancing this bill. I think we need that debate. I'd like to see that chart that circulated on the floor last session that showed just how much some of these districts were spending on legal fees. I thought they were shocking numbers. That's not a question, is it? [LB1079]

SENATOR KOPPLIN: Not yet (laughter). Are there other questions? Seeing none, oh, Senator Ashford. [LB1079]

SENATOR ASHFORD: Just to explore, again, because I think it's healthy for this committee to explore this again. You're not a business, school boards aren't businesses. They're public entities, they're no different than any other--they're different in that the services they deliver are different--but they're not a business. And when it's not your money, in effect, I mean you can make decisions about spending money if it's not your money somewhat a lot easier sometimes than if it's somebody else's money...so, if it's your money. So I think, and I will also say that stockholders hold businesses and boards of directors today up to a pretty high standard sometimes when we're talking about attorney fees and spending inordinate amounts of money. The point here is, and I think this debate goes really beyond the issue of attorney fees. I mean, what is the nature of the relationship between school boards, the state of Nebraska, the parents, the children? We really are all after the same thing, that's educating our children in our state. It's a governmental function, not a business, and though it should use business practices at times, it also has to use educational practices because it's very much of a special field. I guess my question is, though, in a nutshell why is it such a bad idea, for example, to require that school districts go out and bid for their legal services every three years? Other agencies of government do it, why is it different?

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[LB1079]

JOHN BONAIUTO: You know, I think that it is a service that once a district really develops a relationship with their legal counsel, they would prefer to maintain that relationship. [LB1079]

SENATOR ASHFORD: Right, and I agree with that, but when you go out for bid, the public knows you're going out for bid, and the school district can certainly make a decision based on skills and relationships. It's not always best price. On all these services that are provided, I don't understand why school boards don't bid it out. It's beyond me. I mean, that's a business practice, and if we're going to act like a business, why don't we bid out our services? Why don't we bid out, not so that you always have to take the low bid, and there was discussion on the floor when we debated this about you have to take the low bid. That's not correct, I mean, any governmental standard for bidding out governmental work includes a laundry list of factors that you can consider. And if you have to bid out for attorney fees or accounting fees every three years, so be it. You can hire the same lawyer. I guess, what's wrong with that? [LB1079]

JOHN BONAIUTO: It's a practice where these services haven't been bid, but you're absolutely right. It could be done. [LB1079]

SENATOR ASHFORD: And why would that be bad, except that it's maybe the school board doesn't want to do it, or the superintendent...they want to hire who they want to hire without bidding it out. [LB1079]

JOHN BONAIUTO: And many things are bid out, this is just been one of the things that hasn't been bid. [LB1079]

SENATOR ASHFORD: Yeah, but a lot aren't bid out. I don't think accounting...are accounting services bid out? [LB1079]

JOHN BONAIUTO: I don't believe they are either. You know, and there are districts that do bid those, but I don't even know that they have to be bid. [LB1079]

SENATOR ASHFORD: So it's discretionary with the... [LB1079]

JOHN BONAIUTO: Some districts get quotes or look at different firms. [LB1079]

SENATOR ASHFORD: I'm just having a hard time understanding why we can't apply business practices, even though we're not a business, to these kinds of services so the public knows what we're doing. I mean, the point is if we're going to make education work, we also have to look at the cost side as well as expenditures. And it's not a criticism of your organization. [LB1079]

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JOHN BONAIUTO: No. [LB1079]

SENATOR ASHFORD: Because I know you look at costs. [LB1079]

JOHN BONAIUTO: Sure. [LB1079]

SENATOR ASHFORD: But that's a big part of it and we spend a lot of money on soft costs, and Kevin's point, it was a good point about construction and all that, and that's important--those are hard costs you have to build a building. But we spend an, I believe, inordinate amount of money in all these school districts we have across the state, over 400 of them, we spend an inordinate amount of money on soft costs. And every district has their own series of soft costs. At some point, the public is going to stand up and say you can't do it, we can't pay the bill anymore. Anyway... [LB1079]

SENATOR KOPPLIN: Other questions? Senator Avery. [LB1079]

SENATOR AVERY: Thank you, Senator Ashford, I agree with that entirely. Let me ask you a question, do school districts have staff attorneys? [LB1079]

JOHN BONAIUTO: No. [LB1079]

SENATOR AVERY: Do they have contract attorneys? [LB1079]

JOHN BONAIUTO: There are districts that have attorneys that are on retainer. [LB1079]

SENATOR AVERY: Retainer. [LB1079]

JOHN BONAIUTO: But most attorney costs are just an hourly rate for services provided. [LB1079]

SENATOR AVERY: And in Lancaster County, that would be Mr. Gessford? [LB1079]

JOHN BONAIUTO: I believe that firm is the firm that represents Lincoln Public Schools. [LB1079]

SENATOR AVERY: Then his firm made over \$593,000 off the taxpayers in my county, or else some other attorney shared in that. That's the number I have here. Does that strike you as pretty high? [LB1079]

JOHN BONAIUTO: You know, it's a large district and again, there are many issues that the district could be sued for. There's a tremendous amount of liability, and no, I think that based on the potential for what that number could be without good legal

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representation in a district the size of Lincoln, or a district the size of Omaha or Millard, that probably is not an unreasonable figure at all. [LB1079]

SENATOR AVERY: How would you feel then about this Legislature requiring all school districts to fully disclose what they spend on legal fees, what it's for, explain to the voters whether it's a legitimate expense or not in an annual report that only reported on that, not with numbers buried in a table that you couldn't understand. Clear, plain English, this is what we spend of your tax money on legal fees for these purposes. We were sued by X, this, this, this, and including we sued the state because we didn't like the bill the Legislature passed. [LB1079]

SENATOR KOPPLIN: Are there... [LB1079]

SENATOR AVERY: That was a question. [LB1079]

JOHN BONAIUTO: Full disclosure districts have the records, I mean... [LB1079]

SENATOR AVERY: No, no, no, John, I know that they're there if you're willing to spend hours digging through the records. I am talking about a specific, special report that you would have to prepare and disclose to the public every year. [LB1079]

JOHN BONAIUTO: You would have to say, okay, we fired this teacher, and this is how much we spent to fire this teacher. There are reasons to spend money and some of that is, yes, you can report on that case by case. Maybe the other piece to this is just totally making school districts immune from this kind of liability, but I don't know if that's possible either, given that's total immunity. [LB1079]

SENATOR AVERY: I believe Senator Ashford is right, I think voters have a right to ask these questions. They have a right to get the answers, and I think the voters have a right to be upset. I'm looking at numbers here--thank you very much, Tammy, for getting this circulated--Douglas County spent over \$3.3 million just last year, I presume these numbers are last year's numbers. That's .9, not .15, that's .9--it's a big number on a big budget. Now that was not a question. [LB1079]

JOHN BONAIUTO: Now is that all of Douglas County? [LB1079]

SENATOR AVERY: That's Douglas. I mean, I'm sorry, that's OPS. [LB1079]

SENATOR KOPPLIN: I have one question for you, John. [LB1079]

JOHN BONAIUTO: Sure. [LB1079]

SENATOR KOPPLIN: Would it be prudent for a school district to have an attorney

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review all their student manual's board policies, all these types of papers they have to work with each year? [LB1079]

JOHN BONAIUTO: Many districts do that regularly, and that is an ongoing expense. We help districts with policies, but again, with the complexity of issues attorneys are instrumental in going over, district policies, student handbooks, all of those things that... [LB1079]

SENATOR KOPPLIN: So there could be good reasons to have legal advice? [LB1079]

JOHN BONAIUTO: Again, I was trying to focus my comments outside of the boundary issues and issues where districts may have disagreed with something the Legislature has done. I was looking at all of the other expenses that you would need an attorney for. If a district unfortunately is unable to settle a negotiations or collect a bargaining issue, and you end up in the CIR, that can be a very long, drawn out legal expense. So you just never know when you're going to have that big legal expense, and sometimes it's not something you would plan for. [LB1079]

SENATOR KOPPLIN: Other questions? Senator Ashford. [LB1079]

SENATOR ASHFORD: I just have one more. Actually, John, this is a tough job for you here because it's hard to defend that kind of spending, wouldn't you say? [LB1079]

JOHN BONAIUTO: Yes. [LB1079]

SENATOR ASHFORD: But that's not to say that it's not legitimate, and I don't think that's the point of what we're saying. But let me pose this option to you. If we were to, in this legislation, and let's kind of do an amalgam to say that put a cap on legal fees, but that cap would not apply if in fact the school district bid out their legal services. I think there's just got to be some, you know and I know in the public work I've done in housing, we were required to bid out our legal services every, I think, three years or two years, and in all cases I think we retained the same lawyers each time. And oftentimes, you're not going to get people to bid who don't have education experience because they could be a law firm that just says gee, this looks like a good deal, I'm going to represent Westside. Well, they may not have any experience in doing educational business, so if we did something like that. If we said, look, if you bid out your legal services, the cap would not apply, because I don't disagree that law firms and school districts are not out to spend an ordinate amount of money, more than what's necessary. And that's not the allegation, I think the point is what can we do to put in there so this doesn't happen in the future without at least some public awareness of what's being spent and on what. Does that make any sense to you? [LB1079]

JOHN BONAIUTO: Yes, a reasonable area to look at. [LB1079]

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SENATOR KOPPLIN: Other questions? Thank you, John. [LB1079]

JOHN BONAIUTO: Thank you very much. [LB1079]

SENATOR KOPPLIN: Next opponent. [LB1079]

SENATOR ASHFORD: Oh, my goodness. This will be interesting. [LB1079]

JOHN LINDSAY: Senator Kopplin, members of the committee, for the record the good part about being the lobbyist for OPS is there's always a clear space for you to sit in the back of the room because nobody wants to be sitting near you (laughter). Initially my thought was to let John Bonaiuto take the shots on this, but clearly I think what the committee's looking at, some of the questions have been raised about Omaha Public Schools. And so I'm here partially to answer questions, to give feedback on some of the questions or comments that were made, and I think just to cast the issue in a little different light and raise some issues that I think need to be considered by the committee. First of all, it's entirely legitimate that this committee be looking at things, any aspect of school spending, including legal costs, and finding if legal costs are in fact out of line, this committee of course is free to find a way to control them or to do what it deems appropriate with them. So to the extent that this hearing on legal cost is taking place, there is absolutely no issue with that. When we look if in fact legal fees are out of whack and we need to reign them in, if that's what this committee decides, I think we have to be careful. The committee should be careful on how that's done. Under this bill, we use the number .15, and while it is true school districts are not businesses, they operate in a business environment. They hire and fire employees as any other business would. They sue and are sued as any other business is. They buy products as any other business would. They retain services as any other business would. They are, for all intents and purposes, in a business world, delivering a very unique service. To that extent, they're going to run into legal issues because rarely in a business setting are you going to find that you always agree with the persons with whom you were doing business. So then the question becomes, is .15 an appropriate level to set what legal fees are? I would suggest that if there's in fact going to be a threshold at which the state would no longer participate in the funding of legal fees, that we have some rational basis for doing that, to look at districts you are in unique situations, and compare that to districts whether that be around the state, and having those districts all reporting in a uniform manner. Right now, I'm not sure that we have a good lay of the land. Are the numbers that we're dealing with on that exhibit, and I apologize I haven't had access to that exhibit, are the numbers on that, are they comparing apples to apples in that document? [LB1079]

SENATOR ASHFORD: There it is. [LB1079]

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JOHN LINDSAY: Senator Raikes sneaking up on me again. My reading glasses would be even more helpful. The second thing that I think we need to look at under a bill like this, the disparate impact that this kind of a bill is going to have on different districts. A large district, it may not have the desired result. There may be alternative methods, and I think Senator Avery touched on one. A large district with a larger budget with more legal disputes may be able to afford to bring legal staff on, to create a legal department within a school district, which is probably not the goal of what this committee's looking for. But that might be a reaction, to create a legal department. What that does then is it limits the smaller districts on what their reaction is. If you have a district that has a \$5 million budget, their legal fees would be limited to \$7500 a year. You better hope nobody sues you because you're not going to be able to defend it for that. Immediately, you're going to have the local taxpayers dealing with it. If you have a situation in which a school district has a school bus, for example, that's in a crash and it gets sued in a series of lawsuits. If they're limited on legal fees, you're not only digging that school into a hole on having to fund totally from property tax dollars the defense of those lawsuits, but on top of that, any settlements or verdicts that occur as well. My time is about up, I would ask if there's any questions. [LB1079]

SENATOR KOPPLIN: Are there questions for Mr. Lindsay? Senator Howard. [LB1079]

SENATOR HOWARD: Thank you. Thank you, Senator Kopplin. John, would you...are there other things that you feel it's important for us to know or to hear? [LB1079]

JOHN LINDSAY: Well, thank you, Senator. The one thing I was going to suggest is that how would school districts... [LB1079]

SENATOR ASHFORD: That was so pointed, Senator. (Laughter) [LB1079]

SENATOR HOWARD: You'd figure it out anyway. [LB1079]

JOHN LINDSAY: There's a...maybe getting out that backdoor would be my safest alternative. (Laughter) The...couple of things, other...other reactions school districts could have to comply with this legislation. One example, as I mentioned, would be hiring legal staff. Number two, you might hire business managers or financial people with JD's who could...who could serve a dual function, and again, though, expanding full-time employees with benefits, etcetera. School districts might start basing education decisions on how much budget they have...room they have left in their legal budgets. Example, they might say we, you know, it's a bad teacher, but can't afford to fire them this year because we don't have the legal budget to do that, to go through the termination hearing, to hire two lawyers, one for administration and one for the school board to deal with that situation, so we'll just keep that bad teacher on for another year or two and, hopefully, it will be okay. And we don't...I don't think we want...I don't think we want it to impact education. So I...I would...I...like I say, I don't think there's any issue

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with...with reviewing...reviewing any aspect of school district spending. I think we just need to look at how...what our response is and make sure that it fits the need that we've identified. And if I might, Senator Ashford, Senator Avery, I don't think OPS has any problem whatsoever just making full disclosure of where its...what it...where its legal fees go and why, and we'd have no problem with that. [LB1079]

SENATOR KOPPLIN: Senator Ashford. [LB1079]

SENATOR ASHFORD: Yeah, just...what about...John, what about the idea of bidding out legal work? I...to me, I just don't see...obviously, legal work can be awarded to a firm that is not the lowest bidder... [LB1079]

JOHN LINDSAY: Right. [LB1079]

SENATOR ASHFORD: ...under any normal bidding procedures. Do you... [LB1079]

JOHN LINDSAY: I don't...when...when...after the bill, Senator Raikes's bill was amended to do what you have suggested, our opposition went away. [LB1079]

SENATOR ASHFORD: Yeah. [LB1079]

JOHN LINDSAY: We...we don't have a problem with bidding work,... [LB1079]

SENATOR ASHFORD: Yeah. [LB1079]

JOHN LINDSAY: ...as long as it's not lowest bidder. [LB1079]

SENATOR ASHFORD: Right. [LB1079]

JOHN LINDSAY: Sometimes there's a concern, I think, Senator White mentioned on the floor that, give me the low bidder to go up against. [LB1079]

SENATOR ASHFORD: Yeah. (Laugh) [LB1079]

JOHN LINDSAY: He'd love to have that. But the... [LB1079]

SENATOR ASHFORD: But I mean my...my...I guess, my...my position on this would be that if as long as these are bid out, that I don't have any...I mean, the cap, any kind of cap we would put in would not apply. I mean, as long as there's a...there's a...there's a process of bidding this legal work out, I don't...I...I'm perfectly comfortable with the school district making those decisions on its own. As long as it's bid out at some...on some regular basis every three to four years, I don't have any objection to it. So... [LB1079]

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JOHN LINDSAY: And I don't believe my district has any objection to a bid process that allows the lowest and best bidder. [LB1079]

SENATOR ASHFORD: Okay. [LB1079]

SENATOR KOPPLIN: Other questions? Thank you, John. [LB1079]

JOHN LINDSAY: Thank you, Senator. [LB1079]

SENATOR KOPPLIN: Other opponents? Anyone wishing to testify neutral? Senator Raikes, you're clear to close. [LB1079]

SENATOR RAIKES: If I close and speak positively would I be a proponent? (Laughter) [LB1079]

SENATOR KOPPLIN: If you speak positively, we would love it. [LB1079]

SENATOR RAIKES: Just a couple of points quickly. One, I...I...and this is tricky to catch, but I think there's a misunderstanding. There seems to be an interpretation that this restricts the ability of an individual school district facing a legal situation to hire and defend and so on and so forth. That's not what it's about. It doesn't do that. All we're talking about is what part of legal expenses go into the GFE that's used to calculate state aid on down the line, so that clarification. The other thing I would mention, we occasionally get a comment about the desirability of stability in state aid, or really the needs calculation. This in fact would be a stabilizing factor. If you had, for example, some sort of an event maybe impacting one or more school districts that required a whole bunch of legal expenses for one year and you didn't limit the inclusion in the needs calculation, you'd have a bounce up in needs for that year, or two years down the road, and then back down the next year, assuming that that didn't happen again. So those are just a couple of points. And I hope you'll consider this. [LB1079]

SENATOR KOPPLIN: Okay. Any questions? Senator Avery. [LB1079]

SENATOR AVERY: Yes. Senator Raikes, I've heard you many times make the comment that you are probably a good candidate for man of the year of the ABA, or the Nebraska Bar Association I should say. [LB1079]

SENATOR RAIKES: I have been disappointed that they haven't recognized my contribution. (Laughter) [LB1079]

SENATOR AVERY: So you must think that a lot of what we have done in this body has provoked many of these lawsuits? [LB1079]

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SENATOR RAIKES: No, not justifiably of course, but... [LB1079]

SENATOR AVERY: So then the comments that were coming from this committee probably are not misplaced. And I appreciate Mr. Bonaiuto's comments about the need for litigation sometimes. And I don't want to make that difficult for the school districts, but you know it...when...when the school districts are, say you know, you guys did something down at the Legislature we don't like, so we're going to hire these lawyers, at great expense to the taxpayers, and we're going to see if we can't get that overturned. I'm a little bit uncomfortable with that. Now I...obviously, you can't...we're a very litigious society. And most of our difficult policy issues we try to resolve in the courts rather than in legislatures. That's where they almost always wind up anyway. And I'm not saying that we shouldn't...that we should do away with that. I'm just suggesting, as you are I think with this legislation, that maybe it ought not to be taxpayer money. Now what would happen though if this passes as proposed, and then you have a school district that wants to go beyond the .15, would that then be paid for by property tax increases, or foundation money? I don't know if school districts have endowments or not. [LB1079]

SENATOR RAIKES: Senator, it's be paid for just like it is now without this legislation. So if...if you're a school district and you incur a legal expense, I mean, you might...you might have a donor, more likely if you don't have the cash available you would borrow it or something like that to get past. But this has nothing to do, really, with an individual school district's ability to respond to a legal necessity. [LB1079]

SENATOR AVERY: But you're removing it from the GFOE. [LB1079]

SENATOR RAIKES: Right, so that you're removing any part above .15 percent. [LB1079]

SENATOR AVERY: Yeah, that I understand. [LB1079]

SENATOR RAIKES: So what that means is that in the GFOE that drives the calculation for state aid two years down the road, that amount above that .15 will not be in there. But that is spread across all school districts, not the one that incurred the legal liability. And in that year when the state aid is certified, if a school district incurs a legal situation, they will address it again, much the same as they do now. [LB1079]

SENATOR AVERY: So this will be a part of the needs calculation, and every district would get this amount of money for legal expenses, even if they don't use it? [LB1079]

SENATOR RAIKES: Up to, up to. [LB1079]

SENATOR AVERY: Yeah. [LB1079]

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SENATOR RAIKES: It's actual up to .15. [LB1079]

SENATOR AVERY: Actual up to, okay, okay. [LB1079]

SENATOR RAIKES: Yeah. [LB1079]

SENATOR KOPPLIN: Other questions? Okay, thank you, Senator Raikes. That will close the hearing on LB1079 and we will open the hearing on LB988, and Senator Raikes will open. [LB1079]

SENATOR RAIKES: (Exhibit 6) Thank you, Senator Kopplin, members of the committee. It's often said, but in this case it's true, this is a simple bill. (Laughter) This is a significant modification, significant in a number of respects, modification of the way we calculate state aid. But I implore you at this point to resist the temptation to be overwhelmed. This is not overwhelming. If you go back to the needs minus resources equals aid, which is at least 90 percent of the state aid formula. There's just a few details other than that. This involves a needs calculation, and it also involves some factors affecting resources. Now, I should add at this point that there is a significant policy change in here, proposed change in the way we do budgeting, which brings it closer to the needs calculation than what it's been before. Before, this was kind of run on a separate track. Now it brings it closer to the needs calculation. So, and also keep in mind this proposal does not veer from, and in fact strengthens, the notion that what we're trying to do in that needs calculation is as accurately as possible reflect the actual cost situation incurred by a school district. So a lot of the work done here, proposal here I should say, is to make that needs calculation more accurately and closely reflect the cost situation that a school district actually incurs. So keep those things in mind. Now, you may notice I'm looking at the fiscal note here. The fiscal note shows \$78.7 million less state aid under this proposal. This is for the 2009-10 school year, and actually I can tell you, I think, the way that \$78.7 was calculated is they used the same information that was available for the certification this past first of February for the 2008-09 school year, and using this model they came up with about \$79 million less state aid. So they're projecting, the fiscal office is, that would amount to about \$79 million less state aid under this proposal than what it would be for that certification if we kept our current formula. Let me go through and talk about some of the specific changes that, but not all of them because, you know, I don't think all of them maybe rise to the occasion of the discussion right now--but there are a couple of them. And again, I implore you to keep in mind that general framework, we're sticking within that framework. We're simply trying to do enhancements that make the needs calculation, resource, and budgeting more nearly reflect what actually goes on in a school district. And by the way, part of the discussion ties very closely to what we just talked about in terms of legal fees, and I'll mention that in just a second. First off, one of the most significant changes here is basic funding. We are moving away in this proposal from three separate cost groups and a

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cost group cost for each one of those--standard, sparse, and very sparse--to the basic funding model, which I think we've talked about before, it's been around for a long time. Lots of people have had an opportunity to be made familiar with this, but this is the one where you create an array of school districts based on enrollment size--five smaller, five bigger, throw out the highest and lowest, and that average then is basic funding. A key part of this, and I'll mention it just quickly, if it's less than 900 students, then we use total funding for the school funding. If it's above 900 students, we use per-student funding. And the reason for the total funding for the smaller group of school districts is it provides an effective way, I think, to deal with the financial situation incurred by a declining enrollment district. So that's a significant change as far as a starting point. general fund operating expenditures, we have proposed in this bill that we refine the connection between general fund operating expenditures and the needs calculation. Now there's a listing of some things, I'm looking at the fiscal note, that are on point here. GFOE is redefined to exclude receipts to the district general fund to the extent receipts are not included in formula resources from early childhood education tuition; from summer school tuition; converted contracts; distance education courses, that are of course paid for and not a part of accountable receipts; private foundations and other private sources, and we got the text book loan program; federal impact aid; special grant funds and transfers from the general fund to a bond fund; and some other things. The point here is that we are trying to more clearly reflect in the needs calculation actual state and local spending. So if some source from outside of state or local sources provides to a school district or several school districts \$1 million or \$10 million or whatever it might be, hopefully that school district makes good use of that money for whatever purpose it was intended, but the point here is that should not drive the state's obligation to fund school districts in the state hence forward. There is a handout here, which I hope sort of illustrates that point. You've got property taxes, outside funding, and state aid. If you allow that outside funding to stay in and be a driver in terms of the needs calculation, what happens is that each year that gets added onto the base, the base of GFOE which we use to calculate needs. So that base can theoretically continue to grow even though actual spending supported by state and local monies doesn't change at all, and that's the hypothetical situation that's demonstrated here. So to some extent, that's what we're doing with legal fees. We're saying beyond .15 percent, sure the school district can spend it just like if somebody gives you \$10 million as a school district, go ahead and spend it, make good use of it. But in terms of driving the needs calculation for state aid, it doesn't, that's outside of that. One of the things I could mention we did not include here. You could I think theoretically say, and again I have not in this proposal, that if a local district votes an override, so they vote an override and they spend the money for school operations as you would expect they would--that they gather from the override. You might also say, you know, that would be a case of a local group of taxpayers driving state aid. That's included in the GFOE, so it would drive needs and therefore increase the state's obligation in terms of state aid. There are a number of interesting questions you can address here. The ones here that I've included I think are obvious ones that we should not have a part of the GFOE that drives needs. We may have a

discussion as to what other ones you might want to include in that list. Okay, some other things I'll mention quickly, and there's the elementary class size allowance, there is an elementary side allowance, poverty allowance. We've already included, although there are some changes in this, revolving around the elementary class size allowance. Local choice adjustment is a provision that's in there to deal with standard school districts that are smaller than a certain size. I will just mention, though, a couple, three things because they tie in very closely with Senator Kopplin's bills. There is a provision in here for a student growth adjustment, which very closely, I think, parallels what he offered in LB873. There's also a new school adjustment, which again, is similar to that. And I would strongly support what was said both by Senator Kopplin and by the supporters of those bills in that these are legitimate components of the financial requirements of school districts. They ought to be included in the needs calculation. And that's what this is about, is trying to make that needs calculation as accurate as possible. We've made changes in the cost growth factor. The cost growth factor is the mechanism, or the number if you will, that we use to bring GFOE forward two years to arrive at the needs calculation. Really, there are two changes in that. One, there was a double counting of student growth in the cost growth factor, which is eliminated in this proposal. The second thing is that cost growth factor is actually reduced. The two-year amount was 1.078 currently in the current mechanism. This drops it to 1.06, so that's a significant change. There's a change in the local effort rate, this gets to the resource side. Basically what we've done is we've changed from adjusted evaluation to assessed evaluation, so that school districts, instead of being credited with their adjusted evaluation, they're credited with the actual assessed evaluation. But as a part of that process, we've reduced the difference between the levy cap and the local effort rate from 10 cents to 5 cents, and that has some financial implications. I'll mention quickly and kind of finally in terms of provisions, we've changed the way that the budget lid is calculated. What we've done is rather than, as I mentioned earlier, having a separate track where you base budget authority on what you had last year, and your allowable growth rate, we've tied it directly to the needs calculation. So that we have proposed, and this is based on information available about what school districts actually spend compared to their needs calculation, we have, and there's a transition involved, but basically budget authority is 120 percent of the needs calculation. This deals with a number of situations, but one in particular where for whatever reason, you've had a school district that over the years, for example, has not voted the additional one percent budget authority. And that maybe that school district is in a situation where because of the students they serve or the size, or whatever, their needs have actually grown fairly quickly. So they could've gotten into a situation where their needs outpace their budget authority... [LB988]

SENATOR ASHFORD: May not have happened. [LB988]

SENATOR RAIKES: ...may not have happened, this is all hypothetical. And that I think leads to a somewhat ridiculous state policy. We're saying to that school district in order

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to serve the students you need to spend this amount of money, but by the way, you can't spend that amount of money because you don't have the budget authority available. So this among other things intended to address that particular situation. Okay, let me spend just a little time on the fiscal note; \$78.7 million reduction in state aid, where does that come from? Well, \$56 million comes by increasing the local effort rate by 5 cents, however you give up \$31 million of that by using assessed value rather than adjusted value to credit school districts for the resources they have available; \$33 million is the cost growth factor. That reflects both eliminating the double counting of student growth and also reducing that growth rate from 1.07, in effect to 1.06. And there about \$20 million of other adjustments, and they include a number of things. Let's see, one of my thinking would be...I'm looking for my source of...okay, yes, there's some that would expand spending. There's a teacher education adjustment. There is also, well we're continuing the summer school adjustment, so that is in there. [LB988]

SENATOR HOWARD: Transportation. [LB988]

SENATOR RAIKES: Transportation would be, and transportation is one I didn't mention but should've. That's one that we are suggesting that we need to, in much the same manner as rapid student growth or new buildings, you bring the funding available at the time the expenses incurred. There will be learning community schools and probably others that would deal with that. Well, I'll keep working on the list to come up with the changes, but those are several. I'll mention quickly that there's a need stabilization factor in the current formula, which is taken away, We don't need that anymore, at least in my view given this particular proposal. So, with that I'll stop. [LB988]

SENATOR KOPPLIN: Questions for Senator Raikes? Senator Avery. [LB988]

SENATOR AVERY: Thank you. Is this the overhaul of TEEOSA that so many people, including the Governor, have said is an imperative. [LB988]

SENATOR RAIKES: Well, as you can see, facetiously, some of those comments have been prefaced by, "it needs to be a lot simpler." And you can see that this is a lot simpler. (Laughter) [LB988]

SENATOR AVERY: On its face. [LB988]

SENATOR RAIKES: You know, it is a good question. I don't mean to diminish it all because it is a good question. And I would tell you that whether it's the one that everybody has been talking about or requesting, it's one that's needed. It's one that brings us closer to where we need to be in terms of adequately and accurately addressing financial needs of school districts, and it also, I think, incorporates some fiscal prudence that we also need. I'm not confident that the state's financial revenue picture is going to be rosy from here on out, in fact I think there's a good chance that it'll

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go the other direction. So I think there's going to be pressure to make adjustments and I was here a time, and some of you maybe, all of you--well, Carroll's probably around the time, I know he was--when we had declining revenues and we had to make adjustments. So this is not a crisis-type fiscal adjustment by any stretch of the imagination. This is simply, I think, prudent where we're double counting and it leads to extra funding. We need to correct that, and we have done that. Where we're including base elements in GFOE that we really shouldn't include for purposes of needs calculation, let's take them out. Those sorts of things. So I do think even though it may not be everybody's dream modification of the aid formula, it's one that's prudent, appropriate, and needed. [LB988]

SENATOR AVERY: Would you say it goes beyond mere tinkering with the formula? [LB988]

SENATOR RAIKES: Yes, this would be a tinker plus. [LB988]

SENATOR AVERY: Tinker plus. (Laughs) All right, let me ask you this. This \$78.7 million that NDE estimates would be the cost of this bill. That is the reduction in aid. [LB988]

SENATOR RAIKES: Reduction in state aid. [LB988]

SENATOR AVERY: Yes. Are you confident that's an accurate figure? [LB988]

SENATOR RAIKES: I think their work is very good work. Do they have to deal with unknowns and make guesses? Certainly they do, and so to the extent that they can't see the future with precision, there's probably error here, but I think what they've done is a very credible piece of work. [LB988]

SENATOR AVERY: Okay, I'll stop there but I might come back. [LB988]

SENATOR KOPPLIN: Senator Ashford. [LB988]

SENATOR ASHFORD: Senator Raikes, I agree with you about your comments about Senator Kopplin's bills, because we've heard a lot about that over the last several months, and I think Senator Kopplin's right on and you are as well. I think that's clearly something that needs to be addressed and is. Just a couple questions on the transportation issue. The changes that it's available, the year it's expended, is that the change? [LB988]

SENATOR RAIKES: Yeah, that's basically the idea. It's the same as rapidly growing... [LB988]

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SENATOR ASHFORD: So it's the same deal as Senator Kopplin... [LB988]

SENATOR RAIKES: ...make the money available at the time the expenses incurred. [LB988]

SENATOR ASHFORD: Does that to some extent, I know there was some press over the weekend about how Papillion or some other district was arguing that the transportation would raise property taxes, but in essence the transportation, if it's paid on time so to say, would to some degree address that same thing. [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR ASHFORD: And then on the assessed versus adjusted evaluation, is that a timing issue, or is that an actual valuation issue? [LB988]

SENATOR RAIKES: No, that's a valuation issue and that's something, again is not a new idea, that's been around. I think you can argue that one a couple ways. In this note, I mean it does in fact save the state some money. I think it's a reduction of \$56 million and a cost of \$31 million, so it's a net of \$25 million. What can you say about that? Well, certainly school districts have long argued that they ought to be charged, if you will, in the aid formula with the amount of property values that they can actually assess. They shouldn't be credited or charged with the amount that would be assessed if the assessor did a perfect job, and not to say that they all do bad jobs but 100 percent valuation is not what they do. So that's the argument for making this change. An argument for staying where we are now, on the other hand, is that statewide equalization is very important. You don't want a school district or a subdivision to skew their assessment practices in an effort to make themselves look poorer so they get more money from the state in the state aid formula. This sort of a change puts more reliance basically on TERC to assure that we got the statewide equalization... [LB988]

SENATOR ASHFORD: So in effect, a district like South Sarpy for example, where the issue of valuation has crept up in at least some of the discussions I've had. Does this tend to address that or not? Is that a different issue where you're talking about a lot of ag land, what was brought up earlier in the discussion? [LB988]

SENATOR RAIKES: It's...I think the issue they were talking about more was what does the assessor in Sarpy County do versus the assessor in Douglas County. To some extent, just off the top of my head, I'll have to think about this a little more clearly quite frankly. It may aggravate it a little bit, because you aggravate the issue they raise because you are in fact placing more importance, if you will, on the decision made by the assessor in the relative...and you're counting on TERC... [LB988]

SENATOR ASHFORD: To bring them together. [LB988]

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SENATOR RAIKES: Yes, to bring... [LB988]

SENATOR ASHFORD: ...and then lastly Kevin's question about theoretically no district, getting back to the learning community issue for a second, no district should lose money if they become a member of a learning community. Does this bill address this issue at all? [LB988]

SENATOR RAIKES: Well, actually we don't really deal much with learning community. The phase-in proposal is actually in the other bill, isn't it? [LB988]

SENATOR ASHFORD: That's in the other bill... [LB988]

SENATOR RAIKES: Eleven-something, I think. [LB988]

SENATOR ASHFORD: And the last one is on the contributions, the big adjustment where you're not counting the donations or federal impact aid. [LB988]

SENATOR RAIKES: Um-hum. [LB988]

SENATOR ASHFORD: And what that basically means is those dollars don't go into the calculation on the resources side to determine the state aid calculations. [LB988]

SENATOR RAIKES: Yes. What you're doing is you're taking away this compounding of the amount into the base so that the base is sort of artificially increased, the base for the needs calculation. [LB988]

SENATOR ASHFORD: And why was that? Is that just done that way traditionally or why? [LB988]

SENATOR RAIKES: To some extent, I think theoretically or as a policy prescription at the state level, I think it's always...I think the intent has been not to include it. So to the extent it has been included, it might be in part oversight, and certainly I'm as guilty as anybody if there's been oversight. Now I would tell you that it's very much akin to what we've done with a number of agencies or others is I went out and got this grant from the federal government for three years. And you know I went ahead and got the money and spent it, and now the three years are up and the feds say they're not going to refund the grant, so here I come to the state saying well I had this grant, and the feds quit funding it, so now state, you need to fund it. And the state's answer has pretty consistently been no, we did not commit to that grant at the outset. It doesn't necessarily mean that there might not be some program one way or the other the state decides to fund. But on the basis that you got some money from the outside and you used it to, perhaps entirely appropriately and admirably, spent the money on whatever program, that does not

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commit the state to spending that amount of money on an ongoing basis. [LB988]

SENATOR ASHFORD: To all the districts. [LB988]

SENATOR RAIKES: That's right. [LB988]

SENATOR ASHFORD: So on the impact aid side, the impact aid was never traditionally included in the calculation? [LB988]

SENATOR RAIKES: Yeah, yeah. [LB988]

SENATOR ASHFORD: And so what we're really doing is just clarifying what they're doing. [LB988]

SENATOR RAIKES: Well, we're clarifying, but we're actually taking some additional things out that were stuck in there. And I don't know that we have that estimate. [LB988]

SENATOR ASHFORD: That's fine. [LB988]

SENATOR RAIKES: I suppose that \$20 million that I couldn't account for... [LB988]

SENATOR ASHFORD: It's in there somewhere? [LB988]

SENATOR RAIKES: Yeah, that might be a part of it. [LB988]

SENATOR ASHFORD: And the theory behind the five above and five below rather than the cost groupings we've been using is to do what now? [LB988]

SENATOR RAIKES: It is to more nearly match the cost situation that you're assigning to a school district, the needs, to that school district's actual situation. Schools that are similarly sized. [LB988]

SENATOR ASHFORD: And there's a relationship between the number of students that you have and the costs you incur is a legitimate analysis. [LB988]

SENATOR RAIKES: Right. [LB988]

SENATOR ASHFORD: What else do you... [LB988]

SENATOR RAIKES: Now, we do hang on to the sparse and very sparse classifications, and they do impact the needs calculation, but not in the way they have up to now with the separate cost groups for those categories. What they do is, sparse and very sparse for example, have been used to identify situations in which school districts really don't

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have the opportunity to merge or consolidate for purposes of reducing costs. So, for example in the local choice adjustment, that adjustment is not applied and would be a negative adjustment for small standard school districts. That's not applied for sparse and very sparse school districts. [LB988]

SENATOR ASHFORD: Thank you. [LB988]

SENATOR KOPPLIN: Other questions? Senator Avery. [LB988]

SENATOR AVERY: I noticed that there are three adjustments here that are not in the NDE estimates. For example, the new school adjustment is not in their estimate. The learning community transportation adjustment is not in their estimate. The student growth adjustment is not in their estimate. What I'm getting to here is are we likely, if we pass this, are we likely to have a stunning shock the next fiscal year from this kind of legislation where it did have some rather shocking unintended consequences that instead of saving \$78.7 million, you actually wound up with a net cost? [LB988]

SENATOR RAIKES: Well, certainly it's a good point. Because you don't know the cost of an adjustment, it's probably...and they clearly point it out, what they're doing. If we're going to come up with our best guess, there are not a lot of school districts that would be affected by the student growth adjustment and new buildings, but there would be some. So zero is probably not a good estimate. [LB988]

SENATOR AVERY: No. [LB988]

SENATOR RAIKES: We ought to come up with something that is closer so that we do what we can to avoid the kind of shock you're talking about. [LB988]

SENATOR AVERY: When I look at these other numbers, I still come up with, I can only account for \$58 million in reductions, but yet the overall number is \$78.7, so we're missing \$20.7 here, and I thought maybe those might be in some of these estimates that were not provided...but I guess that wouldn't be the case though. [LB988]

SENATOR RAIKES: No, I don't think they are, because I think those estimates as they have stated in there are zero. I think where that \$20 million is, as I look at it again, and I sort of stumbled my first time through, would be in the GFOE. The refining of GFOE, the connection between GFOE and the needs calculation, leaving out private contributions, foundations, and that sort of thing. [LB988]

SENATOR AVERY: I guess I didn't read the technical note. Thank you. [LB988]

SENATOR KOPPLIN: Any other questions? Thank you, Senator Raikes. We'll move to proponents for the bill. [LB988]

TIM KEMPER: (Exhibit 7) Members of the Education Committee, my name is Tim Kemper, T-i-m K-e-m-p-e-r, and I'm here to testify in support of LB988 on behalf of Lincoln Public Schools. Since its inception in 1990, the Tax Equity and Educational Opportunity Support Act, commonly known as TEEOSA, has been and will continue to be a work in progress. Therefore, modifications to the act are not only appropriate, they are essential to the ongoing vitality and effectiveness of this very important piece of state education policy. However, our school district considers it essential that any modifications enhance the degree to which TEEOSA provides equalized financial support for the common schools in Nebraska. Our district supports Senator Raikes and his attempts in this bill to continue to refine the measurement of fiscal need through such proposals as the student growth adjustment, the summer school clarification, and the new school adjustment. Each of these proposals would refine the measurement of fiscal needs and thereby further the fundamental goal of equalization. This our school district wholeheartedly supports. Still, even as LB988 contains a great many elements that would enhance the effectiveness of TEEOSA, our district pledges to work with this and future Legislatures to mitigate or eliminate some of the elements of this bill and of the current act that actually detract from its effectiveness. Here are two examples. One, the formula continues to contain elements that are nonequalizing or even counter-equalizing. Both net option students and allocated income tax, commonly known as income tax rebate, are examples of formula components that ultimately benefit only nonequalized school districts, and thus run counter to the fundamental goals of the act. While the temporary aid adjustment of the last few years lessened the effect of these two components, its expiration has exacerbated a situation where a nonequalized school district can actually TEEOSA aid per student than an equalized district. This clearly runs counter to logic and to good public policy and should be addressed. Number two, LB988 would eliminate the adjusted valuation provisions. This feature was enacted in the original LB1059 of 1990 out of recognition that property assessments were not being done equitably across this state. Ignoring these inequities actually provides an incentive for county assessors to underassess property and thereby generate more state aid for the school districts in their county. Based on data from our school district's successful appeal of our 2006 adjusted valuation, it is clear to us that assessment practices continue to practice dramatic inequities from county to county, and in some cases, from school district to school district within counties. Therefore, unless some other measures are taken to encourage or enforce inter-county assessment equity, our district would tell you to continue the use of adjusted valuation in TEEOSA. We at Lincoln Public Schools applaud Senator Raikes and the Education Committee for your diligence in seeking to improve the Tax Equity and Educational Opportunity Support Act. As you continue in that mission, we urge you to consider the types of issues we have touched upon here today, and we stand ready to assist you in any way that we can. I would be glad to respond to questions. [LB988]

SENATOR BURLING: Thank you for your testimony, are there any questions? Senator

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Adams. [LB988]

SENATOR ADAMS: Could you repeat for me again your concern over allocated income tax? Didn't you say something? I missed it apparently. [LB988]

TIM KEMPER: Let me just say it this way, the allocated income tax provision is one that helps only nonequalized districts. If you're an equalized district, an additional dollar rebate is one less dollar equalization, net effect zero. If you're a nonequalized district, an additional dollar of income tax rebate is an additional dollar of revenue, and you benefit. [LB988]

SENATOR ADAMS: So, I see exactly what you're getting at. So if I were to go back to my district and tell my three nonequalized districts that you shouldn't get any allocated income tax, they already think they don't get to have anything from the state. Now the shout's louder, it's a political issue versus a dollar and cent equalization issue. [LB988]

TIM KEMPER: The shout may very well be louder if we really believe in the concept of equalization, those districts, by definition, are districts that are advantaged beyond the rest of us. Granted, it might be with local property taxes. But local property taxes for school districts are a revenue that is delegated to their collection by the Legislature. [LB988]

SENATOR ADAMS: Some of this is just purely a feeling of if everybody else gets some, why can't we get at least a little of it. [LB988]

TIM KEMPER: Sure, and one of the reasons that LB1059 became so necessary in the late 1980s is because there was a fairly widespread feeling that what could be more fair than giving every school district the same amount of state aid per kid. And in 1989 there was \$133 million in state aid going out. Roughly \$100 million of it was going out \$500 per kid. Well, the problem with that is it disregarded the other side of the equation, which is the resources that were available, taking into account variations in local property tax and other. So again, what we're proposing is that equalization is indeed the legitimate policy choice of the state, and that anything that runs counter to equalization ought to be considered for elimination for reduction. [LB988]

SENATOR ADAMS: Okay. [LB988]

SENATOR BURLING: Senator Ashford. [LB988]

SENATOR ASHFORD: Can I just follow that up a second? Generally if those dollars, following your logic, those dollars are not paid out in a rebate or in option aid, they would go back into the General Fund and be reallocated, is that... [LB988]

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TIM KEMPER: Well, they would certainly be available for TEEOSA to distribute as TEEOSA would distribute, and frankly, former Senator Wickersham and I used to have just incredible discussions about this very topic. And one of the proposals that he finally me to see the benefit of was to just keep raising the income tax rebate. It used to be 20 percent. We figured out that if we put it at about 66 percent, all of TEEOSA would go out as income tax rebate, and Lincoln would actually benefit very much because obviously a big chunk of the Nebraska income tax is collected in Lincoln. My personal observation would be if you're going to collect money and send it back to where it came from in the first place, don't bother collecting it at the state level in the first place. [LB988]

SENATOR ASHFORD: Well, I mean, theoretically I don't know in Senator Adams' case whether it would make a difference if that money was reallocated. They would still not be equalized I guess, arguably. Is that right? [LB988]

SENATOR ADAMS: No, they probably still wouldn't be equalized, well where there's one that's on the edge, but... [LB988]

SENATOR ASHFORD: And your argument is that the valuations in these districts are such that the property tax can support educational opportunity for those students at the same level without having to fund them. [LB988]

TIM KEMPER: Right. At a given level of property tax levy, which you can think of the local effort rate in the aid formula as kind of an average levy. Their bucket's already full... [LB988]

SENATOR ASHFORD: They don't need state aid. [LB988]

TIM KEMPER: That's putting it harshly, but yeah, they don't need state aid. By the very definition that their needs do not exceed their resources as measured in the formula. [LB988]

SENATOR ASHFORD: But the income tax rebate has decreased so dramatically anyway, hasn't it? I mean it's almost nonexistent. [LB988]

TIM KEMPER: It has decreased to almost nonexistence through the mechanism of the temporary aid adjustment, and I'd like to parenthetically note, when I hear about the complexity of the aid formula, it would've been very simply for you as a Legislature to reduce state aid by simply raising the local effort rate a few years back. Very simple, very inelegant because it only affects equalized districts. And one of the features of the temporary aid adjustment was that by operating through the net option funding and the allocated income tax, it affected nonequalized districts as well as equalized districts. So I noticed in certification materials that just came out February 1, it looks to me as though allocated income tax is a bigger number this year than it was last year, even though it

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had been declining as you said. [LB988]

SENATOR ASHFORD: I guess that's all I have. [LB988]

SENATOR BURLING: Seeing no other questions. Thank you very much. [LB988]

TIM KEMPER: Thank you. [LB988]

SENATOR BURLING: Next proponent. Opponents to LB988? [LB988]

SENATOR ASHFORD: Oh, I could've asked more questions. (laughter) [LB988]

SENATOR BURLING: Opponent. [LB988]

BRIAN BENNETT: (Exhibit 8) My name is Brian Bennett, B-r-i-a-n B-e-n-n-e-t-t, and this testimony is on behalf of Lexington Public Schools. We appreciate the work that Senator Raikes and the Education Committee and the Legislature has done for the students in our state. We would like to testify concerning some elements of LB988. We recognize that there are some positive components of LB988, but we wish to point out a few specific concerns with this particular legislation. Our first concern is that when dealing with instructional time, we believe that instructional time, is already addressed in Rule 11 with a requirement of a minimum of 1080 instructional hours for secondary schools and a minimum of 1032 instructional hours for elementary schools. We believe that this would effectively result in an unfunded mandate, and schools will try to increase their instructional time consistent with their comparison group, ultimately resulting in increased instructional time for all without any increase in the funding. Research indicates the following areas as essential in providing quality education to students. The first is a guaranteed and viable curriculum, and the second is effective teaching practices. To accomplish this in schools, it requires staff and curriculum development time. We are concerned that the instructional time factor would create an environment where the staff development and curriculum development will be compromised in order to meet this requirement in favor of seat time. The second thing that we have a concern about in Lexington is the elementary class size allotment. The elementary class size initially was instituted last year and funded through decreasing the poverty factor by 39 percent. The class size allotment specifically targeted poverty students in the past legislation through counting students qualifying for free and reduced lunches in classrooms with more than 10 students but less than 20. The change in class size allotment would increase the poverty factor by 14 percent, thereby creating a situation where the poverty allowance would only be 75 percent of what it was 2 years ago. However the change in classroom size allotment would now count all students in grade K-3, even those that are not poverty students. This would effectively redirect funds from poverty students to all students. We also believe this proposal creates an unfunded mandate. For schools with classes that do not divide evenly by 20, there may

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be the need to hire additional teachers to meet this requirement without any funding to cover the cost of those additional staff members. Further, for class sizes of more than 10 but less than 20 students after 2013, there is no funding called for at all, so it would be a completely unfunded mandate. We also believe there's a local control issue and that each district should be able to do what they need to do to meet the unique needs of their district. Regarding the poverty allotment allowance, we've already mentioned that, but we would ask that the full poverty funding be restored, not just restored back to 75 percent of the original levels. Relating to Section 15, some of our neighboring schools have requested that, and we believe that would have an adverse affect on certain small schools. Regarding raising a local effort rate, we oppose the change in the local effort rate from \$.95 to \$1. In schools with low property values and significant growth in student population, there is a need to be able to access that 10 cents in the special building fund to meet facility needs. Further, the effect that Tim pointed out, it is generally not an equalizing change. Lastly, is the lop-off. The bill in its current form does not address the lop-off in state aid that Lexington will suffer due to its increasing needs in the form of increasing poverty and LEP students. Attached is a copy of our state aid certification, information on the last page which shows our lop-off this year was \$1.47 million. The lop-off for the entire state was only \$3 million. Almost half the state's entire lop-off was borne by Lexington. There's also an attached spread sheet which shows lop-off information for Lexington. The first column represents the lop-off has been computed by the state. The second column illustrates that even if would have spent the entire amount that we could've spent and didn't levy any money in the building fund, we still would've been lopped off by \$813,000. I'd be glad to explain that further, but my time is up. [LB988]

SENATOR BURLING: Thank you, Mr. Bennett. Any questions? I see none. We have your testimony in front of us, so we can look at that. So, thank you very much. [LB988]

BRIAN BENNETT: Thank you. [LB988]

SENATOR BURLING: Any more opponents, LB988? Neutral testimony to LB988? [LB988]

ROGER BREED: (Exhibit 9) Senator Burling and members of the Education Committee, I'm a simple man here to offer simple testimony, in a neutral position, on a simple bill (laughter). Senator Raikes is absolutely right when he says that... [LB988]

SENATOR BURLING: Excuse me, would you state your name? [LB988]

ROGER BREED: Oh I'm sorry, you already mentioned it twice, I thought everybody knew it. I'm Roger Breed, B-r-e-e-d, superintendent of the Elkhorn Public Schools. Sorry, Senator Burling. Senator Raikes is absolutely right when he says that needs should reflect the actual cost incurred by a school district. And in testifying in neutral

position on LB988, I wish to support two changes in LB988, one to Section 19, the student growth adjustment, and one to Section 20, the new school adjustment. And basically, these changes would reflect incorporating the provisions of LB873 and LB879 into LB988. The student growth adjustment would keep the threshold for qualification at 25 students or 1 percent, but once you reach that threshold, that all students would count for the purposes of adjustment, and I'll come back and justify that in a minute. The second one on Section 20, the two-year new school adjustment would count new schools, additions, and/or remodels to add classrooms to existing facilities in response to enrollment growth, and it would define capacity as 25 students per classroom, which is what architectural capacity generally is. In Section 19, the student growth adjustment to keep the threshold for qualification but count new students, we've been dealing with growth--this is our 23rd year in the Elkhorn Public Schools, and in that time we've noticed one very consistent pattern, and that is when you open a new school, more houses will be built right around that new school. The growth doesn't occur across your district; the growth occurs in a very precise area of where you've chosen to build or where you are planning to build a new school. So you don't have the option of spreading those students out, you can't move a student that is right across the street from a new school to a school that you might have space in, you have to provide for them in that building. Our elementary schools, and we built four, have filled up within three years to capacity, build them for 450 students, they build beyond capacity. We moved portables in, serve roughly 500 to 550 students at those buildings for their first decade of use. New classrooms, we will be adding some 90 classrooms to the Elkhorn Public Schools in the next three years. The plans are underway, the high school is under construction, or will be as soon as the frost is out of the ground. It will cost approximately \$70,000 to \$80,000 to staff and equip and provide instruction and supplies for each of those classrooms upon their first year of opening. The amendment to LB988 to specify that you can add remodels then allows a district that adds additions to its buildings as a response to enrollment growth to count those classrooms for that purpose, or renovations to a building where you take an old gym, which we've done, and convert it to classroom space for preschool and early education center, that those would also be allowed under a revised Section 20. So counting all the student enrollment and counting all new construction is a more accurate reflection of need. As the state school funding system purports to balance needs and resources, an accurate reflection of needs in the year those needs arise is essential. And I thank the committee for your time. [LB988]

SENATOR BURLING: Thank you. Any questions? I see none. Thank you very much. [LB988]

ROGER BREED: Oh, come on (laughter). [LB988]

SENATOR ASHFORD: That was pretty simple the way you explained it. [LB988]

ROGER BREED: Okay. You'll get your chance, Senator Raikes. [LB988]

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SENATOR BURLING: Any other neutral testimony? [LB988]

JOHN LINDSAY: Senator Burling, members of the committee, my name is John Lindsay, L-i-n-d-s-a-y, appearing as registered lobbyist on behalf of Omaha Public Schools. I did not appear in support of this bill simply because that would throw off Senator Raikes's record of how many supporters he has of bills. (laughter) No, actually there's quite a bit we like about this bill, there's really only two tweaks and that's the only reason that I appear neutrally. First, although we talk about how complex it is, it was described to me by the person I deal with at OPS about this, that this helps make the formula--it's still complex, but it's explainable, and it does help some of that complexity. Unfortunately, I'm not quite educable, so I don't have a complete understanding of it, but the problems that we see, and I've discussed these with Senator Raikes, number one is that the instruction time adjustment, which takes an average if you're below average there's a reduction, if you're above average you get an enhancement in your adjustment. The problem is of course is that by definition, half the people are going to be below average. And our concern is if we want to enhance, or incentivize additional instruction time, then provide that as an incentive, but don't penalize those who cannot get up to that average number. The second thing, I think you've actually already heard, that is that the poverty allowance rather than taking it up to 75 percent, we believe that should be returned to 100 percent as an adjustment. With that, there's other things we would like in the bill, but overall, I think it is an attempt to try to simplify the formula to the extent that it can be. I think it does try to put resources into those areas that are identified as priorities. With that, I'd be happy to try and answer any questions. [LB988]

SENATOR BURLING: Thank you, any questions? Senator Adams. [LB988]

SENATOR ADAMS: Do you know, does OPS, have they ever enacted any kind of an early termination policy that they fund. [LB988]

JOHN LINDSAY: I believe they have, but Senator, I will check on that and get the information to you. [LB988]

SENATOR ADAMS: All right. [LB988]

SENATOR BURLING: Any other questions for Mr. Lindsay? Yes, Senator Ashford. [LB988]

SENATOR ASHFORD: John, what is it that you would like in the bill that isn't in the bill? [LB988]

JOHN LINDSAY: ESL funding we think should be a little bit higher. We think it's at a .25. We'd like to see it somewhere around a .40. That new school adjustment, OPS maybe

doesn't have the same kind of really large growth that some of the districts are struggling with, but we have growth in the northwest part of our district, so we may need a new building in that area of the district, but overall it wouldn't be the same kind of enrollment growth that Elkhorn would struggle with, for example. [LB988]

SENATOR ASHFORD: So it's the ESL issue. [LB988]

JOHN LINDSAY: ESL would be the primary issue, yes. [LB988]

SENATOR BURLING: Any other questions? Thank you, John. Any other neutral testimony? I see none. Senator Raikes. [LB988]

SENATOR RAIKES: Thank you, Senator Burling, I will take this opportunity...instruction time was mentioned by a couple of the testifiers, and basically I think what they're arguing is that, you know, there should be an enhancement for above-average instruction time, but not a penalty for below. A point taken. I guess we can consider that. John Lindsay mentioned in OPS, and this has been, I'll mention it to you because it's somewhat of an interesting discussion. We have a sort of a cascading weighting system for poverty students and the bigger the percentage of poverty students, the higher the weighting. And I think at times in discussions with OPS and maybe some other districts here talked about well, those weightings for the higher percentage should actually go higher and they should also be included for LEP students, ESL students as well. The issue is this. As you know, a main theme of the learning community was to deconcentrate poverty and ELL students. The idea of that whole thing is to diversify the buildings around the learning community so that there is a less of a concentration in certain areas, certain neighborhoods, certain districts, and so on and so forth. It seems counter to change the aid formula so you in effect reward concentrations of poverty and ELL students, if you understand...So that's the conflict we've worked. I would certainly give them credit for recognizing the difficulty you come into with those two extremes, but that's a tough one. That's a tough one to resolve. I'll mention the elementary class size allotment, and I was glad the testifier from Lexington mentioned that because I should've. We've suggested changes based on experience with that a couple of things. One is actually not too far unrelated from the topic I just mentioned. When you fund in the formula districts that serve poverty students in small elementary class sizes, you run into the same problem because if the district doesn't have the financial ability to put all their elementary classes at 20 or below, then the funding formula says well, just pick the poverty ones. So again, you're encouraging districts to concentrate the poverty students in certain classrooms and then put nonpoverty students in other classrooms. So that's what drove us to well, look, research suggests that small class size is an effective way to serve students, certainly poverty students, but all students. So what we ought to do is transition to a mechanism where by we require, eventually, small class sizes for K-3, a little bit smaller objective than K-8 like we had before, and provide through this elementary class size of allowance over time funding to help school districts get to that

point. Now you know the testifier makes the point that well, it's not enough funding and you know it ought to be 100 percent and so on and so forth, but the idea is that we're assuming that part of that 100 percent of poverty funding is to get students in those small class sizes, and once you've gotten that done and so on, why that was our thought, correct or not. You mentioned the local choice adjustment. Again, I think it's commonly misunderstood. The belief is on the part of some standard or small standard school district that this treats school districts worse than they're treated under the current arrangement, and I don't think that's true, I think this is actually a better arrangement financially for small standard school districts than what the...it may or may not be as good as they would like, but is better than what is there now--certainly not a decrease. The local effort rate, just mention a point here that I think the testimony made clear that to some extent, our building fund is nonequalized. Well, not to some extent--it is nonequalized. We equalize general operating funding up to the local effort rate, the \$.95 in the current formula. So the amount you can spend on your building fund in effect depends on how much valuation you have per student. If you're a district that has less, you're worse off. If it's a district that has more, you're better off. Now we have addressed that in the learning community by making a part of that levy a common building fund, but in other districts it hasn't. And so the point was made we need more than \$.05 to deal with the building fund, but it still is nonequalized. So if you've got \$.10 instead of \$.05, if you've got half or less the valuation per student, you're still going to be having to burden your tax payers pretty hard to get it done. Finally, the lop-off, I would disagree. The budget arrangement takes away, in my opinion, concern with lop-off. Lop-off is a deal where the needs calculation, and therefore the state aid, puts you in a situation where you as a district don't have the budget authority to spend the money that you would get with your full state aid allocation. In my view, and I'll certainly listen to arguments to the contrary, setting the budget authority at 120 percent of needs should take away concerns with lop-off. So... [LB988]

SENATOR BURLING: Senator Ashford. [LB988]

SENATOR ASHFORD: Just to follow up on your point about the English as a Second Language issue. And I agree with you, I mean, the idea behind the learning community is to deconcentrate and it also, part of the thinking behind the growth factor as well, is it not, is to not penalize districts for opening up additional classrooms for that effort to deconcentrate. And saying that I realize that they have their own issues in growth not counting that, but still it's important, but looking at the focus group experience in Omaha and what's been done by Elkhorn, OPS, and Westside where the demand is hugely larger than...which has got to tell you something. If we do nothing else right in LB641, I think what we did get right is the idea of focus schools and what parents are reacting to. They are reacting in huge numbers to focus schools with longer days and all these things...there are a lot of surveys out there, but there is no better survey in my city than I can think of then opening up a focus school that has longer days and concentrated services on leadership and then having hundreds more people apply than what their is.

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So if that doesn't prove that open enrollment could work and focus schools could work, you know, and that therefore we should encourage districts to grow into those kinds of programs. Wouldn't that be a fair... [LB988]

SENATOR RAIKES: I agree absolutely. I think that, I believe it was in the paper this morning, the interest in that school is phenomenal and certainly a credit to the people who have worked hard to... [LB988]

SENATOR ASHFORD: It's absolutely a credit to them, I'm just saying it also reflects what parents are asking... [LB988]

SENATOR RAIKES: ...you're right. You're right. [LB988]

SENATOR BURLING: Senator Howard. [LB988]

SENATOR HOWARD: Thank you, Senator Burling. Well, along those same lines, when Brad and I were talking for a moment about the ESL. You know, it seems like there ought to be a way that we can with the immediate problem and project your vision of having this not concentrated in an area. If that was raised up to 4 percent, is there some way that we could build in the funding for the current need and at the same time use that as sort of a carrot to incentivize people to look at these other options, other locations? I don't know, it's kind of a thought that maybe we could provide an opportunity and at the same time the incentive in funding. [LB988]

SENATOR RAIKES: It probably wouldn't make the formula simpler, but you know, it may well be something to consider. [LB988]

SENATOR HOWARD: Yeah. [LB988]

SENATOR BURLING: Any other questions? Thank you, Senator Raikes. That closes the hearing on LB988, and that closes the hearing for today, Thank you for coming. [LB988]

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Disposition of Bills:

LB873 - Indefinitely postponed.

LB879 - Indefinitely postponed.

LB988 - Advanced to General File, as amended.

LB1079 - Advanced to General File, as amended.

Chairperson

Committee Clerk