

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

Education Committee
January 25, 2010

[LB711 LB741 LB916]

The Committee on Education met at 1:30 p.m. on Monday, January 25, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB711, LB741, and LB916. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Brad Ashford; Bill Avery; Abbie Cornett; Robert Giese; Ken Haar; and Kate Sullivan. Senators absent: None.

SENATOR ADAMS: (Recorder malfunction)...punctuality here, so we're going to begin this hearing of the Education Committee this afternoon. We have three bills in front of us. LB711 we'll begin with, and then we'll go to LB741 and LB916 today. Let me begin by reminding all of you that if you have your cell phones, throw them away, dismantle them, whatever you've got to do, but we don't want it to interrupt testimony or our ability to hear that testimony. As we proceed today, testifiers will go with the light. Given my estimation of how many testifiers I think we'll have on these three bills, we'll go with the five-minute rule for each one of these bills. And I would appreciate it when that yellow light comes on, recognize it's time for you to sum up so that we can get on to the next testifier. In addition to that, remember to fill out the testifier form and hand it over here to the clerk. And we would also ask that you state your name and spell it for the record before you begin your testimony today. The committee: Becki Collins is the committee clerk; over here to my right, Senator Ashford from the 20th District I know will be here--it just takes him awhile; and Senator Giese is here from South Sioux City; Senator Cornett will be here in a few moments; the committee's legal counsel, Tammy Barry; I'm Greg Adams, representing the 24th District; next to me, the Vice Chair, Senator Howard, will be here shortly; Kate Sullivan--Senator Sullivan--from which district is it, Kate? 41?

SENATOR SULLIVAN: 41.

SENATOR ADAMS: Senator Avery is here from the 28th District, and Senator Haar will be here very soon as well. Senator Dierks, we're going to begin with the hearing on your bill, LB711. The floor is yours. [LB711]

SENATOR DIERKS: Thank you, Chairman Adams and members of the Education Committee. My name is Senator "Cap" Dierks, spelled C-a-p D-i-e-r-k-s, and I represent the 40th Legislative District. LB711 is a bill that I introduced regarding unified school districts. In 1998 I worked with Senator Ardyce Bohlke, who introduced the bill that created unified school districts. I made that bill--LB1219--my priority bill that year. The concept behind this year's bill--LB711--is to help rural communities who are struggling in difficult economic times to keep their individual identities while encouraging them to cooperate and unify with other school districts. There are two parts to LB711. One part removes the court system as the place to resolve disputes between school districts who are trying to unify but are unable to agree to the terms within the first three years. It allows the school districts to negotiate through interlocal agreements on the terms of the

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

Education Committee
January 25, 2010

withdrawal. This change would continue to encourage struggling schools to try to unify and allow them to withdraw in a more direct and economically feasible way if they just cannot agree upon the terms of unification. The other part of the bill removes two subsections from the current statute. These two subsections were not part of the original bill passed in 1998 and established the court system as the place to go if schools could not unify during the first three years. Once again, I am simply trying to help school districts who are struggling with their diminishing populations yet want to keep their children close to home. I truly believe in the concept of school unification and want to do what I can to help rural Nebraska at the same time. Thank you for your attention today. And I hope that the committee will look favorably on LB711 and the ideas behind it. And I should tell you that there were quite a few school superintendents that were going to be here today, but the weather forced them to stay home, mainly from north-central Nebraska. The blizzard hit up there, and they're just not able to be here. So with that, Mr. Chairman, I'll try to answer questions from the committee. [LB711]

SENATOR ADAMS: Thank you, Senator. Are there questions for Senator Dierks? Yes, Senator Sullivan. [LB711]

SENATOR SULLIVAN: Thank you, Senator Adams. And Senator Dierks, could you just, for my benefit as well as maybe a few others, just explain what a unified district is? [LB711]

SENATOR DIERKS: Explain what? [LB711]

SENATOR SULLIVAN: What a unified district is. [LB711]

SENATOR DIERKS: Well, a unified district is two or more schools who join to become one district but maintain their identity in their own communities. The first one was Unified District 1. That was--that one involves Verdigre, Clearwater, and Orchard. When I introduced...when I took the bill as a priority, I learned about this through four school superintendents that called me one day to come and meet with them. And they were the superintendents from Clearwater, Orchard, Ewing, and Elgin. They were all part of the Niobrara Valley Conference. And they'd had a conference meeting of administrators, and I met with them afterwards. We talked about this, and we knew that something like this had taken place in Kansas. Governor Nelson at the time wanted to hear more about it. So he flew out to Norfolk, and we met over at Prenger's tavern and had a visit with all the school board members from those four school districts. And the Governor was impressed enough that he said--he told Senator Bohlke and me--he said: You get this bill put together, and I'll sign it, and we'll be in business. And that's exactly what happened. There were some difficulties with some of the schools. And there was one merger that there wasn't a unified system--they got together, and it fell apart almost before it started. And that was between Lynch and Niobrara. That left a kind of a black

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

Education Committee
January 25, 2010

mark in some people's ideas about a unified system, and that's why some of this other language was put in. But we still think that this is a call, anyway, for people to maintain identity of their schools, let them know more about each other, and in time maybe even merge. And I think that Clearwater and Orchard now are even talking about a merger. So it doesn't shut out any of that; it just allows for communities to continue to have their schools in their communities. One of the advantages is if you have a school system like, say, Clearwater, with a population of 150 kids, and Orchard, with a population of 150 kids, and Verdigre, with 120 kids or whatever, that gives you a school district of 400-plus kids. And that's what your district is measured by, not...and it's helpful sometimes when actually they have a larger number in your school district. So it's a school system and not a school district. And the system works with a lot more kids in there; that just helps that system survive. [LB711]

SENATOR SULLIVAN: Thank you. [LB711]

SENATOR ADAMS: Other questions for Senator Dierks? Thank you, Senator. [LB711]

SENATOR DIERKS: Thank you. [LB711]

SENATOR ADAMS: You going to stay around and close? [LB711]

SENATOR DIERKS: I think I'll stay around, yeah. [LB711]

SENATOR ADAMS: All right. We'll begin with proponents of LB711. [LB711]

JOHN RECKNOR: (Exhibit 1) I have a handout. May I...? [LB711]

SENATOR ADAMS: The pages will take it. [LB711]

JOHN RECKNOR: Okay. Thank you. And is there a sign-in sheet here someplace? It's back there. I'll sign in shortly, if I may. [LB711]

SENATOR ADAMS: Yeah. We'll have the pages get one for you right now, though, so you at least remember and will have it available to you. [LB711]

JOHN RECKNOR: Okay. [LB711]

SENATOR ADAMS: And as they're doing that, go ahead, John... [LB711]

JOHN RECKNOR: Okay. [LB711]

SENATOR ADAMS: ...you can begin. [LB711]

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

Education Committee
January 25, 2010

JOHN RECKNOR: Thank you, Senator. My name is John Recknor. I represent a number of school districts in northeast Nebraska, and they called me this morning and informed me that they can't even get out of town, let alone get to Lincoln. So I guess you're stuck with me as their spokesperson. I have, since its inception, represented Unified School District 1, which, as Senator Dierks explained to you, is...and I guess to answer your question, Senator, I think I'd almost describe it as a learning community, because you have three schools that maintain their legal status, but they have a common board with a common levy and one budget. And so that board can decide where the money is going to go that comes off this common levy. Now the benefit of this, for those of us who grew up and have lived most of our lives in rural Nebraska...and it may seem a foreign concept to some who perhaps haven't. The identity and survivability of our small communities become extremely important to people. And I used to converse with the Department of Education, and they would sort of wonder why it was so important that we not give up our football teams and so on--stuff to us that may seem pretty superficial when it comes to quality education. But if that's what your folks are thinking of, you have to kind of try and address it. One of the things that I've found over the years is people want to know: Well, how's this going to work five years from now; how's this going to work ten years from now? And I can't tell them, because I don't know how well they'll get along; I don't know how many children they'll have; I don't know what their tax base will do. And this is, really, as Senator Dierks said, nothing more than turning this bill back to what it originally was. And what it originally was, was a way for districts to go together in these commonalities of levy and budget. But in the event things did not work out, there was the option to go their separate ways. And as Senator Dierks said, we had a real unfortunate one that wasn't very well thought out, up in north-central Nebraska. But on the other side, USD 1 carried out its seven-year stint and has been sufficiently satisfactory that they've renewed. Now, as we look at northeast Nebraska, particularly along Highway 20, there's a number of towns that are kind of comparable in size, and they'd like to do something together, but they're really not quite willing to give up their town. And so if they could use this as a vehicle...and I'm not saying this vehicle is for everybody, but it certainly is for a number of people. The locals can basically take a businesslike approach to putting a school model together. And so if it looks like the finances work, they can share those benefits. If it looks like the kid numbers are about right, they can make that work. And if new partners might want to come in at a later date, they can make that work. And it's very much a businesslike approach to what should work financially and educationally in our various communities. There was quite a bit of interest in this back in the late nineties when Senator Dierks introduced this. And for whatever reason, in 2008, the way I describe it is we took this provision, and we jacked it up, and we took the wheels off it--and I don't know why. But a number of districts, Laurel-Concord--and I see our superintendent was able to flee town and get here--and Coleridge are looking at this; there's been discussions with Niobrara; there's been discussions with Creighton; there's been discussions with Ewing. No commitments, but what I keep hearing time and time again is: Well, unification would have some appeal for us, because we wouldn't really be

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

Education Committee
January 25, 2010

giving up our legal identity. Something else that I have discovered in 30-plus years of doing school district reorganizations is very often smaller schools are a little bit put off by larger schools, and they're saying: Well, what's going to happen to us; what's going to happen to a Brady if it merges with Gothenburg? Because they're disparate in size. And the answer I always have to tell them is: Well, I don't know; I mean, that depends on who you elect to be on your board. And the courts have held that you can't make provision for express representation in some of these districts over a prolonged period of time. And so this can be an answer to that, that bigger and smaller can go together, because the smaller doesn't give up its legal entityship. And so I asked Senator Dierks if he would take a look at the way unification originally was and see what we might do to put it back the way it originally was. And so I think he's articulated for you extremely well. It shouldn't take a court to tell people of common sense how to undo a business that isn't working for them. It shouldn't be something by way of a punishment to tell people: Well, once you get in one, if you ever get out, you have to merge. And it shouldn't be a punishment to those who'd like to give it a try, because under the present status of the law, you either go with an existing one or you don't go at all. And we think this would be a good vehicle for rural Nebraska. And we would certainly urge your passage of this bill to fix unification back the way it originally was. [LB711]

SENATOR ADAMS: Thank you, John. Are there questions for John? John, given...oh, excuse me, Senator Howard. You go ahead. [LB711]

SENATOR HOWARD: Oh, well, thank you, Chairman. I just have a...how does this differ from working with the ESUs? I thought the ESUs really were, especially in western Nebraska, kind of a unifier of the smaller schools that they serve. [LB711]

JOHN RECKNOR: No. I can understand how you could think that. And luckily we have a service unit administrator from ESU 8 here, together with our superintendent from Laurel-Concord and various other schools, that can maybe put a little bit more emphasis on what I'm about to tell you. The purpose of the service unit, under its role and mission statement, is not to be a super school district. It is to provide for the school district whatever it may need. And it's been historic in rural Nebraska for service units to provide special education, oversight, physical therapists, occupational therapists, those kinds of higher-tech people that it's very expensive to buy school district by school district. This is different in that this is the entirety of the educational process: It's the curriculum; it's the administration--it's everything. And so it's almost as if we said these three districts are going to merge, but we're going to let them keep their legal status--those underlying boards don't really do much of anything except look after the buildings in the respective communities. But it's--basically it's like everything except erasing the lines. [LB711]

SENATOR HOWARD: H'm. Thank you. [LB711]

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

Education Committee
January 25, 2010

JOHN RECKNOR: Is that...? I don't know if I answered your question very well, but... [LB711]

SENATOR HOWARD: Well, that's helpful. Thank you. [LB711]

SENATOR ADAMS: Are there other questions? John, I have a couple. [LB711]

JOHN RECKNOR: Certainly. [LB711]

SENATOR ADAMS: You've worked with these for a long time, and, aside from why they went away, it's obviously probably not a perfect model. Based on your experience, what are the problems with a unification? [LB711]

JOHN RECKNOR: I think the problems with a unification are probably the same as the problems with a merger. And that is if you put bad partners in a unification, you're going to have about the same disastrous result if you put bad partners in a merger. I don't really think there is a downside to it, because one of three things, your logic tells you, are going to happen. They're going to get along horribly, as Niobrara and Lynch did; and thank goodness those districts didn't merge, because there would have been no way out. Or they become so closely aligned that they actually reorganize, which happened in Boyd County. Or they say: We're not quite ready for that point. And unlike a merger, we could bring another partner in who will also have board representation. So, you know, if there's three of us together, and we say to a Ewing: Why don't you come in? You'll have the same representation we do. We're not saying: We're now big, and you're small. And I don't really see a downside to it. When these were originally put together, there was state incentive money. And I guess I want to emphasize to this committee, there is no state incentive money. This does not cost the state of Nebraska anything. [LB711]

SENATOR ADAMS: Okay. [LB711]

JOHN RECKNOR: Before, it did. [LB711]

SENATOR ADAMS: Have...in your experience--and maybe one of the superintendents can better say--have there been any economies gained from unifications that you're aware of? [LB711]

JOHN RECKNOR: Yes. One of the economies when we put USD 1 together, we eliminated two superintendents. And I don't know what those superintendents would be making today, but those two superintendent positions alone probably save close to--when you figure FICA, retirement, all that kind of stuff--save probably at least \$300,000. There are times when you--it would be nice to have a vocal teacher and an instrument teacher and...so you can share...so that everybody that wants an instrument teacher has an instrument teacher. Sometimes you only need a half-time counselor, but

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

Education Committee
January 25, 2010

you can't find a half-time counselor--you can send them out. And I think that the willingness to share, perhaps to buy in bulk and do other things, is really there, because it's equal partners willingly together to do what they can for the kids. [LB711]

SENATOR ADAMS: All right. Are there other questions for John? Thank you for your testimony then. Appreciate it. [LB711]

JOHN RECKNOR: Thank you, Senator. [LB711]

SENATOR ADAMS: Another proponent? [LB711]

RANDY PECK: Good afternoon, Senators. My name is Randy Peck, R-a-n-d-y P-e-c-k, and I am the administrator, Educational Service Unit 8, and our office is in Neligh. And I came...I'm at the hearing today to voice my support for Senator Dierks's bill on unification. The first unified district, as Senator Dierks and John have alluded to, is in our service unit. And I have had many conversations with the administrators of that unified district and also board members--thank you--and have really heard nothing but positive things about their experience. So I think it's been a very good one. Mainly what I wanted to share with you this afternoon, though, was the fact that we have many small schools in our...we serve 20 school districts--K-12 school districts--in our service unit; many of them are small. And we've had many conversations, especially over the last two or three years, regarding declining enrollments, economic development in these small communities, and what are they going to do. I'd use an example of one of our school districts, which is already a county--it's the only school district in the county at this time--and their enrollment is going down. And their superintendent and board are saying: What are we going to do? So they're looking at all kinds of options, and this would just give them one more opportunity. So I'm here to voice my support for that. [LB711]

SENATOR ADAMS: All right. Thank you, Randy. Are there questions for Randy? Randy, let me ask you one. And this is kind of far fetched, so if you don't have an answer, that's fine. So if we were to allow schools again to reform in unifications, we'd do so for a lot of reasons, and one of those would be to gain some efficiencies. How would you potentially see the ESU playing a role in that process, other than just the standard: Well, we provide this service for this school district and the same services for this school district. Do you see any other role for the ESU in this unification process? [LB711]

RANDY PECK: Possibly. As John alluded, you know, we basically are in the service business, and we provide services to the school districts that they ask us for. Most of the time that's special education and providing the school psychologist to multiple school districts...so they can't afford to have one on their own. But it's...we also answer to what the schools want us to do. So if they had some specific requests for--you know,

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

Education Committee
January 25, 2010

we would, you know, we would certainly try to do whatever it was that they wanted us to do. We're not in the governing business; you know, we don't serve as a board for them. But we've done things...with the first unification district, I know right after Thanksgiving, myself and another member from our service unit facilitated a community meeting, and they're considering a merger between two of those three school districts. So to answer your question, Senator Adams, it would be basically--whatever they thought their needs were that the service unit could help them with, we'd be there to help them. [LB711]

SENATOR ADAMS: Great. Thank you, Randy. Other questions? Thank you, sir. [LB711]

RANDY PECK: Okay. Thank you. [LB711]

SENATOR ADAMS: Next proponent. [LB711]

RICH PATTON: Rich Patton, superintendent, Laurel-Concord... [LB711]

SENATOR ADAMS: Rich, could you... [LB711]

RICH PATTON: Let me finish here... [LB711]

SENATOR ADAMS: ...and I should have had the other... [LB711]

RICH PATTON: ...Coleridge, Wynot, and Newcastle. [LB711]

SENATOR ADAMS: Could you spell your name, please, for the record? [LB711]

RICH PATTON: P-a-t-t-o-n. Right now Laurel-Concord has a partnership with Coleridge school district, Newcastle school district, and Wynot. And the partnership has involved sharing teachers and sharing classrooms through distance education. The records I've seen...I'm brand new in Laurel, and I've just returned to Nebraska; I was here from '80 to '88 at Columbus and have been gone, just came back. But the records I've seen show a savings of somewhere around \$500,000. We share teachers; we share maintenance; we share equipment; we share cell phone contracts; we share telephone contracts; all the time, we share. We have--for the last four years, we have had...the Coleridge Elementary School--it started out K-12--get on buses every day, come to Laurel and run classes together. It's been so successful that the third grade did it this year; the fourth grade did it. This next year we're taking a huge step that's been difficult for our communities, because it's a huge step and has been somewhat contentious, although we've got it going in a forward direction, where our middle school, that is, the kids from Laurel-Concord go over. We use the beautiful Coleridge building that is old but been very well maintained, very useful, for a middle school. That extra space allows us a chance to do a true middle school model and step up to services for kids. The

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

Education Committee
January 25, 2010

Coleridge High School kids then come over to Laurel. And by combining those two, we're able to offer--continue to offer--the kind of programs and courses that's very, very difficult--the kind of things that we've been cutting in small schools as enrollment goes down. And we've been able to do so at a savings. And we're going to realize even more savings next year. One of the difficulties is we run into legal difficulties. The first one is if we consolidate, we would lose \$400,000 a year. Laurel would lose \$400,000 a year--eight teachers somewhat, quick calculation, a third of our staff--in state aid. By sharing, we don't lose that state aid, but we ask no more money from the state and end up saving money and offering better services to kids. We've also run into legal problems with Class I schools and some of the laws, I think, that were passed to encourage school districts to do exactly what we're doing, yet it's discouraging us from doing it. And I shouldn't say it's going to keep us from doing it, but it's a discouragement. We're very interested in this unification as a possible option. [LB711]

SENATOR ADAMS: Any more testimony? [LB711]

RICH PATTON: No. [LB711]

SENATOR ADAMS: All right. Are there questions for this testifier? [LB711]

RICH PATTON: John, is there anything else I should tell them, or is that pretty complete? [LB711]

SENATOR ADAMS: Are there questions for this testifier? If not, thank you, sir. And then I'd hope you fill that out before you leave today and leave it with the clerk. [LB711]

RICH PATTON: Okay. Certainly will. Thank you. [LB711]

SENATOR ADAMS: Next proponent. [LB711]

JOHN BONAIUTO: Members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director, Nebraska Association of School Boards. I think it's been covered quite well, but we wanted to make sure that the school boards association on behalf of our members weigh in on the fact that school boards appreciate having more tools of this nature to work with. And what I hear from boards is they--as they see population decreasing, they understand that their options are limited. And sometimes trying to have a merger or consolidation or bringing the districts together formally is very difficult. And as a matter of fact, I know I have a few board members--very good board members--who have broached this subject, and they're worried that they probably won't make it through another election because of approaching the community with what needs to be done. And so this may not be ideal, but it is a tool that would help. And we supported this concept when there were incentives, but we support it now because it's good for kids, and it serves, I think, the population. It's another concept that I think rural

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

Education Committee
January 25, 2010

Nebraska needs. [LB711]

SENATOR ADAMS: All right. Thank you, John. Senator Sullivan. [LB711]

SENATOR SULLIVAN: Thank you, Senator Adams. From the school board perspective, in a unified district there's one superboard, and then there are boards for the respective districts? And how are they...? I mean, they...so explain the process. [LB711]

JOHN BONAIUTO: The board is a regular board, and then the boards, I believe, select their members for the board that works with the broader population. [LB711]

SENATOR SULLIVAN: Oh, so the local boards are still elected, but then among that--those local boards--they select the representation for the superboard. [LB711]

JOHN BONAIUTO: Yes. [LB711]

SENATOR SULLIVAN: I see. [LB711]

JOHN BONAIUTO: Yes. [LB711]

SENATOR SULLIVAN: Okay. [LB711]

JOHN BONAIUTO: So it...and, again, it's something that has worked, and it's not cumbersome, as far as a lot of complicated additional duties that...the boards are pretty pleased with the straightforward way that they're able to do things. [LB711]

SENATOR SULLIVAN: So... [LB711]

SENATOR ADAMS: Other questions? I'm sorry. [LB711]

SENATOR SULLIVAN: So there's one superintendent and then a principal for each school district. [LB711]

JOHN BONAIUTO: There can be. That--again, that is a decision that the districts that are involved with make, of how to best use their staff and their resources. [LB711]

SENATOR SULLIVAN: I see. Okay. Thank you. [LB711]

SENATOR ADAMS: Other questions for John? Seeing none, thank you, John. [LB711]

JOHN BONAIUTO: Thank you. [LB711]

SENATOR ADAMS: Any other proponents? Hi, Trudy. [LB711]

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

Education Committee
January 25, 2010

TRUDY CLARK: Hello, Senator Adams. My name is Trudy Clark, T-r-u-d-y C-l-a-r-k. I'm the superintendent of Bruning-Davenport Unified School District, and I'm here to offer my support for this LB711. As a superintendent for a unified district, I've seen the positives and the strength that the unified system does bring to communities. That has allowed these two communities to continue operating school systems in their hometowns but then have an overarching system that brings together the teachers, the administration, the materials, the buses, you know, everything else, under one umbrella and allows it to operate in a more efficient way than if we were still just trying to struggle for two systems. Even though we are cash-rich, we are children-poor. And so this was one way for us to come together and continue our identities as communities and as supporters for our children. Thank you. [LB711]

SENATOR ADAMS: Thank you, Trudy. Are there questions for Trudy? Thank you for coming here today, Trudy. [LB711]

TRUDY CLARK: Sure. [LB711]

SENATOR ADAMS: Appreciate it. Are there other proponents? Any other proponents? If not, then we'll move to opponent testimony. Are there any opponents to LB711? Are there neutral testifiers? Any neutral testimony? Senator Dierks, it's yours to close. [LB711]

SENATOR DIERKS: Only for the purpose of answering questions. [LB711]

SENATOR ADAMS: Are there questions for Senator Dierks? [LB711]

SENATOR DIERKS: I could tell you one thing that Kate asked about--Senator Sullivan asked about. The funding of the--for buildings and so forth in the individual school districts is taken care of by the--that board that governs that school. The superboard for the entire unified district doesn't handle the different building needs. Those are done by the...I think there are four members in each school district. And then...and the issue--number one, there are six superboard members, two from each one of those three school districts and...but those people in this individual school district still take care of their own needs as far as building needs, funding needs. [LB711]

SENATOR ADAMS: (See also Exhibit 5) Thank you. Any other questions? Thank you, Senator Dierks. And that will close the hearing on LB711. And we will move on to the hearing on LB741. Is the introducer of LB741...? Yes, he is. There you are; I'd forgotten that you were the introducer, Senator Avery. Whenever you're ready, Senator. [LB711]

SENATOR AVERY: (Exhibit 2) Good afternoon. Good afternoon, Senator Adams and members of the committee. My name is Bill Avery, spelled A-v-e-r-y. I represent District

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

Education Committee
January 25, 2010

28 here in the Legislature. I come before you to present LB741. LB741 would restrict Nebraska school districts from using state aid money allocated by the Tax Equity and Educational Opportunities Support Act, otherwise known as TEEOSA. It would restrict the use of this money for payment and expenses relating to the employment and services of lobbyists. Over the past five years, about 16 public school districts or public school entities have spent nearly \$2.1 million of state taxpayer money to lobby the Legislature and essentially and most of the time to lobby us to spend more tax dollars in their districts. I am having the page distribute a handout that will show which of the school districts and school entities receive this money and for what years and how much. And you can see that it does exceed \$2.1 million over a five-year period. Most other school districts choose to spend their state-allocated money on teachers and on students, not on high-paid lobbyists. In fact, every school district has a very well-placed and well-qualified lobbyist: they're called superintendents. They are well compensated; they have years of experience in education; they understand the nuances of their own districts. And they know how their budgets are put together, and they know how they're spent. And they can be and are skilled, powerful voices for their school districts. It's no secret that school superintendents do very well in our schools. If you compile any information on compensation, you will learn that not only do they have very generous benefits packages, but they are well compensated in terms of salary. They work hard. They know their districts better than anyone else. In fact, superintendents that represent the six biggest districts in the state have salaries totaling well over \$1 million. It makes sense that they could and should be talking to senators about their schools' needs and about budgetary concerns. In fact, legislators work with superintendents already. But often we find ourselves not only working with superintendents, but we find ourselves working with paid lobbyists as well. Most of us--I know Senator Howard is one who is very, very much aware of what is being spent in TEEOSA money in her district--most of us watch out for our districts. So you have the superintendents, school boards, and your senators working on this. It seems to me to be a bit of an overload and perhaps overkill to hire lobbyists, using taxpayer money in the process, to make the same case. There is a precedent in the school aid formula for this kind of proposal. The formula already restricts how much school districts can dip into state aid money for legal expenses. It restricts it to a number that cannot exceed 15 one-hundredths of 1 percent of the formula need for the school fiscal year in which the expenses are incurred. If you'll look at the material in your packet, you'll see that two technical issues have been raised. One has to do with the emergency clause. Even if we have an emergency clause attached to this bill, it's unlikely that the Department of Education would be able to provide the information needed to the schools in time for certification of school aid for the 2010-11 school year. That certification has to be completed on March 1. I don't think that's a big issue. I'd be quite content if we advance this bill and it does pass the floor and become law. I'd be happy if it is delayed for ultimate implementation until 2011 and 2012. In fact, that extra year might be put to good use by schools to find creative ways to petition this body without having to hire lobbyists to do it. The second issue raised in the technical note relates to the definition of lobbyist fees and expenses. Many school

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

Education Committee
January 25, 2010

districts use district personnel to interact with the Legislature. They are speaking on behalf of their schools. In my view, they are not strictly considered lobbyists, but it may be of some interest to this committee to define what we mean by lobbying fees so as not to unreasonably restrict school districts who are sending school board members down to talk to us from having their expenses paid. It might be that we can take care of this quite easily by putting language in the bill that refers to registered lobbyists, and that would exclude superintendents, probably, and school board members. Now let me say, I am not anti-lobbyist. And many of you know that. I know that lobbying is an important part of the legislative process. I know that it is a vital part of the communications system in the legislative procedures. And I know that they can be an important voice for people who don't have the ability to speak for themselves. They provide a vital service for us. They are important to the information process to me, to my staff, to you, and to your staff. I am suggesting that school districts already have effective representation in the legislative process and that spending scarce state aid dollars on additional lobbying is unnecessary and, in fact, might be completely inappropriate. We are, as you know, in tough fiscal times, and we should ensure that every dollar allocated to schools through the state aid formula goes to educate students and pay for teachers and necessary expenditures. I urge you to advance this bill to General File so we can have a vigorous and full debate on the floor. And I will be happy to answer any questions if you have any. [LB741]

SENATOR ADAMS: Thank you, Senator Avery. Are there questions? Senator Giese. [LB741]

SENATOR GIESE: Thank you, Chairman Adams. Senator Avery, your figures here on amount of money spent by particular districts on lobbyists--most, not all, have gone up from '08 to '09. Is there a direct correlation between the amount of money spent on lobbyists and their amount of state aid that goes up? [LB741]

SENATOR AVERY: I think that if you were to take a look at the last two major discussions we had on TEEOSA bills in this Legislature--and I'm thinking of '09 in particular, '07, and the special session--we received an enormous amount of pressure from the lobby with respect to some changes we were proposing in this committee to the TEEOSA formula, and ultimately it led to a tweaking of that formula so that some school districts were rewarded for that push-back. I can't give you an exact number, but... [LB741]

SENATOR GIESE: And I don't know it either. [LB741]

SENATOR AVERY: And if you look at that--if you look at those numbers--you'll see that if you go back four or five years, you've seen a steady increase in the amount of money spent, not just aggregate but in each--in most cases for each school district that has a lobbyist. And you have seen an increase in the number of schools that are hiring

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

Education Committee
January 25, 2010

lobbyists. [LB741]

SENATOR GIESE: Just one follow-up then. So would you say that if I'm a member--if I'm a school district--I'm a member of the Nebraska school board, would that be a, indirectly, a lobbyist? I know it's not classified as a lobbyist, but is that a lobbyist group? [LB741]

SENATOR AVERY: Now I...Frank Daley can answer that question better, but it's my understanding you can represent a school board as a member of a school board. You're not being paid to do that; you're simply providing information in a consultation with a state senator. I wouldn't consider that to be the kind of lobbying that I am talking about here. Those are the people we want down here. Those are the people we want to be talking to and want to have represent the school boards. [LB741]

SENATOR GIESE: Thank you. [LB741]

SENATOR ADAMS: Senator Sullivan, did you have a question? [LB741]

SENATOR SULLIVAN: Thank you, Senator Adams. That may be true, Senator Avery, but I believe the people who help our rural schools, either through the school board association or NRCSA, may be registered lobbyists, so the way that...according to the Accountability and Disclosure Commission. So there would have to be some clarification, because the way your bill is written right now, it probably would not allow them to continue in that lobbying capacity even though the associations provide a lot more additional services than just lobbying for those school districts. [LB741]

SENATOR AVERY: But my question would be: Are they paid for with state aid money? Are they compensated out of state aid money? I don't know, but I don't think they are. [LB741]

SENATOR SULLIVAN: Well... [LB741]

SENATOR AVERY: You're talking about these organizations... [LB741]

SENATOR SULLIVAN: Um-hum. [LB741]

SENATOR AVERY: ...like the school board association. [LB741]

SENATOR SULLIVAN: Um-hum. Um-hum. Well, that would certainly, I think...and maybe there'll be some testimony forthcoming, but that would be something that would have to be clarified. [LB741]

SENATOR AVERY: One example of how this whole process has kind of gotten out of

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

Education Committee
January 25, 2010

control--the learning community in Omaha hired a lobbyist before they ever had an executive director, before they ever had a mailing address or offices. And they obviously thought that they needed that contact between them and us in order to do business, before they even had their arrangements together to do business. [LB741]

SENATOR ADAMS: Senator Ashford. [LB741]

SENATOR ASHFORD: Well, there was a lot of lobbying going on in the last three or four years. That's absolutely clear. What...it...and there would be a difference--and I think there is in my mind--between someone who--as Senator Sullivan referred to--someone who is working for a school district and also lobbies, because that person theoretically would have other duties. [LB741]

SENATOR AVERY: That is true. And we have a number of school districts where you have an administrator... [LB741]

SENATOR ASHFORD: Right. [LB741]

SENATOR AVERY: ...in an administrative position, with other duties, some of which include governmental relations with us. [LB741]

SENATOR ASHFORD: Right. [LB741]

SENATOR AVERY: But those schools also are hiring--signing separate contracts. [LB741]

SENATOR ASHFORD: Well, that's--that was going to be my next question--is that, a lobbyist who has other clients is different from someone who's working...I mean I think there's a difference in the nature of the job and the relationship with the school district. A person who is working for a particular school district, as you suggest, is a government relations person. I just don't see any problem with paying them out of state aid, because they have other... [LB741]

SENATOR AVERY: This is an administrator with...part of the job description is to lobby the Legislature. [LB741]

SENATOR ASHFORD: Right. But if you have someone who is working as a lobbyist...and, as you say, there's nothing wrong with it. But...and in, certainly, over the last couple years, it's been about--a lot of it's been about state aid and how that state aid is allocated. That...there is, in your view, there is a material difference between that type of lobbying, having other than--more than one client or not being employed by the school district. That is a different kind of animal, really. [LB741]

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

Education Committee
January 25, 2010

SENATOR AVERY: At the most basic level, there's something unseemly about taxpayers being asked to have their tax money used to pay for lobbying fees that pay for activity that goes after additional tax money. [LB741]

SENATOR ASHFORD: Right. [LB741]

SENATOR AVERY: So the taxpayer is getting hit here, not only to pay for the lobbying but then to pay for the success of the lobbying. [LB741]

SENATOR ASHFORD: Right. [LB741]

SENATOR AVERY: It seems to me that there's a better way to do this. [LB741]

SENATOR ASHFORD: And you're suggesting that, as Senator Giese implied in his question, that there's somewhat of a success fee built into some of these... [LB741]

SENATOR AVERY: Perhaps. [LB741]

SENATOR ASHFORD: Who knows? Who knows what the... [LB741]

SENATOR AVERY: (Laugh) Yeah. [LB741]

SENATOR ASHFORD: ...relationship is? Thank you. [LB741]

SENATOR ADAMS: Are there other questions? Senator Haar. [LB741]

SENATOR HAAR: Yes. Senator Avery, sorry I'm late. I was trying to duck potholes on the way back. (Laugh) First of all, could now the school system still hire lobbyists through a foundation of some sort? [LB741]

SENATOR AVERY: This does not address that at all. I mean, if they find alternative ways to hire lobbyists that don't involve the expenditure of public money, I suppose they can do that. [LB741]

SENATOR HAAR: So that's not prohibited under... [LB741]

SENATOR AVERY: No. [LB741]

SENATOR HAAR: Okay. One problem I have, a little bit, philosophically, with your proposal is that we're kind of saying that schools need to lobby and maybe through their superintendents. But those are such different skills. I think, people being hired to be a superintendent would not...I mean, to really be an effective superintendent, it's different kind of skills than to really be aware of how the Legislature functions and all those kinds

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

Education Committee
January 25, 2010

of things. Do you see...? So that, you know, you may not be paying a lobbyist, but then you're taking a big chunk of that superintendent's salary and...that's kind of... [LB741]

SENATOR AVERY: Well, if we...if our superintendents can't figure out this process, and they don't have the information that we need about their school districts, perhaps they're overpaid, or perhaps they're in the wrong field. I...it's not rocket science what we do here. And you don't have to be an expert to understand the legislative process. The main thing that lobbyists do is provide information. And the superintendents can do that, and their assistants can provide that information. [LB741]

SENATOR HAAR: Except the other part of it is really keeping track of everything that's going on, because one aspect can affect the other and so on. I'm just having trouble sorting out the difference between having a superintendent lobbyist and a separate lobbyist. [LB741]

SENATOR AVERY: Well, a lot of what lobbyists do is more than just convey information. You know, a lot of it is wining and dining. Is that necessary for you to understand the information presented to you? I don't think so. [LB741]

SENATOR HAAR: Uh-uh. Yeah, the lunches certainly aren't. [LB741]

SENATOR AVERY: Yeah. [LB741]

SENATOR HAAR: Okay. Well, thank you. Interesting topic. (Laugh) [LB741]

SENATOR ADAMS: Are there other questions? Senator Cornett. [LB741]

SENATOR CORNETT: Senator Avery, Senator Haar's question brought to light, actually, my concern. School districts and private schools, under your bill--through a foundation or private schools just through their general expenses--could still hire lobbyists, correct? [LB741]

SENATOR AVERY: I think they could, yes. But not--they couldn't pay for it out of state aid money. [LB741]

SENATOR CORNETT: Fair enough. Do you see the potential for abuse of the lobbying process with more affluent school districts that have donors that can pay through a foundation for lobbyists and therefore more effectively get state dollars for their district and/or... [LB741]

SENATOR AVERY: I understand that concern, and it's already existing; it's just that they're using public dollars to do it. [LB741]

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

Education Committee
January 25, 2010

SENATOR CORNETT: But isn't it now currently a school board decision for that district, whether they choose to spend that money for lobbying or not? [LB741]

SENATOR AVERY: That's right. [LB741]

SENATOR CORNETT: And this would take that decision away from the school board... [LB741]

SENATOR AVERY: No, it... [LB741]

SENATOR CORNETT: ...of districts that can't afford a foundation. [LB741]

SENATOR AVERY: No, it wouldn't. The school boards can still decide to hire lobbyists and decide how to pay for that lobbying; they just couldn't pay for it out of state aid money. And there is a... [LB741]

SENATOR CORNETT: But again, do you see my point? [LB741]

SENATOR AVERY: Yeah. [LB741]

SENATOR CORNETT: There are some districts that can pay for... [LB741]

SENATOR AVERY: Some districts can afford it, and some cannot. [LB741]

SENATOR CORNETT: Right. [LB741]

SENATOR AVERY: And that's the case now, that you have about 16 school entities on that list there, out of, what, 253 school districts. So already, the smaller school districts are at a competitive disadvantage. [LB741]

SENATOR CORNETT: Do a lot of the... [LB741]

SENATOR AVERY: I can't eliminate that entirely. [LB741]

SENATOR CORNETT: Do a lot of the smaller districts group together for lobbyists? [LB741]

SENATOR AVERY: I don't know of that. There is one ESU--ESU 3--that has a lobbyist that works for several school districts. [LB741]

SENATOR CORNETT: Thank you. [LB741]

SENATOR ADAMS: Any other...? Senator Giese. [LB741]

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

Education Committee
January 25, 2010

SENATOR GIESE: Thank you, Chairman Adams. Senator Avery, a hypothetical situation: With everything that we do, from TEEOSA to this, once you have a set--set the parameters and rules, in your bill, does it address if I'm a--say this passes, I'm a school administrator, and so I'm thinking of how I'm going to get somebody down here and lobby for me if it's not myself. The way I understand it, I could hire a...an attorney maybe could get their teaching certificate--or I'm not quite sure how that would work out--in turn, then, be hired by the school district, and then they come down here as a teacher-lobbyist. So what is the...does that...does this prevent that and that set of circumstances? And that's thinking out of the box... [LB741]

SENATOR AVERY: Yeah. [LB741]

SENATOR GIESE: ...down the road. [LB741]

SENATOR AVERY: I hope you didn't give school districts an idea here. (Laughter) [LB741]

SENATOR GIESE: Well, no, believe me, I'm sure they're a lot smarter than I am; they have that--and they do great work. But I'm just thinking... [LB741]

SENATOR AVERY: This bill does not address that specific situation. [LB741]

SENATOR GIESE: So then...anyway, thank you. [LB741]

SENATOR CORNETT: So...I'm sorry. [LB741]

SENATOR ADAMS: Go right ahead, Senator. [LB741]

SENATOR CORNETT: So a school district could hire somebody, and their sole job for that district would be lobbying, and they'd just be on the payroll for that district. [LB741]

SENATOR AVERY: But...yeah. But they couldn't pay them out of state aid money. [LB741]

SENATOR CORNETT: What if they were just called...why? What if they just called them their...like, Bellevue has a financial officer. What if they just hired somebody, gave them a title, and all they did was spend their time down here doing exactly what a lobbyist does now? [LB741]

SENATOR AVERY: Well, that's already being done. You have administrative positions that are defined in such a way that a portion of what they do in the normal course of their work is lobby the Legislature. But many of these districts are also hiring

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

Education Committee
January 25, 2010

additional--or signing additional contracts with professional lobbying firms to supplement that lobbying. And I guess a district, if they wanted to get really creative, could try to define... [LB741]

SENATOR CORNETT: Just hire somebody. [LB741]

SENATOR AVERY: Yeah. I mean, they could probably take a teacher and turn that teacher into a lobbyist. [LB741]

SENATOR CORNETT: It wouldn't even have to be a teacher. [LB741]

SENATOR AVERY: I was referring to what... [LB741]

SENATOR CORNETT: But... [LB741]

SENATOR AVERY: ...Senator Giese had mentioned. [LB741]

SENATOR CORNETT: I know, but what I'm saying is it wouldn't even have to be a teacher. Instead of just contracting with somebody during the legislative session, you could end up with somebody that's on the payroll all year long. [LB741]

SENATOR AVERY: Sure. [LB741]

SENATOR CORNETT: Okay. [LB741]

SENATOR AVERY: What I'm trying to do is not end lobbying. [LB741]

SENATOR CORNETT: No. [LB741]

SENATOR AVERY: What I'm trying to do is to end the practice of using money that's supposed to go to educating our students--from having that money also go to pay lobbyists. [LB741]

SENATOR ADAMS: Senator Howard. [LB741]

SENATOR HOWARD: Thank you. Thank you, Mr. Chairman. I wonder if one of the differences wouldn't be that our paid lobbyists have to register as lobbyists and pay a fee to be lobbyists down here. Whether the superintendents come down and lobby on a casual basis when there's something that pertains to their school system--I would see that as a major difference. Do you see that as the defining point as to whether these people are lobbyists paid by the school per se or people working for the school acting as lobbyists for a given situation? [LB741]

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

Education Committee
January 25, 2010

SENATOR AVERY: H'm. I am not sure I'm following you. [LB741]

SENATOR HOWARD: Well, the crux of it would be paying the fee--if they're registered as lobbyists and pay whatever the amount is. [LB741]

SENATOR AVERY: Yeah, that may be the answer to the technical question raised in your notes there about how we define lobbying fees and services. It might be that we want to include the word "registered lobbyist," and that would separate the superintendent from the paid lobbyist. [LB741]

SENATOR HOWARD: Well, possibly. [LB741]

SENATOR ADAMS: Senator. [LB741]

SENATOR SULLIVAN: Thank you, Senator Adams. But, again, I caution you that these school districts pay their dues to the school board association and to the rural school association, and the executive directors of those respective organizations, I believe, are registered lobbyists. And I don't want to stop that opportunity for our rural school districts to have a seat at the table, so to speak, just because their member organizations have a registered lobbyist that represents them. [LB741]

SENATOR AVERY: Well, I'm not sure, though, that we're talking about the same thing. I'm talking about the money that goes into the school aid formula. [LB741]

SENATOR SULLIVAN: Well, but... [LB741]

SENATOR AVERY: These organizations don't submit a budget... [LB741]

SENATOR SULLIVAN: But they're... [LB741]

SENATOR AVERY: ...under TEEOSA, do they? I mean, they... [LB741]

SENATOR SULLIVAN: Well, I don't know where... [LB741]

SENATOR AVERY: ...the school board association... [LB741]

SENATOR SULLIVAN: I don't know what... [LB741]

SENATOR AVERY: ...is not certified, for example. So you're saying because they're... [LB741]

SENATOR SULLIVAN: Because... [LB741]

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

Education Committee
January 25, 2010

SENATOR AVERY: ...funded in part by dues... [LB741]

SENATOR SULLIVAN: Yes. Yes, exactly. Um-hum...and that, I suppose, part of state aid funds that school districts use to pay their dues... [LB741]

SENATOR AVERY: Well, I would refer you to the section of law that I am seeking to amend. If you go up about three or four paragraphs in that section, you'll see language that restricts the amount of school aid money that can go to pay for legal fees. [LB741]

SENATOR SULLIVAN: Um-hum. [LB741]

SENATOR AVERY: I think this is similar to that. [LB741]

SENATOR SULLIVAN: Okay. [LB741]

SENATOR AVERY: And that has apparently been workable; I believe it has. But I know, at the time, there was some heartburn caused by that proposal from law firms that were profiting from this. And it hasn't stopped lawsuits. It certainly has changed the way the lawsuits are paid for. [LB741]

SENATOR SULLIVAN: Okay. Thank you. [LB741]

SENATOR ADAMS: I think I understand. I know the model that you're talking about, and it doesn't prohibit a school district from spending whatever they want on legal fees; it just says that only a certain portion of it can return back in GFOE for TEEOSA calculation. And while that model may work, I'm still struggling with the same thing that I think Senator Sullivan is. To me, there would be a difference between a school hiring legal counsel versus a school paying their dues to belong to NRCSA and the executive director of NRCSA, then, as part of that job description, being in the Rotunda or testifying here at committee. And drawing that distinction might be a little more troublesome. [LB741]

SENATOR AVERY: Yeah, we could change the language, too, to put an exception for fees paid to these organizations. [LB741]

SENATOR ADAMS: Are there other questions for Senator Avery? Senator Haar. [LB741]

SENATOR HAAR: Thank you. This is an interesting topic, and you know that. It really speaks even to a bigger issue. There were some editorials--at least when I was running for office--that said no public money should be spent for lobbying--so, I mean, the idea of even extending it to cities and the university and those sorts of things. And I went and talked to the editor and asked: Well, how do I find out about what's going on all over

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

Education Committee
January 25, 2010

Nebraska? And the answer was just: Well, you need to have a good staff. And that's not realistic either. I mean, there's no way to gather all the information that we get in making decisions without groups being represented by lobbyists. Do you see this as extending further, to other public entities like cities and counties and stuff? [LB741]

SENATOR AVERY: Oh, I think it could. I do. I don't know if I would do it myself. But I think that it is easier for me and for the Legislature and the public to understand the connection between school aid formula money and lobbying and whether or not...and make a judgment, a reasonable judgment, as to whether this is an appropriate use of our tax money. There are other entities and political subdivisions and other educational entities that pay for lobbyists, and some of that may be paid for out of public money. Perhaps we ought to look at all of it. [LB741]

SENATOR HAAR: I mean, certainly, when you get to, you know, even public power districts and utilities...and there are a lot of public dollars going into this process. [LB741]

SENATOR AVERY: I know. And I did an Op-Ed piece several weeks ago in which we tried to put together a comprehensive picture of how much public money was going to pay for lobbying fees, and it's a pretty staggering number. This is just a part of the picture, and it may not even be the most egregious example of it. But this seemed to me to be doable, and the more comprehensive approach would take more time. And I'm not unwilling to undertake that; I just couldn't do it all at one time. [LB741]

SENATOR ADAMS: Are there other questions for Senator Avery? I guess not. [LB741]

SENATOR AVERY: Thank you. [LB741]

SENATOR ADAMS: Thank you, Senator. Let's begin with proponents of the bill. [LB741]

JACK GOULD: (Exhibit 3) Senator Adams, members of the committee, my name is Jack Gould. I'm here representing Common Cause; my name is G-o-u-l-d. I spoke to this committee during your interim study and raised some of the questions that I've already heard this morning or today. I have sent an update of statistics, and I don't think they're going to contradict what Senator Avery has already given you. They may be covering some little different areas of the educational process, but in essence they're there just to show the amount of money and exactly who is spending the money. In 2008, 12 Nebraska school districts spent \$407,682.88 on professional lobbying firms. In 2009, through the third quarter, 14 school districts spent \$364,050.66. Although the reporting for the fourth quarter of 2009 is not complete, it's clear that the total school district spending for 2009 will exceed \$460,000. It should also be noted that ESU 3, which services seven of the school districts that already have their own lobbyists, spent \$18,750 on their professional lobbyist. ESU 3 is the only service unit with its own

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

Education Committee
January 25, 2010

lobbyist, which might raise some questions about equity. The newly formed learning community only spent \$6,000 on its lobbying efforts in 2009, but it's expected to spend a great deal more in 2010. The learning community includes the same seven school districts represented by ESU 3. Now, you know, the discussion that I've heard so far is largely about the technical questions about lobbying. But I think the overall question here is a question of equity. Who has the lobbyists? And who isn't represented, and who is represented? When we look at the school districts--we have 14 school districts--these are the largest, the most powerful districts in the state. And they are the ones that have the resources to hire the high-playing firms. We're not talking about just an individual to come in and testify. They are hiring the top five lobbying firms in this state, all of them multi-...at least over \$1 million a year are made by coming here and representing a variety of interests. Now the question of a small school district in Cherry County hiring a lobbyist to come down here and represent the interests--their facilities may be in terrible shape; their salaries may be very low; their curriculum may be tremendously limited. But for them to hire a lobbyist would mean firing a teacher. The money that is going--is being spent by some of the wealthiest school districts could hire three or four teachers; they could hire six or eight teaching aides; this is not small amounts of money. And to these small districts that really are not well represented, this is a very serious problem. I think that as you approach this...you've mentioned: What is the advantage of the lobby? And I know I'm not terribly popular with the lobby, but I think it's fair to say: Why do you hire a lobbyist? What is it that that man can do for you? And the point is he can gain access. And how does he do that? Well, he can entertain. He's Don Nice-Guy--he can talk about sports; he can talk about anything. He'd come in here and shake your hand and smile. And he can take you out to lunch; he can take you to dinner; he can provide you with tickets to the ball game or the play. He's a guy that can also come in and provide campaign dollars; he can get those dollars from his clients. He can get that money and provide it for your campaign or any other campaign. And that is why the professional lobbyist has an edge over a school superintendent or anyone else. And I think that the important thing that you have to look at is we don't want to see public education become a competitive game, in which school districts hire their own lobbyists in order to protect their own interests or to gain access or to gain special favors. We want to see education as a profession in which the educated leaders can come here and talk to you and not feel that they have to hire another expert to come in. And that's what's best for the kids. So I know I've gone away from my testimony, but I really want you to think seriously about what this does to the little guys. It's really a question of David and Goliath--the small district versus the big district. And you have to care about all the kids, not just the ones that have the money and resources to be here. [LB741]

SENATOR ADAMS: Thank you, Jack. Are there questions? Senator Haar. [LB741]

SENATOR HAAR: Thank you. Well, I really think you have to look away, though, from people who can provide lunch and campaign contributions. For example, I've been working with you on one of the laws, and you haven't bought me lunch or (laugh)...

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

Education Committee
January 25, 2010

[LB741]

JACK GOULD: Thank you. I'm glad you said that. [LB741]

SENATOR HAAR: ...given me money. So I think that's important to remember, that...the way I use lobbyists is for information purposes. And without a staff of a dozen, there would be no way for me to meet with everybody from all over the state on everything. I'm really open to meet with just about anybody who wants to meet with me, at this point. And I don't have any other job. So I'd just sort of like to get that point across, that...you know, state senators I know have used lobbyists because we need information that we can't get in other ways. And so, again, this opens up the whole bigger issue, of course, of the role of lobbyists in the Legislature. [LB741]

JACK GOULD: Well, you know, I appreciate exactly what you're saying. [LB741]

SENATOR HAAR: Um-hum. [LB741]

JACK GOULD: And I think, contrary to what others might say, I don't have a problem with lobbyists... [LB741]

SENATOR HAAR: Um-hum. [LB741]

JACK GOULD: ...as long as that's what they do--as long as they come here and they provide you with information and that they counsel you on areas where they have a level of expertise. But the advantage that they have over...you know, the reason I haven't taken you to... [LB741]

SENATOR HAAR: Um-hum. [LB741]

JACK GOULD: ...lunch is because I can't do that. [LB741]

SENATOR HAAR: (Laugh) I was not asking for lunch, by the way. [LB741]

JACK GOULD: But my point is that that, again, demands resources. And the average citizen...I mean, the lobbyist should be put on the same scale as the average citizen, that he has as much chance to come and talk to you as does the paid lobbyist and that he can come here and--he or she--can come here and speak their concerns and not be weighed, not that their testimony or their speaking is weighed any heavier or lighter than the lobbyist himself. The person that's here all the time and is paid to be here has a tremendous advantage. And some of that, if it's just information that they're providing, then that's great; that's what they should be doing, and I would congratulate them on that. But the other part of the job is what often gains the access. And the ability to provide these things is what provides the access that gives them the ability to get to you

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

Education Committee
January 25, 2010

or to get to anybody to tell their case. I don't want to take a lot of time, but I want to tell you a situation when I was a private citizen, not representing Common Cause, and I came here on a case of a property tax issue, and I came to see a senator. I made an appointment at 11:30; I showed up. He came late, and I understood he was coming off the floor; it was very difficult. And when I started to spiel out my concerns, within ten minutes there was a lobbyist--still active here on the floor--who showed up at the door and said: Senator, it's time to go to lunch. And the senator said to me: I'm sorry; I have to go. And he got up and left, and I sat there. I had ten minutes; that lobbyist was going to have an hour or an hour and a half to present his case. So my point is, it is still a fairness question. And it's fairness from the lobbyist's perspective as well. Does that answer your question or your concern? [LB741]

SENATOR HAAR: Yeah. And I sort of made my remarks in the way of, kind of, protection for myself, because knowing many of my colleagues, you really can--citizens can come in and talk. And I've had, you know, individual citizens who are not in any way lobbyists who I've seen two or three or four times and so on. And I think we're a pretty good group here in the state senate of wanting to hear from individual citizens. So anyway, that's... [LB741]

SENATOR ADAMS: Senator Giese. [LB741]

SENATOR GIESE: Mr. Gould, could you get me any specific names of any lobbyists that would buy me tickets and buy me a lunch, things like that? (Laughter) [LB741]

JACK GOULD: Well, I could. Would you really... [LB741]

SENATOR GIESE: No, let me ask you--and it's more of a comment than a question. I met just this afternoon with school administrators--about half a dozen administrators from my district. And that group or anybody else, any other administrators, I have not heard from personally that have a big problem with this. More along the lines of Senator Sullivan's comments, you know, things that they do now and memberships that they belong to are...they don't want to jeopardize that. So any comment on any of that? And... [LB741]

JACK GOULD: Yeah, that's a tremendous point. I mean, I've been here probably 20 years--hard to believe, but 20 years--and I don't think anybody has ever complained about the associations coming and representing the Class I's or the Class II's or coming in and representing the districts as a whole, all of the school districts that fall into a specific category, or the teachers association or the administrators association. These are organizations that have been here a long time and, I think, are respectful. The thing that we're seeing, though, is that the larger districts are saying: This is not enough, that what we need to do now is we have to have our own lobbyists, and the association lobbyist is not nearly as important. And yet that lobbyist may represent a wide spectrum

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

Education Committee
January 25, 2010

of concern for all the schools that are in that classification. Yet here we have individual school districts deciding that they have--they are going to take things into their own hands, and they're going to lobby for their kid against your kid. [LB741]

SENATOR GIESE: But don't you think that the Legislature...and I think you should give the Legislature as a body a little bit more benefit of the doubt, and when we get this onslaught from whoever it is, that we...you know, maybe sometimes common sense comes into it and we figure out collectively the best approach on whatever the issue may be. [LB741]

JACK GOULD: Well, you know, I would give you the benefit of the doubt. And I think that every one of you cares about what happens to the kid in Cherry County. But do you hear from that kid? Do you hear from that school? And if you're hearing the same story over and over again from five or six or ten wealthy school districts who are telling you that those people out there have it just fine, you don't have to worry about them, you've got to take care of me, then it's...you've created a situation where you may care, but your information is all coming from one source. And so I think you could adjust this bill to allow for belonging to associations. The real concern is the individual districts who want to be heard louder and more often than any other school district. That's why they hire them. And their argument is supposed to be more important than the little guys'. And there's an awful lot of school districts out there who don't have a chance to be heard. And it's not because of you; it's just they don't feel confident. [LB741]

SENATOR GIESE: Thank you. [LB741]

SENATOR ADAMS: Senator Howard. [LB741]

SENATOR HOWARD: Thank you, Chairman Adams. You know, I really have to take issue with that. I think people...I don't think my district is alone in this--people in my district e-mail me, call me, write me. I visit with them all the time; we sit down and have conversations. I don't think that in District 9, that my people or my constituents feel that I'm not accessible to them; I think they feel very comfortable with that. You know, I think your situation of this lunch...there's nothing that says you can't make an appointment to go to lunch with somebody; you pay for your own, and we pay for ours; that's not a big problem. If you wanted to talk to somebody away from down here, I do a lot--have a lot of meetings and conversations in my district. I think, you know, there's a lot of things to consider here. I agree with Senator Adams that it didn't sit real well with a lot of people when the first thing the learning community did was find a lobbyist to represent them. But on the other hand, I would really have to say that it's my firm belief that people make every effort to meet with their constituents. You would be really lax if you didn't do that. And your constituents want to have that time, want to have that face time with you, and they should. It's their responsibility as much as ours. [LB741]

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

Education Committee
January 25, 2010

JACK GOULD: Well, I agree. And what I--from my personal experience, that was just one example. So it's not fair to make judgment on everyone, and I'm certainly not judging all of you on the basis of what I experienced from that. But I do think that this whole question of overwhelming lobbying power by individual school districts is not in the best interest of this state. And regardless about whether they're taking you to lunch or not, you know, I...the average person isn't going to do that, and they are going to try to talk to you on the phone or come to see you in an office or whatever. But that's one advantage that the pro has, that he has an expense account, and it is a business expense. [LB741]

SENATOR ADAMS: Jack, you know what, you don't have to respond, because it's not going to come out in the form of a question. [LB741]

JACK GOULD: Okay. [LB741]

SENATOR ADAMS: Probably if there's anyone in here that would like to reduce the power of the lobby, it might be me, particularly when it comes to state aid issues. I get hammered. But my concern is that--though I have my personal (laugh) desire over here to disarm on occasion...the equity issue that you refer to. One might also pose the argument that the largest school districts we're describing also represent the greatest proportion of students in the state of Nebraska. And my fear is not for them; it is for the Cherry County; it's for the Hyannis; it's for the Dundy County. And my fear is this: If we shut up the big schools, will we in turn have, in effect, shut up those who most need to be here in the Legislature and have a voice--the little ones? [LB741]

JACK GOULD: Well, I've addressed this in the past, and it's not just this committee; this would have been going back years ago. But I've always felt that it's somewhat intimidating to come here; it's intimidating to sit here on this spot and have that light flashing down on you. It might be in the best interest if at times the committee would actually go out to the smaller school districts or go across the state. [LB741]

SENATOR ADAMS: I do. [LB741]

JACK GOULD: You do. You know, I can't measure the weight of lobbying that falls on you, because I'm sure it's huge, but I do see the lobby pretty active, and I guess that's what carries my concern. [LB741]

SENATOR ADAMS: All right. Senator Haar. [LB741]

SENATOR HAAR: And then just one final comment. One of the things I think we're really blessed with here in the Legislature is we have staffs. There are many states where state senators and representatives and so on really don't have staffs. And as a result of that, I hear a lot from individual constituents and am able to, you know, arrange

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

Education Committee
January 25, 2010

meetings and correspond with them and so on. If I could change anything right now with the whole system, it would be that we would have public financing of elections and would not have to ask anybody for money. [LB741]

JACK GOULD: Boy, I'm with you there 100 percent. [LB741]

SENATOR HAAR: (Laugh) I don't think Bill's--I'm sorry--Senator Avery's bill covers that part. [LB741]

JACK GOULD: It should. It should. [LB741]

SENATOR ADAMS: Are there other questions? Thank you, Jack. [LB741]

JACK GOULD: Thank you. [LB741]

SENATOR ADAMS: Are there other proponents? [LB741]

KYLE MCGOWAN: Good afternoon, Senator Adams and members of the committee. My name is Kyle McGowan, K-y-l-e M-c-G-o-w-a-n, and I'm one of those well-paid superintendents that Senator Avery is talking about, so, ironically, I find myself on the same side of this issue with you, really for the equity reason. Crete Public Schools is not a poor district. Our budget is about \$18 million; we have a cash reserve of about 20 percent; I don't feel like we're being underfunded. However, the equity issue of my ability to contract for a lobbyist, with an \$18 million budget, is significantly different from a large school district that may have, you know, \$50 million, \$100 million-plus budget. So I do feel that schools...Crete is not a particularly small school in the scope of Nebraska, but there would be other districts that would be at much greater disadvantage than Crete Public Schools. When I look at the lobby effect, I can only assume that districts are investing money because there is some sort of financial benefit back to them. When the Legislature had a special session and a very gross model was put out, in terms of state aid, Crete Public Schools was shown in that model to lose \$190,000 in state aid. Fifty percent of our revenue side comes from state aid; fifty percent comes from property tax valuation, which, by the way, went up one-half of one percent last year. So that's pretty significant to us. So I need to make a decision: Am I being a good steward, a good leader for our school district by not contracting with a lobbyist to represent our interest in getting state aid? Am I being naive that, you know, good people just do good things? Which I truly, very sincerely believe our senators are in--have the best interests of our children as, really, number one. And that's what I love about the Unicameral and your system. But we also need to be realistic that you can only act with the information that you have. So, again, I don't want to be naive, and I want to make sure that our community is represented. Now, even though this looks different from my normal confessional booth that I go into--and superintendents, by the way, don't have to go to confession as much as most people do--but I admit to a couple

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

Education Committee
January 25, 2010

years ago joining an alliance with several other schools on the Class I issue. We sat out the first round in the Class I issue and felt like it, you know, did not work out the way that we would like to. So a dozen of us put in \$1,000, hired a lobbyist, and, lo and behold, we were represented well and had received what we asked for. So was it a coincidence, or did it make a difference? I don't know. But I know that when you start tweaking the state aid, it's going to affect Crete Public Schools quite a bit. And I think all of us know that our responsibility is to all of the students, all of the schools in Nebraska. And I certainly recognize that the largest population is east of here, which, I believe, has about 24 senators representing them already, out of 49. So something that...the senators really--you have a great grasp of this bill. One of the things that I wanted to mention is that organizations like the Nebraska school boards, like the Nebraska State Education Association, like the Nebraska Council of School Administrators serve a very important function. And there's 500 bills already offered this year; we need those groups to help educate us as superintendents to what's best for our district. I know it's a tough topic, and I'd be glad to answer any questions. [LB741]

SENATOR ADAMS: Thank you, Kyle. Are there questions for Kyle? Yes, Senator Haar. [LB741]

SENATOR HAAR: Thank you. Going back to one of my concerns that I expressed to Senator Avery, I see lobbyists as having certain skill sets that make them effective or not effective and the same with superintendents. Do you think those are one and the same, or...? [LB741]

KYLE MCGOWAN: I think what the...the issue with superintendents is their availability to be here on-site. I think that is so incredibly important to meet with people face to face versus e-mail, you know. When I get back this afternoon, I'll have to visit a construction site that we have going on; I'll stop and see the bus drivers and ask how the roads are; I'll have several messages on my phone, probably about kids not playing basketball or...so in my size of district and much smaller, the opportunity for me to be on-site or for others to be on-site is not very strong. And I think, again, the more staff you have, the more possibility you have to let other folks visit down here. [LB741]

SENATOR HAAR: Um-hum. And, finally, your admission you don't go to confession as often as other people... [LB741]

KYLE MCGOWAN: (Laugh) I don't need to is what the... [LB741]

SENATOR HAAR: Do you think that may be a dereliction of duty? (Laugh) [LB741]

KYLE MCGOWAN: Not if my priest visits me. [LB741]

SENATOR ADAMS: Senator Sullivan. [LB741]

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

Education Committee
January 25, 2010

SENATOR SULLIVAN: Thank you, Senator Adams. So just to clarify, with respect to your membership in your organizations that do, in fact, have registered lobbyists, would we, as the proposed legislation stands right now, need to tweak that so that there's no problem? [LB741]

KYLE MCGOWAN: I really think that's important. Our membership dues to the school boards association is \$5,300. Okay, a portion of that is unemployment insurance that we have. So, you know, your dues in that organization is based on your number of students, and so it's, you know, that is a group...when we get information from those two groups...interestingly enough, the NSEA doesn't send me any information, but the school boards and the administrators do. In fact, I have a copy of it. They send us information in generic form; they also represent all of Nebraska. It's more rare for them to be able to agree on a topic one way or another, because their membership is so diverse. So, you know, there are some topics of which we say that, you know, we would have a clear consensus that we would like our executive director to go in and say pro or against. But for the most part, we can't do that. [LB741]

SENATOR SULLIVAN: Okay. Thank you. [LB741]

SENATOR ADAMS: Other questions for Kyle? I want to thank you, Kyle, for being here today. Appreciate your testimony. Other proponents? [LB741]

ROY BAKER: Senator Adams, members of the committee, I'm Roy Baker, superintendent of the Norris School District. Norris has just over 2,000 students. We have a general fund budget of just under \$18 million. We have a line item in our budget for \$15,000 for legal services; that's less than one-tenth of one percent. Only twice in the last decade have we used any of that to pay for a lobbyist, and then it was just \$1,000 or so, and those were situations we felt like we'd been invited to a knife fight and we were going in barehanded. If you remember, opponents to the term limits for legislators at that time said the Legislature will become more and more subject to lobbyists--lobbyists will have more and more power, with fewer and fewer experienced state senators. And I think lobbyists do provide a valuable role in providing information to senators. None of you can be up on all the bills on your own. But I do think the organizations--NSEA, the Nebraska Council of School Administrators, school board association, GNSA--I think they are able to provide you with a lot of that kind of information about matters of education. Last year, the Education Committee came out when the issue of state aid adjustments were being made--I'm talking about the 2009 session. And, you know, it looked okay, what was coming out of the Education Committee, but after it got on the floor and the more the days went on, it seemed to me that the heavy hitters were getting more and more, and schools like Norris were getting less and less. And I think, as Kyle McGowan mentioned, I think we do at times feel disadvantaged in that. And as you've indicated today, LB741 won't eliminate lobbyists in

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

Education Committee
January 25, 2010

matters of education legislation, but the exclusion of lobbying expenses for state aid calculations does seem to be a good idea to me. Thank you. [LB741]

SENATOR ADAMS: Thank you, Roy. Are there questions? Guess not, Roy. Thank you though. Other proponents? Any other proponents? Then we will begin with opposition testimony. First opponent. Good afternoon. [LB741]

DAN FLANAGAN: Senator Adams and Education Committee, my name is Dan Flanagan, D-a-n F-l-a-n-a-g-a-n. I'm board president of Papillion-La Vista. I want to address a couple of different issues, and they seem to be fundamental issues in terms of understanding what lobbyists do and especially for us at a board level. I...there seems to be a different kind of understanding of the role of lobbyists than what I understand it to be. I see it as a valuable flow of information not just for us; I see it as a specific connection point for us with you and what's going on here in Lincoln. We need that connection. You also need it from us. And I think that there are lobbyists...Steve Coleman helps to provide that kind of information for you. So I see it as a mutual benefit for the two of us. I, you know, I'm not quite sure how you differentiate whether it comes out of state aid or not. When I see my budget I know some of it comes from state aid and some of it comes from property taxes. And how you're going to say: I don't want state aid to pay for it. And, you know, how we're going to pay for it--state aid or whatever. Differentiation is difficult. There is an issue I've heard you discuss, about some other ways in which we do achieve lobbying efforts is through NASB membership, which we do pay for out of state aid. I think that's an issue that Senator Avery has already said he's aware of and you on the committee are aware of as well. But the lobbyist, to us, is a valuable form of information for us. I think it's also a very efficient way for us to get that information. There are consequences if you move ahead with this bill, for us. And it seems that Senator Avery doesn't seem to be concerned about the amount of time that our superintendent would spend. And we're not going to give up lobbying efforts if we don't have a lobbyist. We're going to have to find some way to do that. I'm not exactly happy about having my superintendent spend any more time away from the school district. He already spends a considerable amount of time with learning community issues, something I'm not too pleased about. But if we didn't have a lobbyist, he would obviously have to--as would Doug Lewis, who's our business manager--have some responsibility in legislative issues. And we'd have to find ways to release them from the school district. That doesn't seem like a good idea to me, when the local issues are important and we need them on-site. So the issue about the value of a lobbyist, I hope you can understand from a board point of view, is extremely important. The second issue is another fundamental issue, and it's what seems to me to be an underlying issue of distrust. And I'm not talking simply about this bill, but there have been restrictions that we as board members have seen over the past few years, like levy and spending limits; legal representation issues, which has come up here a couple of different times in conversations at this committee meeting; the learning community, which has been put on top of us to deal with. There are a number of things that are

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

Education Committee
January 25, 2010

restrictive for us in the way we do our business, and it makes it difficult for us. And I'm wondering whether that means that you don't trust us as local board members to do our job and so you need to pass laws like you're proposing here and making it more difficult for us. We're duly elected public officials as well. And just like you, we're going to pay the consequences at the election ballot. If people don't like what we're doing, they're going to vote us out, just like they will you. And I think that we need to understand that we're in this business together. And somehow our local patrons in Papillion-La Vista, in this particular case, have the right to determine whether I'm doing a good job and the rest of the board members at Papillion-La Vista are doing a good job and make that determination. In the same sense, we, as a board member, have the right, I think, to have some kind of liberty to make decisions about certain things, like where we're going to spend our money. And if you're going to put the kind of restrictions on us as you have over the past few years, it makes it difficult for us to deliver a quality education. And that's what you want us to do--I hope you do; I'm sure you do. And that's what we all want to do. So it seems to me that the foundation of our system is a partnership between you and us, as the local board members, and do the best we possibly can in sharing information and trying to find out where the problems are and to solve those problems together and not be in an adversarial relationship, which seems to be where we're heading towards. So I hope that you'll consider the free flow of information, which, to me, the lobbyist provides for us. It's a more efficient way for us to do that than for me to release my superintendent to be down here. And it's important to be on-site. You know, I'm a pastor; I do a campus ministry, and that's a big issue with campus ministry. I've got people in my church who think that we can somehow have campus ministry set off in a local church and deal with it. You can't do that, because you need somebody on campus. Same issue here. If you're going to have some sort of information flow and impact on what's going on, we need to be here. And my superintendent can't do that, but a lobbyist can. So I hope you consider that when you consider this bill. Thank you. [LB741]

SENATOR ADAMS: All right. Questions? Thank you then. Next opponent. [LB741]

ALAN KATZBERG: I'm Alan Katzberg, K-a-t-z-b-e-r-g, executive director of the Nebraska Rural Community Schools Association, aka, NRCSA. I'm not sure I'm in the right place after listening to the testimony today. There are points made by those proponents and points made by the opponent that I certainly agree with. But I would like to share the information about our organization and how we're involved in this matter. Our organization consists of approximately 175 school districts, which means we have about 175 superintendents involved in our organization. And if it's difficult for the superintendent of Papillion-La Vista to be here, it certainly is difficult for superintendents in our size school districts, where most of the districts have three or fewer administrators--in many cases two and in some cases one--to spend any amount of time down here at the Legislature. And I concur that it's important for them to be here to be well informed. Our organization--NRCSA--hires a lobbyist. And some of my concerns

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

Education Committee
January 25, 2010

have been addressed by the proponents and opponents that that's not the issue, that dues-paying organizations would not be affected by this bill. One hundred seventy-five school districts...I'm concerned about some of the numbers that have been thrown out here that lobbyists are being paid; I'm afraid our lobbyist is going to be coming back for a significant increase, and that concerns me a little bit. Not really; that's tongue-in-cheek. But if you average out what we spend on lobbying fees, we're at about \$150 a school district spending on lobbying fees. So we're not. But I would also agree with the point that was made--as an association, we cannot get involved on every activity. To no one's surprise, 175 school superintendents do not agree on every issue that comes before the Legislature. So we have to, again, stress and coordinate providing information, both from the Legislature to our members and from our members to the senators. And that's what we attempt to do in a very efficient and effective manner. Obviously, distance is another factor that our members deal with. So our members are from Benkelman to Stanton, from Crawford to Falls City, and it's a significant difference for them to be here. So coming down to testify, would be involved for half a day--just doesn't happen, because it takes them a day or two to get here and return home. The other thing that comes to mind as I listen to the testimony today is that if these concerns are real that have been identified--large versus small--I don't see that this bill addresses the issue. Not calculating the cost of lobbying in the calculation of the GFOE doesn't seem to me to address many of the issues. Having said all that, I conclude my testimony, and I thank you for your time. [LB741]

SENATOR ADAMS: Thank you, Alan. Are there questions for Alan? Senator Haar. [LB741]

SENATOR HAAR: Since you hire a lobbyist to work with your organization, what do you see the difference between providing information and putting pressure? [LB741]

ALAN KATZBERG: Well, in our situation as an organization, I don't say we ever try to put pressure. We try to tell our story; it is our goal to speak for rural education. We have to tailor our testimony so that it fits most if not all of our school districts. So where...if an individual school district...in my opinion, it would be easier to lobby for an individual school district than it is for 175 school districts and trying to fit the testimony and tell the story of all districts, when there are 175 different stories out there. [LB741]

SENATOR HAAR: So there's the one end of telling stories to us. How do you use your lobbyist the other direction? [LB741]

ALAN KATZBERG: We...that's a good question; I thank you. We are a member-driven organization, so not only do we meet and pass information from the school districts to our lobbyist. Matter of fact, tomorrow we have a legislative committee meeting involving two representatives from each of our six districts. Our lobbyist will be there to provide information that was--the latest information coming from the Legislature and interpret

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

Education Committee
January 25, 2010

that, condense it, synthesize it so that it's understandable, answer questions from them. [LB741]

SENATOR HAAR: Um-hum. [LB741]

ALAN KATZBERG: So it is a two-way street. But we are membership-driven, so our members give us our marching orders, so to speak. [LB741]

SENATOR HAAR: Thank you. [LB741]

SENATOR ADAMS: Other questions? Thank you, Alan. [LB741]

ALAN KATZBERG: Thank you. [LB741]

SENATOR ADAMS: Next testifier. [LB741]

JOHN WURDEMAN: (Exhibit 4) Senator Adams and members of the committee, my name is John Wurdeman, W-u-r-d-e-m-a-n, and I am a board member of ESU 7 in Columbus and immediate past president of Nebraska Association of School Boards. And our concerns are: while we anticipate no direct impact on statewide membership associations, such as NASB, as a result of LB741, we're concerned that the message that is being sent, which is--and that message would be that the ability of school districts to hire or contract for the help of lobbyists to represent their interests in the public forum is not to be considered a reasonable and necessary operating expense. We believe the lawmaking process in Nebraska is a participatory one: all parties should have the ability to represent their viewpoints within the halls of the State Capitol. Even if you are part of a public entity--and in many cases, especially if you are part of a public entity--the right to represent and promote your point of view is important to the deliberative process of making state policy. Lobbyists are an integral part of that process, along with school board members and school employees. Since only schools are targeted in this bill, the pointed nature of the message seems to be that the schools which have chosen to represent themselves with a contracted lobbyist are spending resources in a way that is not an allowable operating expense. NASB and other state organizations are here to represent our collective membership on a number of issues. But on issues that involve state aid redistribution and school district reorganization, we are often caught in a dilemma where our individual members are winners and losers, and, as such, we are unable to advocate for particular interests in each of these issues. This bill will not eliminate education lobbyists, just as a previous year's bill aimed at legal services didn't stop districts from representing themselves. But the trend continues to point toward more state-level prescription for local school spending. In addition to this bill, for the second year in a row there's a bill before the Legislature to make sure boards use 65 percent of their resources on, quote, direct classroom expenses. NASB, in the face of this trend, continues to believe that locally elected officials should have some control

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

Education Committee
January 25, 2010

over their budgets and representing their interests in the state-level policy discussions is a bona fide use of their funds. I guess I'd like to at this time address a couple issues that have been raised earlier. Senator Sullivan, you talked about how NASB dues are paid and what portion of those would be--where the funds come from, from local school districts. Well, certainly, some districts are equalized; some aren't. So, you know, some of it certainly would come from state aid funding, and some of it would be from...I mean, it's a blended general fund expenditure. And our executive director is a registered lobbyist, so I think this bill certainly raises the issue of whether that could limit or restrict that in any way or if it would apply to that. And that's certainly a concern of ours. And Senator Adams, you raised the question about whether we would be--whether this could potentially limit or restrict a smaller district, and I would certainly agree with that concern. I previously was on a medium-size school board, Lakeview Community Schools, rural Columbus, and I have appeared a few times before this committee on behalf of Lakeview, and I personally don't mind doing that. When I appear, my board salary is doubled for appearing before you on a hearing. But I certainly...larger schools are not the only ones that hire lobbyists. And Lakeview has what I would consider to be a minor line-item budget item for the ability to hire lobbyists, and they oftentimes combine those resources with other similar-size schools with similar interests, to hire somebody to represent their interests, in addition to their membership in NASB. With that, I conclude my testimony. Are there any questions? [LB741]

SENATOR ADAMS: All right. Are there any questions? I guess not. Thank you, sir. [LB741]

JOHN WURDEMAN: Thank you. [LB741]

SENATOR ADAMS: Next opponent. [LB741]

MARION McGEE: Do you have a sheet I could fill out? [LB741]

SENATOR ADAMS: The page will get you one. [LB741]

MARION McGEE: Thank you. I'm Marion McGee; I'm from the Lexington Public Schools, M-c-G-e-e. I'm here talking about a lobbyist. Our school district is unique. We try to keep up with what's going on. We're 175 miles west of here. We can't have somebody from our district in Lincoln at all times. And it seems like the Legislature moves rather rapidly, and sometimes we're not aware of what's going on. We have about a...I'm going to give you real specifics of our particular school district and how it affects us. We have a \$41 million operating budget; 50 percent of that, or \$19 million, comes from state aid; \$6 million comes from local effort; and the balance comes from the feds and grants. Now, when you start talking about how we're going to--which portion comes out of TEEOSA, we can probably adjust where this...we spend \$15,000 for a lobbyist here on a full-time basis. He's a professional lobbyist; he represents other

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

Education Committee
January 25, 2010

interests, but he does keep us informed as to what's going on down here; so we have an opportunity to, at least for the superintendent and other members of the board, to come down and visit with the Legislature. If you'll figure out what \$15,000 is as a percentage of \$41 million, you're going to find that it is 1 percent of 1 percent, which is a relatively insignificant number. And I'm not sure that it comes from state aid or any other particular item. If we were to have our superintendent down here...we have a school to run, and I'd be very unhappy, as would Dan and some of the others, if our superintendent spent all his time down here and not working our interest as to what's going on at our local district. We're...the 175 miles involves five hours of travel: two point five down, two point five hours back. How much time can we afford to have somebody down here on an all-time basis to see what's going on? And we think a \$15,000 expenditure is a relatively minute amount to have someone keep us informed of what's happening on a day-to-day basis. I have no other comments. If you have questions, I'd be glad to answer, because we're a unique school district. We need to...and it is a high percentage of our budget. We want to keep informed of what is happening in the Legislature. [LB741]

SENATOR ADAMS: Are there questions for Marion? Senator Haar. [LB741]

SENATOR HAAR: You're on the school board, sir? [LB741]

MARION McGEE: I am a school board member, yes. I've been on it for about 20 years. I spend considerable time down here. I'm a past president of the GNSA. I have been involved in...I'm on the legislative committee. I have a real interest in the Legislature, to be honest with you. And I am a farmer, so at harvest time and...I'm still harvesting corn, so I really don't have an opportunity to get down here yet. [LB741]

SENATOR HAAR: So what do you--in your eyes, what do you see as the purpose of a lobbyist down here? [LB741]

MARION McGEE: I see our lobbyist as the go-between for our district to provide information to you and for him to provide information to us as to what's going on in the Legislature, in your committee, and where we're at in progress in terms of TEEOSA or other things that affect our district. Not only TEEOSA, but there's a million other things that--not a million--but there's a great number of other things that affects our district in several different ways. [LB741]

SENATOR HAAR: Thank you. [LB741]

SENATOR ADAMS: Other questions? Yes, Senator Howard. [LB741]

SENATOR HOWARD: Thank you. (Laugh) [LB741]

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

Education Committee
January 25, 2010

SENATOR ADAMS: I...my peripheral vision is starting to weaken. Go ahead. [LB741]

SENATOR HOWARD: Thank you, Chairman Adams. Well, looking across this sheet, yes, indeed, you did pay--you did hire a lobbyist at \$15,200. But you didn't have one in 2005; you didn't have one in 2006. [LB741]

MARION McGEE: That's correct. [LB741]

SENATOR HOWARD: You didn't have one in 2007. [LB741]

MARION McGEE: That's correct. [LB741]

SENATOR HOWARD: You didn't have one in 2008. [LB741]

MARION McGEE: That's correct. [LB741]

SENATOR HOWARD: But this year you had one. Where'd the money come from? [LB741]

MARION McGEE: It actually came...we...the school board itself--we had a retreat and decided that we needed to have more information on what was going on at the Legislature, and it was our decision that we would take it from the general budget at that time. Now, whether it's coming from the local taxpayers or whether it's coming from TEEOSA or whether it's coming from some other source, I can't answer you. [LB741]

SENATOR HOWARD: Well, when you didn't have a lobbyist, where'd the money...what was the money used for then? [LB741]

MARION McGEE: Pardon? [LB741]

SENATOR HOWARD: Well, when you didn't have the--didn't see the need to put the money out for a lobbyist, was that money used for something else? [LB741]

MARION McGEE: I can't answer you. [LB741]

SENATOR HOWARD: Or did you just have a big bank account? [LB741]

MARION McGEE: Yeah, I just...(laugh) [LB741]

SENATOR HOWARD: You're pretty well off out there in Lexington, huh? [LB741]

MARION McGEE: We are financially secure. [LB741]

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

Education Committee
January 25, 2010

SENATOR HOWARD: Oh, good to know. Thank you. (Laughter) [LB741]

SENATOR ADAMS: She may use that against you. [LB741]

SENATOR HOWARD: Yeah. Check, check. [LB741]

MARION McGEE: Yeah, I know you're going to use it against me, but at the same...actually we're not as--we're not putting pressure on to get more money; what we're trying to do is keep track of what's going on down here. And we felt like things were moving in a different direction, and we were losing track of really what was going on, if you follow...with the...and TEEOSA is one of the real questions that we had because of our poverty level. And there's so many facets to TEEOSA that we as school board members try to figure out, but I get lost. [LB741]

SENATOR ADAMS: Senator Cornett. [LB741]

SENATOR CORNETT: I just want to clarify. As a member of the school board, you feel that that expense for a lobbyist is justified in that you'd prefer to have your superintendent in your school district, correct? [LB741]

MARION McGEE: Very much so, yes. [LB741]

SENATOR CORNETT: Rather than have his time... [LB741]

MARION McGEE: We would spend considerable amount of time for him to...it's five hours... [LB741]

SENATOR CORNETT: Um-hum. [LB741]

MARION McGEE: ...for him to come and go. [LB741]

SENATOR CORNETT: And you'd have to pay travel expenses. [LB741]

MARION McGEE: Plus the time and the expenses and the hotel expenses and...part of his responsibility also is to run the school and maintain the public relations in the community, with the activities and all the other things that are going on. [LB741]

SENATOR ADAMS: Senator Haar. [LB741]

SENATOR HAAR: Yeah, one other question. Are you one of the larger schools, because I'm really not sure; I know Lincoln and Omaha are really up there. [LB741]

MARION McGEE: We are about a 3,000-student school. We're about--between 75

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

Education Committee
January 25, 2010

percent and 80 percent poverty and minority. [LB741]

SENATOR HAAR: Wow. Okay. [LB741]

MARION McGEE: Now, we're the...how do you say 75 percent minority? I think it's the other way around, you know? [LB741]

SENATOR HAAR: Gotcha. Yeah. [LB741]

SENATOR ADAMS: Other questions? [LB741]

SENATOR ASHFORD: Yeah, I...just a comment. You do a great job; I've spent some--couple--been out there a couple of times in the last year or so, working on some of these issues that affect Lexington. And it is incredible the work you do, so you should be applauded for...no matter what we do with lobbyists, you do a great job in Lexington. And you have a very unique situation in the state and have handled it really well. [LB741]

MARION McGEE: I'm extremely proud... [LB741]

SENATOR ASHFORD: Yeah. You've done a good job. [LB741]

MARION McGEE: ...of Lexington... [LB741]

SENATOR ASHFORD: You've done a good job. [LB741]

MARION McGEE: ...and I appreciate your comments. [LB741]

SENATOR ASHFORD: You've done a good job. [LB741]

MARION McGEE: We were probably one of the first bigger schools that had one-to-one from seventh grade on. [LB741]

SENATOR ASHFORD: Yeah. [LB741]

MARION McGEE: Every student in our seventh grade-plus has a computer. [LB741]

SENATOR ASHFORD: Well, I mean, and the way that, to me, the way that you have brought in this population of people that 20 years ago--25, 30 years ago--weren't in your community and have done that with the class that you've done it is... [LB741]

MARION McGEE: Thank you. [LB741]

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

Education Committee
January 25, 2010

SENATOR ASHFORD: It's a lesson to our state, I think, really. [LB741]

MARION McGEE: I was on the board when we had 1,300 students, and we're now sitting at 3,000. [LB741]

SENATOR ASHFORD: Well, you've... [LB741]

MARION McGEE: And that 1,300... [LB741]

SENATOR ASHFORD: You've gone through some amazing... [LB741]

MARION McGEE: ...was homogeneous. [LB741]

SENATOR ASHFORD: ...changes, and I really applaud your efforts. [LB741]

MARION McGEE: Thank you. I appreciate that. [LB741]

SENATOR ADAMS: Are there other questions? Thank you, Marion. [LB741]

MARION McGEE: Thank you. [LB741]

SENATOR ADAMS: Appreciate it. Other opponents. Any more opponents? Neutral testimony. Any neutral testimony? Senator Avery, you're at bat for closing. [LB741]

SENATOR AVERY: Thank you, Senator Adams. My concern here is not with how lobbyists do their work or how much they earn or how many we have, whether we have too many. My concern is how we use state aid dollars. I believe that the \$2.1 million that we've talked about here that goes to pay lobbyists ought to go to classroom instruction. And the previous testifier indicated that, in response to Senator Howard, they didn't have a lobbyist in the previous years and confessed that they were doing quite fine. But now they've hired a lobbyist and probably pay for that lobbyist out of general funds, that is to say, TEEOSA money. I wish we'd gotten a real good answer as to where that \$15,000 had been spent before that. My guess is it probably came out of classroom instruction. That's really the issue: How are we going to spend our scarce tax dollars? Whether we're going to be spending those tax dollars to pay lobbyists to come down here to give their district a little bit of an edge over another district--and primarily these are the wealthier, larger districts. And you heard testimony about the equity issue. Whether we're going to use that money to pay lobbyists or whether we're going to put it in the classroom. I think it's time we put an end to putting scarce tax money into paying lobbying fees and put it back in the classroom where it belongs. Thank you. [LB741]

SENATOR ADAMS: Thank you, Senator Avery. Any final questions for the senator? If not, that will close the hearing on LB741, and we will proceed on to the last bill of the

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

Education Committee
January 25, 2010

day, LB916. Senator Heidemann, your timing is perfect, as always. [LB741]

SENATOR HEIDEMANN: I appropriate just the right amount of time. (Laugh) Ready? [LB916]

SENATOR ADAMS: Fire away. [LB916]

SENATOR HEIDEMANN: Senator Adams and members of the Education Committee, I am Senator Lavon Heidemann, spelled H-e-i-d-e-m-a-n-n, representing District 1 in the southeast corner of the state. I am here today to introduce LB916. LB916 would allow the Board of Educational Lands and Funds to authorize leases for the production of solar or wind energy on school lands. The terms and conditions of the leases as well as the duration of such a lease shall be determined by the board, although the initial term shall not exceed 40 years. LB916 also grants an exception from the public auction process when the Board of Educational Lands and Funds enters into leases with electrical generation companies. If you are thinking this sounds familiar, it does. LB916 is the same language that was amended into LB235 two weeks ago on the floor of the Legislature through an amendment by Senator Adams. I introduced LB916 as a backup in case LB235 becomes bogged down on the floor of the Legislature. Ten wind development companies have been dealing with the Board of Educational Lands and Funds. The board has a preliminary agreement with the company to test wind capacity in Banner County. They also have preliminary wind testing agreements or interests in such agreements in nine counties, including one in my legislative district. According to projections estimated by the company for the Board of Educational Lands and Funds involving approximately 80 acres of school lands, the projected revenue over a 50-year period would be more than \$3 million. We have a small window of opportunity to capitalize on a new source of revenue for education in Nebraska; I think it's imperative that legislation is passed this year giving authority to the Board of Educational Lands and Funds to enter into long-term leases for the development of wind or solar energy on school lands. If you have any questions, I'd be happy to answer them. I understand this mirrors something that's on Select File right now. Because I do have a wind group that's putting up wind towers up on--in Richardson County, I have a lot of interest in this. I am a true supporter of LB235, and it's my hope that that moves forward, and at that time this bill won't be needed. [LB916]

SENATOR ADAMS: Thank you, Senator Heidemann. Are there questions from the committee? Thank you, Senator. Do you want to reserve to closing? Thank you, sir. [LB916]

SENATOR HEIDEMANN: Thank you. [LB916]

SENATOR ADAMS: We would open for any proponent testimony. [LB916]

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

Education Committee
January 25, 2010

JOHN BONAIUTO: Senator Adams and members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o. And we would support the fact that this is a bill that may or may not be needed. But it is a concept that Senator Heidemann talked about this morning to my members at our conference--and how important it is that we look to the future and take a look at what options and what resources that we have not tapped that we're going to need to tap in the future. And so this provides something that will, I think, be very important to school districts. So with that, I will conclude my testimony. [LB916]

SENATOR ADAMS: All right. Thank you, John. Are there questions for John? Thank you then. [LB916]

JOHN BONAIUTO: Thank you. [LB916]

SENATOR ADAMS: Next proponent. [LB916]

JERRY HOFFMAN: Chairman Adams, committee members, my name is Jerry Hoffman, J-e-r-r-y H-o-f-f-m-a-n. I represent the Nebraska--thank you--the Nebraska State Education Association, and we are in favor of LB916, as we are also in favor of LB235. The ability to raise revenue from alternative energy sources on school lands is always a favorable thing to be able to do. We also would submit that our interest is in seeing that the revenue generated from wind and solar energy is placed into a trust fund or a teacher compensation fund, as you might find referenced in Senator Haar's bill LB1014. That's at least the future direction in which we would like to see the revenue from the lease be spent in future years. With that, I'd be happy to entertain any questions that you might have at this point in time. [LB916]

SENATOR ADAMS: Thank you, Jerry. Are there questions for Jerry? Thank you then. [LB916]

JERRY HOFFMAN: Thank you. [LB916]

SENATOR ADAMS: Any other proponents? All right. Opposition testimony? Seeing none, we'll move right to neutral testimony. [LB916]

JESSICA KOLTERMAN: Senator Adams and members of the committee, for the record my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I'm here today testifying on behalf of Nebraska Farm Bureau Federation, where I serve as the director of the PAC and state governmental relations. Basically we just wanted to appear in a neutral capacity today because we don't have any specific policy on this, but we've worked with Senator Adams on his bill and are supportive of the changes he's made and appreciative of him being able to work with us on that. We've also visited with Senator Heidemann and understand his intent. We're supportive of wind energy development and solar energy development in the state of Nebraska, and we just wanted the

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

Education Committee
January 25, 2010

opportunity to go on the record and say, as this moves forward, if there's concerns that arise, we'd be happy to visit with you and work with you on that. [LB916]

SENATOR ADAMS: Thank you, Jessica. Appreciate your testimony. Are there questions for Jess? Seeing none, then thank you. [LB916]

JESSICA KOLTERMAN: All right, thank you. [LB916]

SENATOR ADAMS: Is there any other neutral testimony? Seeing none, you've waived closing, Senator Heidemann? Then that will conclude the hearings for today. Committee, could you stick around for five to ten minutes is all today? [LB916]