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Education Committee
January 26, 2016

[LB781 LB826 CONFIRMATION]

The Committee on Education met at 1:30 p.m. on Tuesday, January 26, 2016, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB781, LB826, and a gubernatorial appointment. Senators present: Kate Sullivan, Chairperson; Rick Kolowski, Vice Chairperson; Roy Baker; Mike Groene; Bob Krist; Adam Morfeld; Patty Pansing Brooks; and David Schnoor. Senators absent: None.

SENATOR SULLIVAN: Welcome to the Education Committee. I'm Senator Kate Sullivan, Chair of the committee, from Cedar Rapids, and I represent District 41. I think most of our committee is rolling in. One of them is going to be a little late because he's got another commitment, but I would like to have those who are here introduce themselves, starting with the vice chair.

SENATOR KOLOWSKI: I'm Rick Kolowski from District 31, in southwest Omaha. Thank you.

SENATOR PANSING BROOKS: I'm Patty Pansing Brooks from District 28, right here in the heart of Lincoln.

SENATOR BAKER: Roy Baker, District 30: Gage County, part of southern Lancaster County.

SENATOR KRIST: Bob Krist, District 10.

SENATOR MORFELD: Adam Morfeld, District 46, northeast Lincoln.

SENATOR SULLIVAN: We have two staff...three staff right now, that are here to assist us. To my immediate left is LaMont Rainey, one of the education counsel...or the legal counsels for the Education Committee. Let's see, how do I describe it? To...the committee clerk on the far right is Mandy Mizerski, and to her left is Tammy Barry, the other legal counsel for the Education Committee. We also have two pages helping us today: Brooke Cammarata from Omaha, a student at UNL, majoring in advertising and political science; and Caitlin Welty, also from Omaha, a student at Wesleyan, majoring in political science. Today, we have...we are going to start out with an appointment that we're going to hear, and then followed by two bills: LB781 and LB826. So if you are planning to testify, I ask that you please pick up a green sheet that's on the table at the back of both entrances to the room. If you do not wish to testify, but would like your name entered into the official record as being present at the hearing, there's a separate form on the table that you can sign for that purpose. Regarding the green sheet, we ask that before you testify please spell it out and print, and it's very important to complete the form in its entirety. When you come up to testify, simply give that green sheet to the committee clerk. If you have

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handouts, please make sure you have 12 copies for the pages. And when you do come up to testify, please speak clearly into the microphone, tell us your name and spell both your first and last name to ensure we get an accurate record. Perhaps this goes without saying, but we ask that you please turn off cellphones, pagers, or anything else that makes beeps so that we can give attention to the testifiers. The introducers will make the initial statements, followed by proponents, opponents, and those speaking in a neutral capacity, and closing remarks are reserved for the introducing senator only. We will be using the light system for all testifiers today, and that will mean five minutes for the initial remarks, the yellow light will come on when there's one minute remaining, and the red light means that you need to wrap it up. So without further ado, we will start. As I indicated, we are dealing with an appointment of Stan Carpenter to the Nebraska Educational Telecommunications Commission. And so to that end, we'd like to hear from Mr. Carpenter. Welcome.

STAN CARPENTER: (Exhibit 1) Thank you, Chair Sullivan and members of the Education Committee. My name is Stan Carpenter, S-t-a-n Ca-r-p-e-n-t-e-r, and I'm the chancellor of the Nebraska State College System, and I'm here today about a confirmation hearing to serve on the NET Commission. Very briefly, I served on the NET Commission from about 2004 to 2012, and served as the chair of that commission for 2008 and 2009. It's an organization that I believe strongly in and that I think serves the state of Nebraska exceptionally well. And I would be very pleased to serve on that commission again. And I would be happy to answer any questions you might have. [CONFIRMATION]

SENATOR SULLIVAN: Thank you, Mr. Carpenter. You and I were visiting before the hearing started, and you indicated that via statute there's a strong education representation on the board. Can you elaborate on that a little bit more? [CONFIRMATION]

STAN CARPENTER: There is. As I remember reading the statute many years ago, obviously the University of Nebraska President serves on the commission, but generally he has a designee. The commissioner of the state of...education in the state of Nebraska serves on the commission. There's a representative from the community colleges and there's a representative from the state college system as well. Curt Frye was president at Wayne State College and served in this chair, the chair that I'm seeking to fill, until he retired this last summer, and that's when I asked the Governor to reappoint me to the commission. [CONFIRMATION]

SENATOR SULLIVAN: What particular I guess aspects or perspective do you think you can bring to the board, not only from your position with the state colleges, but also just education in general? [CONFIRMATION]

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STAN CARPENTER: Well, I think as I think about the NET, it is obviously a very important statewide organization. It reaches all corners of the state from southeast Nebraska to the northwest corner and vice versa from the opposite ends. And I think that in a similar vein as I think of the State College System, which is a statewide organization in the university and the community colleges as well. So I think we can find ways to think broadly and have us serve the state, and understand how we can interact in serving the state. And it's an important thing for us, education, to make sure that we are helpful to the commission in any way we can be and provide whatever services that we can to them and also what they can bring to our students as well. [CONFIRMATION]

SENATOR SULLIVAN: Any other questions for Mr. Carpenter? Senator Krist. [CONFIRMATION]

SENATOR KRIST: Thank you, Chair. And just a thank you from the Legislature's perspective on the handling of our televised sessions and the kind of working relationship that you have with the clerk's office. We really appreciate that. [CONFIRMATION]

STAN CARPENTER: Well, thank you, Senator. I think the commission does a terrific job and I very much enjoy sitting in my office and watching the Legislature both in the morning and the afternoon hearings as well myself. [CONFIRMATION]

SENATOR KRIST: Thank you. [CONFIRMATION]

STAN CARPENTER: Thank you. [CONFIRMATION]

SENATOR SULLIVAN: Senator Kolowski. [CONFIRMATION]

SENATOR KOLOWSKI: Thank you, Madam Chair. Dr. Carpenter, what ideas would you have on helping to connect the state even more than we have as far as the curriculum and meeting the instructional goals and desires of the parents and state as a whole? [CONFIRMATION]

STAN CARPENTER: Well, I think, Senator, the commission, the NET itself does a lot of local broadcasting and local production, both of educational materials as well as high school sports and college sports. I think we can always do more of that. And I think that what we can talk about in the commission with the staff and with Mark Leonard is what they're seeing and hearing when they're out there. And how can we, as purveyors of higher educational opportunities, if you will, do to make that known in the state and also help the commission deliver information to

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students in the junior high school and high school and even younger, to understand what, from my perspective, importance of a higher education is all about? [CONFIRMATION]

SENATOR KOLOWSKI: Thank you. [CONFIRMATION]

STAN CARPENTER: You bet. [CONFIRMATION]

SENATOR SULLIVAN: Any other questions for the chancellor? Thank you very much. [CONFIRMATION]

STAN CARPENTER: Thank you. I appreciate the opportunity. [CONFIRMATION]

SENATOR SULLIVAN: Is there anyone present wishing to speak on this appointment? All right, this closes the hearing on this appointment. We will now move on to bill introduction, starting with LB781. [CONFIRMATION]

SENATOR SULLIVAN: Welcome, Senator Schumacher. [LB781]

SENATOR SCHUMACHER: Thank you, Senator Sullivan, members of the Education Committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature. And when billionaires speak, I listen, and in hopes of maybe they will slip up just a little bit and let their secret out. Well, a couple years ago, George Soros delivered a eight-hour series of lectures at the Central European University in Budapest. And he explained he's getting up in years and he's a bit of a philosopher--or at least he fancies himself being one, and he explained his secret. And his secret was a thing he called reflexivity. And basically, if you've got the means to do it, you position yourself in a position to watch the landscape and then you do something totally unexpected. A twist not quite thought of before, not having the foggiest notion of how it's going to come out. And as the ripple effects of whatever you do happens, you watch for opportunities and then you seize those opportunities. Well, this is my George Soros bill for the year, and it arises out of a phenomena that I've observed since I've been on the Revenue Committee, for about five years now, and also just observed generally in the system. Almost every year, the Revenue Committee gets a version of a bill...I think Senator Krist has got one in there now, in which the private schools, principally the parochial schools, make a request for some type of voucher, some type of deduction, some type of credit, some mechanism for the delivery of financial aid to the parochial schools. And the argument that they make is rather a good argument, and the argument is basically that they provide a good alternative mechanism for education, that they do it in a very efficient manner, they save the taxpayers a lot of money, and times are tough, and so they'd like some help. And it comes in different flavors, but that's the

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general gist of the argument. And almost every year, the same result: the suggestion goes nowhere. And veiled in that suggestion often is an implicit, you know, if times get tougher, we may have to curtail services, curtail classes, close schools. And so begin to think about that and you say well, what if they did? What if they did? Are we ready, is any particular district ready? Because as a practical matter, those bills don't leave the Revenue Committee because we have a hard time enough supporting one school system, let alone multiple school systems. And everybody enjoys a good free lunch, and that's what the parochial schools provide as long as they stay open. And there's also some misgivings arising out of support for religious institutions. So all those things, you know, make it highly improbable those bills will get very far. And even if they got out of committee, you can imagine what would happen on the floor is they would be discussed--highly controversial. And I asked during the committee--the joint Revenue and Education Committee, I believe, a couple of the testifiers, you know, whether they had actually looked at the situation of what happened if a parochial school would close, are they ready? And something kind of the farthest from your mind. And there's no real straight answer. They aren't ready. So what this bill does is it says assess your situation. What if a day before you open school you got word that there was a terrible drought and the money wasn't there and the parochial school burned down or for whatever reason it wasn't going to be available and you'd be prepared. If you've got plenty of staff and plenty of facilities to absorb them, you're fine. Otherwise, you just squirrel away some money. Arbitrarily, the bill says I think 75 percent of what it would take to absorb the kids on a fairly quick basis. Or you can buy some insurance, and the insurance is in the form of a contract in which you would pay to the parochial school a sum of money for a guarantee that they would stay open for a period of time...I think the bill says three years, but there's nothing magic about that...and give you fare warning if they were going to close. And part of the madness is just to get an idea what do they save the system? And kind of disappointing, but the fiscal note just said a whole lot. And even if the state has to contribute just 50 percent of that insurance--lack of a better word, it would be a lot. We don't know how much, but a whole lot. So that being the case, is it a bad policy to not know the consequences of what would happen in a setting where a major parochial school would close for whatever reason? What are our levels of preparedness? And so I introduced the bill, got a fiscal note that I knew would be big, but unfortunately it's unplotified (phonetic). And kind of interesting to hear the discussion, because this is a discussion I haven't heard from either the parochial school side or from the public school side. So that's the opening that I bring to you and that's the bill I bring to you. [LB781]

SENATOR SULLIVAN: Thank you, Senator Schumacher. With respect to that discussion, in preparation for this bill, but also what you may or may not know about discussions that have taken place between parochial schools and public schools, are you aware of any relationship building that is currently undertaken? [LB781]

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SENATOR SCHUMACHER: I think that there's lots of relationships that are built between where you have a significant parochial school and a significant public school: Humphrey comes to mind, for example. There's an intense rivalry between the two, but they talk. But you know, the parochial school doesn't necessarily control its fate, particularly if you'd have a calamity of some kind, or a drought, or some decision making on high that...an archdiocese or something might feel, look we're going to remove our emphasis from secondary schools and put them into K-12 or vice versa. So basically, right now I don't know of any particular case where this is in danger of happening, but at the same time, it is a contingency that should at least be discussed. [LB781]

SENATOR SULLIVAN: And without this bill, and under current circumstances, what would happen? [LB781]

SENATOR SCHUMACHER: I would guess the kids would be told the public school is across the street, that's where you're going to go. And I don't know what would happen. [LB781]

SENATOR SULLIVAN: And what would the public school have to do? [LB781]

SENATOR SCHUMACHER: Well, they would probably have to expand their facilities really quick, they would probably have to find some teachers. They might have to, if it's a big enough school, go to teaching shifts where there would be two shifts in a day. They might have to bring in some...what do they call...portables, those portable classrooms. I mean, you'd have to move pretty quickly. [LB781]

SENATOR SULLIVAN: Or the other extreme. In some situations in some communities the transition might be quite easy, would you admit that? [LB781]

SENATOR SCHUMACHER: It might be very easy. I was talking to the superintendent in Columbus the other day about it, and he thought it was kind of a novel little bill. He says well, fortunately, we just built a new high school, so we got plenty of room. It wouldn't affect us. [LB781]

SENATOR SULLIVAN: What about, under those three options, the...you'll have to help me flesh out what it requires, but where the public school would actually be paying the private school. Doesn't that have the potential to open up kind of a real can of worms? [LB781]

SENATOR SCHUMACHER: Well, you're buying insurance. You're buying, I mean, the private school doesn't have any obligation to tell you ahead of time whether it's going to close or not. I

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don't think there's anything on the books that says there is such an obligation. So you're buying some insurance. So you're not really making a grant or a donation, you are basically saying look, we are going to pay you some money and you're going to guarantee us something. And so I don't think we have any great constitutional problems with that particular approach, even though it is...so it would be a source of finance for those schools and maybe accomplish the objective of moving money to them, if that's a worthy objective. [LB781]

SENATOR SULLIVAN: And the 50 percent that the state has to pony up would come from... [LB781]

SENATOR SCHUMACHER: Well, that would come from our next tax cut. [LB781]

SENATOR SULLIVAN: Any...Senator Krist. [LB781]

SENATOR KRIST: Thank you, Chair. Thank you, Senator "Soros" for bringing us this bill. And I'm really disappointed that my bill is not going to get out of your committee. I take that as a warning. When I was on a school board, a little-known school board in Omaha, Nebraska, for special needs kids in Madonna School, I suggested to the archdiocese that every school child and every parent in the Omaha area should three days prior to the beginning of a new school year go register for class at the Omaha Public School System, or whatever school system they were associated with. That obviously didn't go very well...or didn't go very far. I would disagree a little bit with Senator Sullivan's analogy that some might be able to absorb the number of students, at least when it comes to the metropolitan area. There's an incredible amount of students that are in the parochial system and private system in that area. And it is an inevitability--catastrophic inevitability, that we would have to provide an education for them for free, in a common school in the state. I applaud your academic discussion and I think that it's worthy of discussion and worthy of the mutual respect that I think the private, parochial, and public system have for each other, in terms of how they fit in. And to note for the record, the school systems that are run by the diocese, private schools are an incredible savings to the state across the board, and the efficiency that they are run through...and some of our academics will tell us oh, it's because they don't have unions, it's because they don't have...well, I'll grant you there are some reasonable accommodations that I will agree to, but it's still a child that is not in a public school or a common school of the state. So I applaud their efforts. And I just...why I'm making comments for anything that I've said. [LB781]

SENATOR SCHUMACHER: Well, I think we recognized an issue here that it will be very...I'm looking forward to listening to the testifiers here, because like Soros, I don't know what's going to be said. This certainly was not done with the aid and abettance of anyone out there. [LB781]

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SENATOR SULLIVAN: Senator Pansing Brooks. [LB781]

SENATOR PANSING BROOKS: I just...thank you, Madam Chair. And Senator Schumacher, thank you for bringing this. I think it's one of your mice forward. Again, times are tough. I've heard both good and bad about your friend from Budapest, Mr. Soros. And some people think of him as a really pretty good guy, almost royalty, and others don't care for him very much at all, so I think you could theoretically call him a "Tyrant Soros Rex." Sorry, just had to put that in there. [LB781]

SENATOR SCHUMACHER: He's got a few billion dollars, enough said on that. [LB781]

SENATOR PANSING BROOKS: Yeah, exactly. [LB781]

SENATOR SULLIVAN: Any other questions for the Senator? Will you be here for closing? [LB781]

SENATOR SCHUMACHER: I might. I'm looking forward to this. Thank you. [LB781]

SENATOR SULLIVAN: Yes. We'll now hear proponent testimony on LB781. Anyone wishing to speak in opposition to LB781? Welcome. [LB781]

JOHN BONAIUTO: Senator Sullivan, thank you. Members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, representing Nebraska Association of School Boards. And we read Senator Schumacher's bill with great interest, and Senator Schumacher and I had a visit earlier. And he introduces legislation that forces you to think about things, and this is one that as the public schools look at this, the public school boards serving their communities work closely with the nonpublic schools. And they're not in competition, they're not at odds with each other, they work hand in glove, recognizing and respecting that they each serve their community in that little different way and provide something that the community has interest in. So I think that from a school board's perspective...and I know that some of you are former school board members, you're close to what is going on in your community. It would not be a surprise to you if a nonpublic school in your community was having problems. There would be some discussions, some conversations, and some planning to figure out how to work things out and continue to serve the community. That's the way school boards and school districts operate, so we don't think that we need a law to tell us to work together. NASB is an association, has legal representatives, they house the counsel of school attorneys, they have staff that helps facilitate board training. And sometimes these discussions need help to facilitate how you move forward in a difficult situation or a time to come up with a viable solution. So I think that another part of the answer is

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that the School Board Association would be there to help that community. I know that the School Board Association is working with public school boards right now, facilitating discussions where there are some districts that are considering merging. Lastly, and I'm not going to pick pieces of the bill apart, but I do think that Senator Schumacher, you know, in his bill, when he talks about the reserves and putting 75 percent aside, well that's a lot of taxpayer money. But I think it makes the point that reserves for school districts are important. It's just like the state's rainy day fund, there are unanticipated expenses. I don't know what the right level is for a school district to have in reserve, but you need something. And if you don't have reserves...I know in Iowa they've gotten to the point where the schools have so little money set aside that they do tax anticipation notes, where schools are signing tax anticipation notes and borrowing money against their future taxes. That's just a common way that they do business, and we haven't had to go down that route here in Nebraska. So with that, that is my opposition testimony for the bill. And I'd be happy to answer any questions. [LB781]

SENATOR SULLIVAN: Thank you, Mr. Bonaiuto. Senator Krist. [LB781]

SENATOR KRIST: John, and this is legitimately because I'm new to this committee, but wouldn't...there have been several closures in my area in Omaha of private schools. And those children have been absorbed, not without paying, but they've been absorbed. But the way our current funding mechanisms are set up, your schools are funded in the arrears basically. So if you had a large school close, that burden would fall on that school district to absorb immediately. Is there any...you talk about reserves, is there any association plan to help absorb that on a larger scale? And I bring...I don't want to use a specific example, but I know that when in the Omaha area they had about 650 kids that were housed and educated by one school, and all of those went to OPS, and there were a lot of portable cabins that were removed. So how were they able to absorb that? How would you envision that? [LB781]

JOHN BONAIUTO: Well, in a larger district they may have a capacity where they're able to accommodate a little more effectively, but you raise a very valid point. It's that because the way we fund schools, not only do they have an issue funding something right now, but even if you had the money in reserves there might be problems spending it with the budget lids. And so there are a lot of pieces here that would have to be worked out in trying to make something like this work, and accommodating the expense would be one of them. [LB781]

SENATOR KRIST: So I would agree with you that forcing you to do something that you're already doing as a matter of management is maybe not the best, you know, local control, which I'm a proponent of. But is that kind of planning going on? Is the contingency planning that might be on the macro level suggested by this bill going on? [LB781]

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JOHN BONAIUTO: We...not in the nonpublic arena so much as in the public, when districts are trying to figure out whether they should be merging or consolidating with the neighbors. So those kind of discussions and how that all fits is happening right now, and will continue to happen. So but this is a new wrinkle because it adds a dimension that frankly we haven't had to face on a large scale, and would hope we would not have to. [LB781]

SENATOR KRIST: Thank you, John. Thank you, Chair. [LB781]

SENATOR SULLIVAN: Senator Kolowski. [LB781]

SENATOR KOLOWSKI: Thank you, Madam Chair. John, the style of that absorption is different in a rural area versus a larger metropolitan area--Lincoln or Omaha. Something happening in an Omaha environment, the dispersal of the students from school x that is being closed could go over quite a distance, you have the possibilities of busing transportation, putting kids in different schools by grade levels and doing all the others to help absorb that potential. Rural areas or small districts, small cities would be harder hit. But we have to use our common sense I think and you alluded to it a little bit, that closing wouldn't come as a shock. [LB781]

JOHN BONAIUTO: No, of course not. [LB781]

SENATOR KOLOWSKI: There would be a meeting of we're having difficulty a couple of years, and what's happening with x, y, or z school that's on the horizon. So any school district or superintendent would be probably aware of the coffee klatch discussions in the neighborhoods, the morning coffee shop, or the corner bar on a Friday night it's the topic of discussion. What are we going to do, how are we going to handle this, where are we going to go? So I don't think there's an ambush back there as much of this has hit us, we didn't see it coming because there's always the gradual we're having difficulties, where are we going to go, how many years can we hold on to this? So I think being realistic about, you know, how to absorb or how to see it coming has to have some eyes open about that whole aspect. How it gets handled or what you do as far as the amount of give back on the school district, reserves have been talked about, that's important to be able to dip into and use what you have available. And I would wonder if there's not some kind of emergency funding or overriding a board might be able to do if you don't have anything like that that could be done if there was an immediate dollar impact upon the operations of that school district. Would you comment to that? [LB781]

JOHN BONAIUTO: We would sure look at that and see what our options are in law and how that would be able to play out. And you know, we talk about having some of those types of provisions and you know, I don't know that we've been able to get any put in statute, but for emergency situations like this...with boards, they always like to have some lead time for

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planning. You know, they like to look at things and work them out. And if there was lead time, I think the discussions would be, you know, can we absorb some of the staff from the nonpublic school, could we lease some of the space for classrooms? There are a lot of discussions that would...you'll look at the best solution for that community. It would not necessarily have to be painful, but you just need a little time to make it happen in an orderly way, so it would have the least impact on the students. Because you don't want the students to feel like, you know, they're being put out in the cold. [LB781]

SENATOR KOLOWSKI: Thank you. [LB781]

SENATOR SULLIVAN: Senator Groene. [LB781]

SENATOR GROENE: Thank you, Madam Chairman...Chairperson. But in the reality in the state of Nebraska it's going the opposite way. I just read in the sports page of dads looking at these two girl basketball players in these two teams, I never recognized this school of this one player. In Lincoln here we have Lincoln Christian...I mean, this is happening everywhere. What about the reverse? I mean, what if a school district decided to stick its nose into how a child should be taught sexual behavior and we had a mass exodus from that school district? Should maybe we look at vouchers to help the Christian schools absorb all these students? It goes both ways. Because isn't that school, no matter where that child is going, fulfilling the state mandate that they receive a education...a instruction? [LB781]

JOHN BONAIUTO: Yes, and... [LB781]

SENATOR GROENE: Or shouldn't we maybe look at the other exodus? Which the pressure put on the private school, because of the actions of a local school district. [LB781]

JOHN BONAIUTO: Yeah, it does go both ways, Senator. And we've seen it go that...yeah. [LB781]

SENATOR GROENE: Thank you. [LB781]

SENATOR SULLIVAN: Any other questions for Mr. Bonaiuto? [LB781]

JOHN BONAIUTO: Thank you. [LB781]

SENATOR SULLIVAN: Thank you for your testimony. Welcome. [LB781]

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JON HABBEN: Good afternoon, Senator Sullivan and members of the committee. Pardon my voice, this is as good as it gets. My name is Jon, J-o-n, Habben, H-a-b-b-e-n, Nebraska Rural Community Schools Association. These discussions do occur, and I've been in a number of them during my career as a principal and a...well, as a teacher as well. And you're right, in the sense that the public school discussion between public schools tends to start in a more public way. And it does because you have very public board meetings and you have very public discussion. And it may actually take two, or three, or four years to go through that kind of a process. The private school, and you can see many of them across the state, where you have in a rural community a private school and a public school, and there may not be much difference in size between them. But they've been there for 100-plus years and they've always existed. But the reality, and I think this is what Senator Schumacher is trying to make a point of, the possibility always exists for a private school to close. I mean, it's no different than a public school. You can close a public school, but the decision among the supporters of the private school can be exactly the same. One of the differences I think though is when you have a privately funded school, you are dealing with a different set of stakeholders, in the sense that money isn't coming from tax dollars, it's coming from donors, tuition payers, all of that sort of thing. So you have a little different bent to the discussion. It could be something like the crop prices are terrible for the third year in a row and we can't keep this up, or it could be, as where I grew up, in north central Iowa, you simply had private schools closing so that they could better manage the resources of the community area in a single school. Now there's a variety of ways this occurs. We're against this bill because of the financial piece, this idea that you're, as Senator Schumacher said, purchasing insurance. But I think we're also against the bill in this sense: in a very formal planning requirement, you're going to have requirements about what the plan has to look like at some point. The question is is this a local discussion or is this a state-driven discussion? And I guess from our perspective, we've always seen these circumstances as their local discussions. And they're local because they're emotional, they're local because those are the folks that are contributing the funds through their taxes or through their donations. But that seems to make it much more of a local discussion on a better plane than formalizing the circumstance. I will tell you this is not a new idea. When I was superintendent at Newman Grove Public School some years ago, Senator Gene Tyson...I don't know if any of you remember him...from Norfolk, came to me one day and simply said, you know, seven miles away you've got a private school that's really shrunk on enrollment. What if they close tomorrow, what are you going to do? And quite honestly, I didn't have an answer. But it sure set me thinking about well, what would we do? Because those students instantly become public school students unless they would have chosen to go to the next private school over. But if they don't, they become public school students. And what you do about a large influx of students...yes, we have a student growth factor in the formula, but that year and the years catching up to it is a significant issue. But I don't think this bill really gets to that, because if you're struggling with resources or you're trying to hold taxes down, where are you coming up with the money to go do these things? So we're against the bill, but should public school superintendents and wards be thinking about this in places where maybe some of this discussion

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is occurring? Yeah, probably should be, because it is an issue that will fall on their shoulders. So in any case, that's all I have to offer. Thank you. Certainly stand for any questions. [LB781]

SENATOR SULLIVAN: Thank you, Mr. Habben. In your years with NRCSA though, have...in some of the rural communities where there have been small parochial schools, have any closed, and has that been an issue that you're aware of with the public school? [LB781]

JON HABBEN: Not that I'm aware of. There could have been maybe a parochial elementary that may have closed here or there, but as far as a high school, the only one I know of that closed might be Lexington, St. Ann's. Other than that, I'm not aware of a closure. [LB781]

SENATOR SULLIVAN: Okay, very good. Senator Baker. [LB781]

SENATOR BAKER: Thank you, Senator Sullivan. Mr. Habben, you know, we're trying to think through the impact if a parochial school, private school would close, and you heard the testimony that if it were in a large area they probably would be able to find a way to manage that. Would you think...and your organization represents a lot of the small districts, and some of those have parochial schools. But would it be generally true of them that the small schools you represent...now state of Nebraska enrollment has been declining significantly, so would it be possible they could absorb students into their existing facilities in many cases? [LB781]

JON HABBEN: I would say yes, particularly because with option enrollment you're not likely to get all of those students. That option is there and it might send kids in other places. But if the two schools are located in the community, you're probably going to have that desire to come to one school. And when you do that, gosh, that's a matter of where you are at in your circumstance. You know, has your enrollment been declining, do you have seats available in classrooms, don't you...have you recently reduced your teaching staff, would you have to grow it? You know, all of those things are a part of it. And different schools are in different circumstances. There was a time, when I first got to Newman Grove, the absorption of the neighboring private school, we couldn't have taken all their kids. But you look at that circumstance today, where the enrollment had dropped significantly, they could take all of those kids. It just depends on where you're at in that particular historical context. [LB781]

SENATOR BAKER: May I follow up? I was thinking that, you know, in the circumstances that you're aware of, where there's a parochial school and a public school in the same town, would it be likely that at least some of the students attending that parochial school would not be from that district? [LB781]

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JON HABBEN: Yes. [LB781]

SENATOR BAKER: So that would further make it more palatable to try to deal with the situation if... [LB781]

JON HABBEN: Well, it is. And in the circumstance that I was in at that time, there were students that came from outside of...because remember, the parochial school exists within a public school boundary...well, there were students from outside that boundary that came to that private school. [LB781]

SENATOR BAKER: Exactly. [LB781]

JON HABBEN: Entirely possible they would go back to their particular public school, sure. [LB781]

SENATOR BAKER: In fact, would have no right, without option enrollment, to remain in the public school district. [LB781]

JON HABBEN: Yeah, you'd have to option in. [LB781]

SENATOR BAKER: Right, thank you. [LB781]

SENATOR SULLIVAN: Senator Schnoor. [LB781]

SENATOR SCHNOOR: Thank you. Jon, you were a principal at Rising City? [LB781]

JON HABBEN: Superintendent. [LB781]

SENATOR SCHNOOR: Superintendent. Were there any parochial schools there? [LB781]

JON HABBEN: In Rising City? [LB781]

SENATOR SCHNOOR: Yeah. [LB781]

JON HABBEN: No. We had them in the vicinity, in Columbus and David City, but none existed in Rising City. [LB781]

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SENATOR SCHNOOR: Okay. And now Rising City is merged with Shelby. Did Shelby have any parochial schools? [LB781]

JON HABBEN: No. [LB781]

SENATOR SCHNOOR: Okay. Now Norfolk...or not Norfolk, I'm sorry, Humphrey. Is Humphrey Public Schools or any of those, are they members of NRCSA? [LB781]

JON HABBEN: Humphrey Public is. [LB781]

SENATOR SCHNOOR: Okay. Now within their school district, Humphrey is a Class D district, I think D-2...Humphrey Public Schools. And then you have Humphrey St. Francis, which is a private school, it's a Class D-2 school. Is that... [LB781]

JON HABBEN: D-1, D-2, they move back and forth. [LB781]

SENATOR SCHNOOR: Okay. And then you also have Lindsay Holy Family, is in that district. [LB781]

JON HABBEN: Correct. [LB781]

SENATOR SCHNOOR: Just another private school. So if Humphrey St. Francis...or excuse me, Humphrey Public has probably the lowest levy in the country... [LB781]

JON HABBEN: One of the lowest. [LB781]

SENATOR SCHNOOR: Yeah, it's like 35 cents, 40 cents, somewhere in there. [LB781]

JON HABBEN: Yes. [LB781]

SENATOR SCHNOOR: What would they have to do to their levy to meet this requirement? You know, because you're talking tripling the size of a school if...to plan for tripling the size of a school, which is, you know, virtually... [LB781]

JON HABBEN: Well... [LB781]

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SENATOR SCHNOOR: I don't know, I look at it as virtually impossible. I mean, nothing is impossible, but we're talking something very, very extreme. [LB781]

JON HABBEN: In that kind of a circumstance, one of the things you would probably first do is make use of all of the local facilities, including those being freed up with the closure of the private school, the public school would step into that vacuum and in some fashion purchase those buildings or those classrooms. And you would probably take some of the students from the...or teachers and staff from the private school, because you may have to expand. You don't necessarily absorb everybody to the point where you've got enough teachers in just the public school. You may very well need a third more teachers, maybe twice as many teachers. The Humphrey district is an unusual one in the sense that there are two K-12 private schools, nonpublic schools in that district. I don't know that that exists anyplace else. To my understanding, you may have a public K-12 and private K-12 in the same community or same vicinity, but not two. It is an unusual circumstance. What would happen with the levy? Well, basically the levy has to go up because you've got additional costs that you have to deal with, because now you are taxing everybody. Whereas before, what you are doing is simply having the donors or tuition payers or the diocese or however it works out supporting that district. Now keep in mind that things like special education costs probably wouldn't change, because the public school is responsible for the special education students, IEPs, Title 1, 504s that exist in the private school within their district anyway. But you're still going to have to raise that levy, and possibly significantly, if you have that much of a student impact, especially if the building they are exiting is in really bad shape. And in a number of cases, the private small school is in...it's structurally in pretty bad shape. [LB781]

SENATOR SCHNOOR: Okay, thank you. [LB781]

SENATOR SULLIVAN: Senator Groene, did you have a question? [LB781]

SENATOR GROENE: Yes, I did. I thought Lindsay Holy Family closed down here, just this last year. [LB781]

JON HABBEN: No. [LB781]

SENATOR GROENE: Or was it just their athletic programs? [LB781]

JON HABBEN: Well, there's lots of co-oping going on between various entities, but no, Holy Family is a D-2 school. [LB781]

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SENATOR GROENE: But doesn't the question...doesn't the past look to the future? I mean, this has been going on forever. [LB781]

JON HABBEN: Yeah. [LB781]

SENATOR GROENE: Sidney: St. Pat's... [LB781]

JON HABBEN: Sure. [LB781]

SENATOR GROENE: ...I can think of them. Lindsay (inaudible), 1,500 parochial...I went to a parochial country school, in the seventh grade they closed it down, went into the local town. Local people take care of this. [LB781]

JON HABBEN: And I think, Senator, that's kind of where we land on this issue. Is rather than a formal state directive about a plan, and then the elements of the plan, and so on and so forth, local people really pick up that mantle and they work it out. And is it possible that there could be hurt feelings in that process? Well, that occurs probably in every reorganization that's ever occurred. But the fact...I believe the local people, the support of the private school and the public school as well, we'll figure out a way to work it out. They will protect the interests of their kids, and they will try to be forward-thinking, so that the ball is not dropped so to speak. [LB781]

SENATOR GROENE: But isn't we leaving out an important factor we call parents? I mean, the parents seem to take care of the children. [LB781]

JON HABBEN: I think so, yeah. [LB781]

SENATOR GROENE: And I don't think the main decision is made by the public employee at the school or at the church. The parents will do what is right for their children, and they all end up in a school the next year. It's happened year after year. [LB781]

JON HABBEN: Yeah, I have complete agreement on that, because parents, whether it's a private school board or a public school board, parents will certainly be talking to that board. There's no question about that. And I've not been a part of more than three or four of these discussions, but in every single case you had heavy parent involvement. It's a good thing. [LB781]

SENATOR GROENE: Thank you. [LB781]

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SENATOR SULLIVAN: Any other questions for Mr. Habben? Thank you. [LB781]

JON HABBEN: Thank you, appreciate it. [LB781]

SENATOR SULLIVAN: (Exhibit 1) Anyone else wishing to speak in opposition to LB781? Would like to read into the record that we have one letter of opposition from John Neal of Lincoln Public Schools. Anyone wishing to speak in a neutral capacity? Welcome. [LB781]

JOHN SKRETTA: Good afternoon, Senators. I am John Skretta, that's J-o-h-n S-k-r-e-t-t-a. I am the superintendent of the Norris School District, and as I sat here and listened to some of the commentary, just felt compelled to step before you. And being forward-thinking, and strictly as a gesture of goodwill, the Norris School District would like to volunteer to absorb the Pius baseball program. And I want to thank Senator Schumacher for his creative proposal, and hey, someone has got to be first. And if we can step out there and with the hand of fellowship to our parochial brethren, we'd like to do that. Actually, just a couple of comments. In the Norris School District geographic boundaries we do have a couple nonpublics, those are not religiously affiliated schools. They're BEST, Berniklau Education Solutions Team, and Prairie Hill Learning Center. Prairie Hill is kind of a...BEST functions somewhat as an alternative educational setting, and Prairie Hill functions as a kind of a Montessori, PK-8 setting. And I just wanted to piggyback on some of the testimony you heard and note that with those settings we have really excellent, cooperative, consultative communications. And I think that's pretty much reflective across Nebraska of what you get at the local level between your publics and your privates. And that in the event that there were an impending closure, I think that we would be apprised well in advance. And a number of the Prairie Hill students are resident students of the Norris district...fewer at BEST. But with that, I think that we would have sufficient advanced notice to conduct the needed prior planning to incorporate those students. So the other thing that I wanted to note, that's just kind of a permutation of this issue, that's interesting to contemplate because we've had these conversations locally, would be in onboarding home-schooled students. Now a different issue, but in the Norris district we have almost 100 kids who are home-schooled. And we've gotten I think really good. There's lots of room for improvement, but we've become really adept at dual enrollment situations with kids and working effectively to communicate with those parents as they want to continue private religious instruction, home-based religious instruction with their kids, but they want to benefit and leverage the excellent instructional acumen of our credentialed teachers. And so that's a neat thing, and that also requires some planning and forethought. That's all I had for you. [LB781]

SENATOR SULLIVAN: Thank you, Mr. Skretta. Could you reflect a little though on how the current state aid formula responds when there is a significant influx of students to your student population? [LB781]

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JOHN SKRETTA: Well, you're going to see an increase, but it's going to be in arrears. So because of that, when you see that average daily attendance and average daily membership, you're going to be behind. So if you had a really substantial increase of the manner in which Mr. Habben was describing to you in some settings, that could pose some duress for school districts to be able to manage effectively, to continue the quality of programming and personnel that they've got. [LB781]

SENATOR SULLIVAN: Senator Kolowski. [LB781]

SENATOR KOLOWSKI: Thank you, Madam. John, you mentioned...two questions. You mentioned the home school situations. [LB781]

JOHN SKRETTA: Yes. [LB781]

SENATOR KOLOWSKI: What grade levels do you usually see the parents seeking entrance back into the school or classes, and what classes would they be? [LB781]

JOHN SKRETTA: Yes. What we're seeing as a growing or an increasingly prevalent phenomenon would be that at the secondary level, students are seeking the opportunity to participate in NSAA sanctioned activities, and that they want to avail themselves of the opportunity for advanced study in different course areas, in particular in the core areas. And the parents are sometimes feeling that their best option then is to dual enroll so that they can maintain...meet eligibility requirements, participate in some of those programs--co-curricular programs--but also be able to maintain some level of home-schooling. [LB781]

SENATOR KOLOWSKI: Would the science and math be the more dominant because of the higher level of instruction? [LB781]

JOHN SKRETTA: Yeah, in particular, science and math. And you know, also with dual credit coursework and so forth. [LB781]

SENATOR KOLOWSKI: On the dual enrollment for certification to participate in athletics, for example, or clubs and organizations, do they have to be in your school x number of periods a day minimum? [LB781]

JOHN SKRETTA: Yeah, it's...to acquire the...and I think it's 20 credit hours prior to the semester preceding to be varsity eligible. [LB781]

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SENATOR KOLOWSKI: The semester preceding? Before your fall football or whatever else? [LB781]

JOHN SKRETTA: Right. That's right. [LB781]

SENATOR KOLOWSKI: Thank you. [LB781]

SENATOR SULLIVAN: Senator Baker. [LB781]

SENATOR BAKER: Thank you. Dr. Skretta, welcome. [LB781]

JOHN SKRETTA: Thank you, Senator Baker. [LB781]

SENATOR BAKER: And you and I both know that the Norris School District wouldn't be very impacted by any closing. [LB781]

JOHN SKRETTA: No. [LB781]

SENATOR BAKER: But as you think about others who would be, even though a district, no matter whether they're equalized or not in the budget process, if you can project enrollment growth and get additional budget authority. [LB781]

JOHN SKRETTA: You can. So there's an element within the formula where you can project your student growth and you're corrected after the fact if you overestimate, right? [LB781]

SENATOR BAKER: Thank you. [LB781]

JOHN SKRETTA: Thank you. [LB781]

SENATOR SULLIVAN: Thank you for your testimony. [LB781]

JOHN SKRETTA: Thank you. [LB781]

SENATOR SULLIVAN: Welcome. [LB781]

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SHERI RICKERT: Thank you, Madam Chair. And thank you, members of the Education Committee. My name is Sheri Rickert, S-h-e-r-i R-i-c-k-e-r-t, and I'm the policy director and general counsel for the Nebraska Catholic Conference, which as most of you know, represents the mutual interests and concerns of the Catholic Bishops serving the Archdiocese of Omaha, and the Diocese in Lincoln and Grand Island. This includes the 110 Catholic schools that serve and educate our children throughout Nebraska. I'm here to testify on LB781 in a neutral capacity. Senator Schumacher discussed his concept for this bill with the conference last summer, and we appreciate his motivation to ensure that children continue to receive an education in the event of a nonpublic school closure. However, we find the timing for the hearing of this bill to be quite a coincidence. Yesterday, Governor Pete Ricketts signed a proclamation designating this week to be Nebraska's school choice week. This Thursday, we expect close to 1,000 students, parents, and school staff to celebrate school choice at a rally here at the Capitol. You will likely hear many speakers attesting to the importance of school choice, to enable every child in Nebraska, regardless of their family's income, to access the educational option that will maximize his or her potential. At Nebraska Catholic Conference we also believe strongly that it's important that parents, as the primary educators of their children, have the option of choosing a school that will reinforce the beliefs and the values that they convey at home. LB781 is helpful in that it serves to highlight the benefits that private schools bring to Nebraska. One question that it possibly raises is whether all school districts would be able to continue to provide the same quality of education to both public and private school students if the private school were to close and the public schools in that district had to accommodate a large sudden influx of children. You may recall that last November I sent each of you an email with a link to a WOWT televised segment about Sacred Heart School in north Omaha. That piece highlighted the fact that despite having a student population with exceptional challenges, nearly 60 percent live in single-parent households, and over 90 percent of students qualify for the federal free and reduced price meals, the students move on after the 8th grade to various high schools in the area and they graduate at an impressive rate of 100 percent. One may well ask whether any amount of preparation or insurance on the part of the local public schools would enable them to maintain that success rate if Sacred Heart, for example, were to close its doors. I should qualify that I have no information at this point that that is anywhere on the horizon. It's purely theoretical. The bill has an unknown fiscal impact, but it almost certainly would cost more than other alternatives that have been proposed and considered to enable students to exercise school choice in Nebraska. One such alternative, as sponsored by Senator Krist, is LB26, which would encourage private donors, through a tax credit incentive program, to fund scholarships for low and middle-income families to attend an accredited private school. This alternative not only would likely cost less than the measures that would be needed under LB781, but would probably save the state money, as indicated by the experience in Iowa and other states that have successfully implemented and expanded these scholarship programs. The bottom line is that we all want to do what is best for the children. Therefore, I would suggest that the approach here should not be ensuring that every student in Nebraska simply has a desk to go to, but instead focus on ensuring that every student

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has access to the education that best addresses his or her unique needs to learn and to flourish. That is the fundamental reason why the Nebraska Catholic Conference encourages you to join the 44 other states that support and encourage school choice. And I would welcome any questions that you might have. [LB781]

SENATOR SULLIVAN: Thank you, Ms. Rickert. Any questions for her? Thank you for your testimony. [LB781]

SHERI RICKERT: Thank you. [LB781]

SENATOR SULLIVAN: Welcome. [LB781]

JASON HAYES: (Exhibit 2) Hi. Good afternoon, Senator Sullivan and members of the Education Committee. For the record, I am Jason Hayes, J-a-s-o-n H-a-y-e-s, and I'm here representing the Nebraska State Education Association. I am testifying in a neutral capacity on LB781. NSEA recognizes that nonpublic schools currently provide education for roughly 12 percent of Nebraska's K-12 student population. Nonpublic schools and public schools have a long record of working together in communities, especially when it comes to special education and other activities such as sports. If a sizable nonpublic school were to close in a community, there would need to be a transition plan in place to handle the increased student population transferring to the neighboring public school. We think that is a good idea. Is LB781 the right type of a transition plan? That is difficult to determine. The bill does require significant cost and planning time to be expended by all public schools, even in situations where there is no indication of an imminent nonpublic school closing. Also, Option 2 described in the bill, where money would be set aside in a reserve account, would tie up a portion of a school district's budget that could be used for other important learning activities. Perhaps an interim study to examine the complexity of such closings would be appropriate. We do thank Senator Schumacher for raising the issue and the discussion. And I thank you for your time today. [LB781]

SENATOR SULLIVAN: Thank you, Mr. Hayes. Any questions for him? Senator Kolowski. [LB781]

SENATOR KOLOWSKI: Thank you, Madam. Mr. Hayes, we haven't had one discussion and as an example or sampling of increased enrollments or impact upon school districts, but within our own state, just a few decades ago, with busing in the Omaha's public schools, we had racial-based moves that were taking place all over the metro area. Many of our school districts, as in Millard, were growing by 750 or 1,000 students a year with that taking place. That's a severe impact and we had plans for that, in the sense of new houses are going in, you do an index

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number, this house would have x number of kids, then you multiply that out, knowing that there's a need for an elementary school in that area or a middle school in that area or future high schools. Would you comment about that within the context of a bigger picture of closing of a school somewhere else? This was a different kind of situation and a different social issue. [LB781]

JASON HAYES: Yeah, I'm not as familiar with the, you know, what transpired in Omaha back then. You know, roughly there was about the same number of teachers, 12 percent of the teachers in the state, teach at private schools or nonpublic schools. And so...I think it was mentioned earlier by Jon Habben about that perhaps those teachers would transfer into the public school and there would need to be some sort of contingency. The fact that it's been mentioned that much of the state aid is done in arrears, I think that an interim study would be timely to discuss possible mechanisms or support that the state could provide to schools on an immediate basis, or other issues, maybe an exception to the budget lid, or other avenues that might be affordable to schools. [LB781]

SENATOR KOLOWSKI: At that time in Millard, they basically had to pass bond issues to build new schools. And absorbed that with the numbers of new students on a yearly basis. Thank you. [LB781]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. [LB781]

JASON HAYES: Thank you. [LB781]

SENATOR SULLIVAN: Anyone else wishing to speak in a neutral capacity on LB781? Senator Schumacher to close. [LB781]

SENATOR SCHUMACHER: Thank you, Senator Sullivan, members of the committee. Thank you for indulging this notion, it raises some interesting issues. I think it's an issue that is one that we should be aware of, and in all likelihood, things will work out in the event of a closing. But I think to a certain extent you've got to feel that maybe there are circumstances in which we are not adequately prepared or at least haven't adequately thought about those kind of issues. And it does raise one other thing, as a bit of a tangent here, and that is it's pretty clear that there's a tremendous free lunch going on. And the taxpayers are saving millions upon millions upon millions of dollars. And when you look at the state aid formula and how we approach it, that investment in those parochial schools is given no credit when we calculate state aid. You can look at the Humphrey and Lindsay thing that Senator Schnoor raised. It's as though those two schools, St. Francis and Lindsay Holy Family, don't exist, when in fact, there's an enormous community effort and enormous expenditures that go to keep them alive. For which Humphrey

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Public School looks like some kind of a slacker, because it's got such a low levy rate. And shouldn't there be somewhere buried in that state aid calculation an acknowledgement, an appreciation, at least a bonus to the public school that would then endear it to the benefit of the taxpayers who are paying double duty in many, many cases in that district, as well as I'm sure other districts across the state? I'm happy to take any questions other than that. Thank you for your indulgence. [LB781]

SENATOR SULLIVAN: Any questions for Senator Schumacher? Senator Groene. [LB781]

SENATOR GROENE: Just a comment. Talking about small town people getting along, I mentioned Lindsay Holy Family, they dropped their football program. They merged it with Humphrey High public school and they now call it the Humphrey High Lindsay Holy Family Bulldogs, but that's Nebraska. [LB781]

SENATOR SCHUMACHER: That was the only way they could get even with St. Francis. [LB781]

SENATOR GROENE: Not allowed to have their athletes at the same places, but there is no conflict between parochial and public schools. [LB781]

SENATOR SCHUMACHER: Well, I don't know, you see... [LB781]

SENATOR GROENE: Rivalries. [LB781]

SENATOR SULLIVAN: All right. Thank you very much, Senator Schumacher. [LB781]

SENATOR SCHUMACHER: Thank you. [LB781]

SENATOR SULLIVAN: This closes the hearing on LB781. We will move on to LB826, Senator Davis. Welcome. [LB781]

SENATOR DAVIS: (Exhibit 1, 2) Thank you, Senator Sullivan, members of the Education Committee. It's kind of like old home week here. And I look around, I think two years ago, there are only two of you left from those days when I was here. Chairman Sullivan and members of the Education Committee, I am Senator Al Davis, number 43, A-l D-a-v-i-s. I am here before you today asking for your support of LB826, a bill that would require the state Department of Education to use general funds to reimburse each school district at least 80 percent of the total

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excess available costs for all special education programs and support services. If the appropriation is in excess of 80 percent, then the funds shall be prorated at the higher percentage. Current law, which authorizes up to a 10 percent annual increase in aid for special education programs is repealed. The bill does have an emergency clause, and therefore will be affected for fiscal year 2016 and 2107. Members, I introduce this bill because I believe it is an idea whose time has come, given the months of work this committee has done in conjunction with the Revenue Committee. While this bill is not a product of that effort, this bill reflects discussions regarding really moving away from the metaphor of the ever-expanding balloon, when talking about property tax relief. You know what I'm talking about. You squeeze one end of the balloon and then the other one expands. We know that the best intentions around creating property tax relief can result in a significant decrease to much-needed school aid. LB826 identifies special education reimbursement as one area of financial responsibility that each and every school district has in the state, and assigns an 80 percent rebate of those costs to the state...from the state. This creates a real relief for property tax pressures, more so than when budgeting for the school is at the district level. As a former school board chairman, I had firsthand experience with the school budget process. Basically, the two pressure points are salaries and infrastructure needs, and both of these are unique to each district. Except for the number of students requiring special education programming, each district being reimbursed by only 51 percent of their expenses is subject to basically an unfunded mandate. The Chadron Public Schools in my district have experienced an increase in special education expense of almost \$450,000 from the 2006, 2007 year until the past school year. These are expenses that could be picked up by the state as a manner of making consistent the services and programming available in this area statewide. And what is the impact of property taxes? First, district resources would be freed up to benefit all students in the district, as opposed to the fact that only 51 percent of the special education reimbursement is being made from the state today. Secondly, the pressure on property taxes would be relieved, as a key responsibility for our educational system is picked up by the state. I have a bill this year that would add \$50 million to the Property Tax Credit Relief Fund. Some may think I am playing both ends against the middle introducing both. That bill represents the historical manner of how we have addressed property tax relief, and LB826 represents the direction I believe that we should begin to move. And that is to identify these educational expenses that are statewide in nature, effecting all districts, so that property tax revenues generated at the county level can be used for this special district and their student's needs. Reimbursing special education expenses at 80 percent meets that criteria. There will be a few special education directors from around the state that will be testifying first, so I'm sure they can answer your more technical questions about special education in Nebraska. And with that, I'm available to answer any of your questions. Thank you. [LB826]

SENATOR SULLIVAN: Thank you, Senator Davis. I think we've all heard how special education needs have continued to increase every year. Under your scenario though, would their...and this is not to criticize school districts, but what...would there be the inclination to

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maybe not be as conservative in what they spend on special education because they know that there will be an increase in reimbursement? And not only that, to perhaps move some of their expenses that could be...maybe weren't considered special ed, but could be moved over to special ed, because they know they're going to get reimbursed at a higher rate? [LB826]

SENATOR DAVIS: Well, I think that would be a good question for the people that are going to follow me, just because I've been in the school board business for so many years. I think if you go back 20 years, you find the reimbursement rate was so much higher at that point, I don't think there was a lot of that going on among districts then. I doubt if it would happen today. [LB826]

SENATOR SULLIVAN: Okay. Senator Krist. [LB826]

SENATOR KRIST: Thanks for bringing the bill, Senator Davis. And although it is another area, my concern in special education is in my same concern with poverty, in individual application of the dollars at the local level where they're needed. And in my estimation, poverty and special education are two of those areas that the formula does not deal very well with. You can comment if you want to. [LB826]

SENATOR DAVIS: Poverty issues are another thing and they are different...I always think there are somewhat different types of poverty, depending on where you are in the state, that are dealt with in a different manner. But I will speak specifically to small district needs, because that's what I really know, as it relates to SPED. So when we had our Class 1 district still operating, and we might have had 10 to 15 children in each one of those, and you're building your budget, then you have special education students who come in and they completely change the dynamics of that budget. And of course it's a year behind, so you're scrambling a little bit for resources. That isn't just districts of the size of 15 students, this can be districts of 300 students, because you can have...you know, you'll have students that might come in that might take the same amount of dollars as 15 students in order to educate them. So I think what we do is put a little bit of stability into the funding needs of our local districts by taking this out, and I think this really is a state responsibility. You know, originally the idea came from the federal government, that they would do a better job of reimbursing. They haven't done that themselves, but neither has the state of Nebraska, and we've shoved that back down to the local taxpayer and expect them to fund it. And I think that there would be some economies of scale that could be developed also. [LB826]

SENATOR KRIST: Thank you. [LB826]

SENATOR SULLIVAN: Admittedly, you've got a pretty hefty fiscal note that attaches to this bill. Have you given any thought to, if this is a direction we want to go over time, how to move

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into it? Because the other question is where do you expect to extract and find these dollars to be devoted to this? [LB826]

SENATOR DAVIS: So I would say the fiscal note is proof of the problem that we have today. I think that the committee should really think about this hard and consider it. If the committee doesn't feel that this is something that can be achieved today, maybe the committee could say we recognize this as a steep hill to climb. But maybe we ought to start down this road and start planning ahead for it, because I think it is a great way to deal with two problems: high property taxes and equity. And serving the needs of our special education students, which I think is our requirement...obligation. [LB826]

SENATOR SULLIVAN: Okay. Any other questions? Senator Kolowski. [LB826]

SENATOR KOLOWSKI: Thank you, Madam Chair. Senator Davis, thank you for bringing this forward, because it's extremely important situation that we need to look at. And we are in an interesting pinch on this whole thing, because over...I know in my career, over 40 years, we've discovered many more aspects of special education that were opened up to an understanding of the students we were dealing with, where they were coming in, and the challenges we had dealing with those kids. And that's expensive, and that took time, and money, and staffing to get those things done because they are special. Because they are our obligation and our responsibility under law. If no other reason by moral statute or anything else, we have that responsibility, and I hope we will see our way clear to add to what we need to do in the schools. Because we are currently, in every district, siphoning off money within a budget to try to give as much as we can to these students because we are not reimbursed at the rate we should be. And that's a real tragic aspect of the state of the current time. Thank you. [LB826]

SENATOR DAVIS: I certainly agree, Senator Kolowski. [LB826]

SENATOR SULLIVAN: Any other questions for Senator Davis? And I understand that you have a request for certain people to follow you... [LB826]

SENATOR DAVIS: Yeah, we've got some special education directors that have come in from the west end of the state. If they could be first, we would appreciate that. [LB826]

SENATOR SULLIVAN: Okay, sure. I have their names and I will call them up. And you will be here for closing? [LB826]

SENATOR DAVIS: I will. [LB826]

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SENATOR SULLIVAN: Okay. [LB826]

SENATOR DAVIS: Thank you. [LB826]

SENATOR SULLIVAN: So per Senator Davis' list, Jane Byers. Welcome. [LB826]

JANE BYERS: (Exhibit 3) Thank you. My name is Jane Byers, J-a-n-e B-y-e-r-s, and I'm testifying on behalf of NCSA or...in support of LB826. And I'm here to talk about the impact of special education funding on all special education programs in the state of Nebraska. I will talk about that handout shortly, but I do want to recognize the efforts of Senator Davis to call attention to special education and the funding concerns that we have, through LB826. As you're probably aware, any type of spending lid of base limitation on general education, as suggested by some other potential legislation, would have a double impact on educational...and those being general education programs, in the state of Nebraska. So I would invite you to take a look at that handout that you have there, which puts together or helps you to visualize what our spending trends and student population has looked like over the last 15 years. The pie graph on the left hand side of the paper tells you that 15 years ago we served 43,000 students or about that many... 44,000 students with disabilities in the state of Nebraska. And you can see by the distribution there that the majority of those students were young people with mild disabilities. And then as we look 15 years later, so current--2015, 2016, we're serving 49,000 students in the state of Nebraska. Those students with mild to moderate to severe disabilities. So in the center of that document, between the two pie charts, you can see that the total child count has increased by about 5,000 students, so indicating a minimal increase really, in comparison to some other states. But as evidenced by the number of increases in significant disabilities versus mild disabilities, the students that we're serving now have much greater need than those that we may have served 15, 20, 30 years ago, when special education first came into being...actually 40 years. This is the 40-year anniversary of IDEA. Another point to call your attention to is the special education expenditures and funding sources, so that line graph down below there on that document, that shows that the majority of our funding, when we're looking at receipts, is through local funds, followed by state funds, and then followed by federal funds, with the support of federal funds decreasing since 2010, 2011. On the back of the document you'll see some q and a that we provide as information for those people who may not know about special education and the funding to this degree. But the third question on that q and a is, you know, what is the impact of financial shortfalls when it comes to special education. And it states there what the reality is, is that it costs more to local and state government, therefore forcing decisions about special education that impact general education. So that little sentence there in the box where that says "not funding special education has a direct impact on programs for students not receiving special education services." That is absolutely the truth. So I just wanted to, you know, kind of put it into a real picture for you. I have a student that moved into the district this year with significant trauma background, severely emotionally disturbed, has been involved in the foster care system,

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has moved from district to district, has not been able to be successfully maintained in even a high level specialized contractive program. And as a result, we now have this individual in a program that costs \$190 an hour. So if you do the math on that, he's about a \$300,000 a year student. And if that student...if you might imagine if that student moved into a very small school district, that \$300,000 a year could have a significant impact on the stability of that district. But it's not an optional expense, it's something that we're required by law to provide for a student. So again, I wanted to emphasize that any time we look at limiting general education funding, which is in essence supporting special education to some degree, and then not reimbursing at the highest level that we are capable of in special education, we're impacting nonmandated programs and potentially cutting things like gifted programs, reasonable size classrooms when it comes to student count. So any questions that you may have? [LB826]

SENATOR SULLIVAN: Thank you, Ms. Byers. And admittedly, we fall short of reimbursing for all the special education expenses that a district has, but I just wanted to point out on your handout, with regard to state funding, right now, because of legislation from just a couple of years ago, the SPED reimbursement is limited to 10 percent of prior fiscal year expenditures, rather than 5 percent. So we're doing a little bit better. [LB826]

JANE BYERS: Yes, and thank you for that. Thank you. [LB826]

SENATOR SULLIVAN: But there's always the question in my mind, and there have been a variety of answers to it as to why we have so many more special ed students. [LB826]

JANE BYERS: We proportionately don't have more special education students...I mean, we're seeing growth in all students in the population, especially in the metro area. But what we're seeing is the intensity of those students, so again, students who are coming in that need full-time nurses, students who are medically fragile. Those kinds of students are increasing in number, while the number of students with less significant needs are decreasing through some problem-solving efforts that districts are working through. [LB826]

SENATOR SULLIVAN: Any other questions? Senator Kolowski. [LB826]

SENATOR KOLOWSKI: What district are you with, Ms. Byers? [LB826]

JANE BYERS: Papillion-La Vista. [LB826]

SENATOR KOLOWSKI: Papillion? Thank you. Senator Sullivan's question is right on target, but it also echos and matches the abilities we've had in medicine to save the lives of many young

persons and babies when they're born. And keeping them alive and being successful at that sometimes has side effects of the things that the students were identified with, as far as difficulties in their lives. So we've had those students. As a high school principal, I had the most severely handicapped students in the Millard district in my building at Millard West. Very special kids, and our kids were fantastic with them. But you have to understand...I understand and all of us need to understand the number of staff that takes--with a commitment. Sometimes one to one all day long with a para, depending on the nature of the student and their needs. Handicapped, in a wheelchair, strapped to a board sometimes, whatever it might be that they go through. It's remarkable what those teachers do, number one, and the skills they work with...those kids, once they learn, as they have readiness to go out after age 21 generally into our society, and onto the next steps in what they might do. So it's really something we need to understand better than where we are right now, and do a better job with those kids and with the funding for those kids, because they are very special. Thank you. [LB826]

JANE BYERS: And I think in addition to that, and to answer Senator Sullivan's question better as well, is many of the students that are now coming with mental health diagnoses are being evaluated and placed within special education in areas of emotional disturbance or other health impairment. So there's an increase in that population certainly that is very time and money intensive, when it comes to school districts serving students of such high need. [LB826]

SENATOR SULLIVAN: Senator Krist. [LB826]

SENATOR KRIST: Two points of interest for the committee, having been here in 2009. Senator Sullivan I think can probably attest to this: if you look at the general fund appropriation for special education, that was probably a low point in our life. There were programs that were being cut, almost arbitrarily, to constitutionally balance our budget and zero in those periods of time. And thanks to leadership like Senator Adams and Senator Sullivan, those numbers have started to come back up. That's not to say that I think we're doing what we need to do, but there's a reason why that bottomed out to where I think that is. And then to applaud the local financing, if you look at your funding on the next page, they didn't allow it to go to zero, they continue to step up to the challenge of trying to keep a level there. And I applaud you for doing that. One other comment...and it will be a question. I don't expect you to know the exact answer, maybe somebody after you can. But it's my understanding, having been associated with special education for 32 years, that the diagnosis involved with autism, it has been exponentially looked at in terms of the way we treat a child, even a child who would have been syndrome related or disabled in some way, we show some symptoms or some autistic tendencies, which causes additional treatment. So I appreciate the fact that I don't think you're seeing potentially more, but you're seeing more severity in terms of the diagnosis itself. And if you would like to comment on that, please do. [LB826]

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JANE BYERS: And I think with autism in particular, we are seeing increases in numbers there, but that aligns with some decreases in numbers in other areas of diagnoses. Where students at one point may have been identified as either health impaired or emotionally disturbed and are now being correctly identified as students with autism. [LB826]

SENATOR KRIST: And so even the inference that you would be or you might be expanding SPED if this goes into effect, given that tradeoff and the awareness of the right diagnoses is probably not going to happen in our school districts. [LB826]

JANE BYERS: Say that again. [LB826]

SENATOR KRIST: You're not going to take advantage of more money in special ed by treating other kids in special ed, because you diagnose based upon a real diagnosis and treat. What you're telling me, in terms of the leveling out, is we might have thought they were something here, they're autistic, they're treated a different way, so the diagnoses are coming down over here, going up there. [LB826]

JANE BYERS: Right. [LB826]

SENATOR KRIST: So it's based upon real diagnoses, real problems, and the money is real. [LB826]

JANE BYERS: And it's very strict, in terms of what allowable costs are, and the fact that the formula is one of reimbursement in arrears certainly doesn't encourage you to spend money up front that you may not have. [LB826]

SENATOR KRIST: Okay. Thank you very much. Thanks for coming a long way. [LB826]

JANE BYERS: Sure. [LB826]

SENATOR SULLIVAN: Senator Kolowski. [LB826]

SENATOR KOLOWSKI: One additional comment if I might, Jane. There's something that I saw in my career that was very real, and that was if you're very good with your special educational services in a district, you become very popular to parents. Parents with their families have moved specifically into our district or your district, as an example, because of the quality of the services. And that's a great economic positive for us. They may have one special need child with issues

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that have to be served and dealt with, but they might have two or three regular students...if I can use that term, that would benefit our district and benefit the community by having them come in. It is...those parents are very knowledgeable, very supportive, very demanding in the sense of quality that they want for their special ed student, and we need to recognize that as a positive that happens when you do it and do it right. And I've (inaudible) for 40 years (inaudible). [LB826]

JANE BYERS: And doing it right means a program of benefit, it doesn't mean an outstanding, fabulous, wonderful program. [LB826]

SENATOR KOLOWSKI: That's true. Yeah. [LB826]

JANE BYERS: It's a program of benefit, and the costs of litigation is very high when a program of benefit, which is a minimum standard, is not offered to a student. [LB826]

SENATOR KOLOWSKI: Thank you. [LB826]

SENATOR SULLIVAN: Any other questions for Ms. Byers? Senator Groene. [LB826]

SENATOR GROENE: Thank you, Madam Chairman. You said \$190 an hour for this student, and you said you had to do it. Who defines the had to do? [LB826]

JANE BYERS: That's a great question. [LB826]

SENATOR GROENE: What defines the level? I mean, is there a private contractor that comes in and says we'll do this and it's \$190 an hour? Who defines the level of care? [LB826]

JANE BYERS: Sure. [LB826]

SENATOR GROENE: I mean, you get so many special needs children, every instance is different. I understand Elkhorn has a great autism program. I know a family from North Platte moved there because of it. But who defines it? Who defines the cost? I mean, the cost could be \$500 an hour if you wanted to have three aides for a child. [LB826]

JANE BYERS: Sure. [LB826]

SENATOR GROENE: I mean, who defines it, who puts the limit to where the cost equals the maximum you can actually do for this child? Who defines that? [LB826]

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JANE BYERS: The individual education team...so by law, students with disabilities have an IEP, an individual education plan, and again, as mandated by IDEA and also Rules 51 and 52 in Nebraska, the IEP comes together and determines the least restrictive, the best way to serve that student. And it's not even...it's the best way, it's the way to serve that student so that he will have a program of benefit. And so you always look at how do we serve this student as close to the classroom, if not within the general education classroom with appropriate aids and services. So that's your first step, you're looking at that. And then from there, for an example, this student he has gone through this continuum of services, is unable to, for safety reasons, to participate in any capacity within the school. So the program that he's in currently, got a report yesterday, upwards to 25 physical restraints a day--so he's very physically aggressive, dangerous to himself, others, as you might imagine. Although our goal is to serve all kids in their neighborhood schools, there are some kids that... [LB826]

SENATOR GROENE: So you have more than one aide to this one child? [LB826]

JANE BYERS: Oh, absolutely. We now have him contracted to a program, Munroe-Meyer Severe Behavioral Program, at \$190 an hour. That's the limit...or that's the fee that they charge. [LB826]

SENATOR GROENE: Do they come into your school and do it, or the child is over there? [LB826]

JANE BYERS: No, we provide transportation and take the student there. Our goal will be eventually we will transition him back to the school district and then we, you know, little by little start to include him for smaller periods of time and grow that length of the school day. We also have great support from health and human services for this young man. He has a great team behind him, but the team makes that decision. [LB826]

SENATOR GROENE: But the local school district defines that expense? [LB826]

JANE BYERS: Along...yes, the team does. The parent is on that team, and any other individual who has knowledge about that student. Now when it's a student like that, where additional funds will be allocated, you're going to make sure that...I would be a member of that team, to make sure that all of those kinds of costs were considered from what... [LB826]

SENATOR GROENE: Cost is taken into consideration, or is the sky the limit? [LB826]

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JANE BYERS: Cost is definitely taken into consideration. So if the team determines the student needs a certain level of care, then what I can do is I can look at that level of care and I can choose the program that is less expensive. [LB826]

SENATOR GROENE: But I'm not criticizing you, you mentioned legal. [LB826]

JANE BYERS: Yes. [LB826]

SENATOR GROENE: Is there pressure on the school to say I've got to throw everything at this or I could get sued? Even though we believe as a team that maybe we could...because I'm just curious if that legal pressure is there. [LB826]

JANE BYERS: There is some legal pressure, but that's not the primary concern of the team. And I say this in all honesty, I believe it's true, the primary concern of the team is the best programming for that child. [LB826]

SENATOR GROENE: Thank you. [LB826]

SENATOR SULLIVAN: Any other questions for Ms. Byers? Thank you for your testimony. [LB826]

JANE BYERS: Thank you. [LB826]

SENATOR SULLIVAN: The next person on Senator Davis' list is Ellen Stokebrand. Welcome. [LB826]

ELLEN STOKEBRAND: Thank you and good afternoon. My name is Ellen Stokebrand, E-l-l-e-n S-t-o-k-e-b-r-a-n-d. I am here supporting testimony on LB826 on behalf of NCSA. I have been a special education director at ESU 4 in Auburn for the last 18 years, and so...anyway, so I come with a wide range of experience as far as providing support for 11 districts in the southeast corner of Nebraska--or 11 school districts in the 5 counties of southeast Nebraska. And so in those five counties, we have just over 7,000 students, PreK-12, and of those 7,000 students, about...I'm sorry, yes, about 1,200 of those students are identified as students with disabilities, ages 0 through 21. And so Jane's talked a lot about the funding part of that process, and so I won't necessarily hit on some of those pieces again, but I do want to talk about a couple of pieces in regards to some of the questions that maybe to follow up with. IEP teams, or individual education plan teams, meet together to determine what services a student might need. Those services are based on not a student's verification, but rather on the student's needs. So if we were

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to determine that a student is verified with the disability of amongst...on the autism spectrum, then we would decide, based on what those student's needs are, not on the autism, but based on those student's individual needs. Then we develop a plan appropriate to make sure that that student makes progress. And so when I work with IEP teams, I sit down and we talk about the entire continuum of services that we could provide, from the least restrictive environment to the most restrictive environment. And so the first thing we do is we identify what are the student's goals. What goals are we going to provide for those students, what goals do we want them to achieve in a year, and then how is the best way for us to provide those services? I always talk about the least restrictive environment is in the classroom with no educational support. The most restrictive environment is sending that student somewhere else. And in the five counties of ESU 4, we have no level 3 placements, all of our...if we were to send a student somewhere else, we'd be transporting that student to the Omaha area or to Lincoln. So we actually try to do it...we've been trying to work on ways to make sure that we're providing the best services we can in our five counties, as far as that goes. So we talk about the least restrictive to the most restrictive environment and the way to provide those services. And generally, the team then comes up with the...the team makes the decision about how to provide those services, what services that student requires, and then it's up to the district and/or the team then to carry that out, as far as that goes. Again, everything is based on the individual student's needs per regulation. The costs of those...as an ESU, I am also a service provider, so I'm also a person who sits in...not only do I talk and work with IEP teams on how to provide those services, but school districts, because of proximity and their size, will contract with me in order to get special education services. And as a result, one small school district of 200 students doesn't need a full-time speech pathologist, I however can hire a full-time speech pathologist to work in multiple districts. And so that's a savings to the district. As a provider, I'm the one who determines what that cost is for the school district. At ESU 4 and at all the other ESUs across the state, we base our rates on actual costs. So the costs that I have for that speech pathologist are the costs that we bill out to the districts. We don't...there's no extra or anything that go into that part, and I work very closely with the superintendents in our area as we work out those costs and those pieces. In fact, we are just in that process, we are now talking about school year 2016, 2017, and so the superintendents and I have started looking at what our needs are for next year, based on the IEPs in their districts, as well as what services they need from ESU 4 and what services they are providing within their own general budget. The more...the higher the special education services cost or whatever case may be, and the lower the resources available to them, as far as reimbursement and different things, it does impact their general funds as we move forward with that. And so when I started as a special education director 18 years ago, reimbursement rates in Nebraska were just about 86 percent for elementary and secondary special education costs. And we've lost 30 percent in my 18 years. And I did start when I was 12, so anyway. So that's the piece, but I'd be happy to entertain any questions concerning that. I thank you for your time. [LB826]

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SENATOR SULLIVAN: Thank you, Ms. Stokebrand. Any questions for her? Senator Schnoor. [LB826]

SENATOR SCHNOOR: Ellen, has there ever been a time when a child student could have a disability that's so severe that there's no services even available? [LB826]

ELLEN STOKEBRAND: That has happened. And the thing that we have available to us is the Department of Education, you know, gets...works very closely with also the Department of Health and Human Services. And a student like that is probably receiving services not just through the school district's special education, but they're also probably involved in support from health and human services. And there's a lot of things that we do collaboratively. And so they're in fact...I've got several IEP teams working right now, where HHS is a very big player in that they have access to some supports that we as school districts don't have. And so...and then that's a collaboration. Sometimes those costs are absorbed by HHS and sometimes some of those costs are absorbed by the school district or the requirement of the school district. It depends on the need, it depends on the level of severity, it depends on all of those things. Every individual education plan team determines what's important, but we do work collaboratively with the other resources that are available to us through the state. [LB826]

SENATOR SCHNOOR: Okay, thank you. [LB826]

SENATOR SULLIVAN: Any other questions for Ms. Stokebrand? Thank you for your testimony. [LB826]

ELLEN STOKEBRAND: Thank you. [LB826]

SENATOR SULLIVAN: And the third individual from Senator Davis' list is Brenda Tracy. Welcome. [LB826]

BRENDA TRACY: Good afternoon, thank you. My name is Brenda Tracy, B-r-e-n-d-a T-r-a-c-y, and I'm here as support for LB826, and I'm the special education director and curriculum director at Norris Public Schools. And a couple things that as I was sitting here listening to...we can all talk about the funding and how that works, but a couple things that I just want to make sure everybody is aware of is that again, like they've said, we don't have a choice if we serve these students. We cannot go into an IEP and say we are not able to provide those services because the school district doesn't have the money. We're legally obligated to provide those services. And even...and I'm just kind of talking more specific our school district, but even at our school district as of last year, we were the seventh lowest per-pupil cost district in the state of Nebraska, and

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that was just over \$10,000 per pupil. And when we looked at our numbers serving our average number of students for special education, we look at about one-third higher, just on average, of what it takes to serve those special education students and provide them with the services that they're entitled to. So when we look at that, you know, a couple things in our state is first of all, we're a birth to 21 state. And so with some of the state mandates and federal mandates, our...we don't have a choice necessarily either of what staff we have to hire. So our birth to 3 program, you ask why are we getting more students verified. Well, there's several reasons, first of all: Child Find. Our doctors are becoming more aware of students that...babies that are born with special needs, they refer right away to a school district. With that, we only have a certain number of days to intervene and determine if that kid qualifies, and then if they do, we have to provide those services. And if they are under the age of three, those services have to be the same all year round. And so our speech pathologist, our occupational therapist, our physical therapist, our early childhood teacher all have to be on staff and provide the same services during the summer that they do during the school year. And then also...so we've added like our preschool program because we have so many more students verified in the area of what we call developmental delay. And with that, with the least restrictive environment, we want to make sure that those students are exposed and have the opportunity to learn with those typical developing peers. And so with that, we need to make sure that those students are around, students that are typical developing. And so we try to keep our ratios down lower, which means you have more special education classroom...or more sections of preschool. Well, with developmental delay you need to make sure that...or in any student with a disability, research shows that any student with a disability is going to perform and make bigger gains if they are educated with their typical developing peers. And so at Norris we've also implemented a co-taught inclusive environment, where in most of our classrooms we have a content specialist, so your core level teacher--reading, math, science, and then you have what we call our learning specialist, so our special education teachers, which specialize in strategies: how do kids learn, what can we do to accommodate? And the reason we do that is it goes back to accountability, it goes back to what's best for kids. All of those kids that are special education are required to take the NeSA assessments, they're required to take all of our state and local assessments. They have to have the opportunity to learn the same content as all those other kids in those classrooms do. And in order to keep them in those classrooms, they also have to be taught by a highly qualified teacher. We can't have a student in high school math being taught by a teacher that's only endorsed in special education. You have to have a teacher that's endorsed in math to teach those content areas. And so those are some things that we really look at that it's not that we want to, you know, increase costs or anything like that. We're doing what's best for kids, how are they going to make those gains. And again, they have to have the opportunity to learn all that content. Some of the other things that were talked about is students that...with severe needs. We had a student last year, and we have more this year, that moved into our district and serious mental health. We had to go to a level 3 placement and we had to buy a car, a specialized car to transport this student because he assaulted our driver out on Highway 77, where she had to sit there and hold him for about 20 to

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30 minutes until law enforcement and our administration were able to get to him, as he was hitting her over the head. So we had to buy a specialized car, two people to drive him, and then also instruction in that school for that day, which cost us over \$510 dollars a day, because he had to have a one on one teacher. So that student alone was over \$100,000, plus the vehicle, plus two paras to transport him, and a specialized teacher at that level 3 school. Those are the kind of the kids that we're getting. You know, and we have seen, like I said, an increase in some of our younger students, and it's just the way to make sure we're educating them. So with that, there was other things to say, but I have the red light. So questions? [LB826]

SENATOR SULLIVAN: Well, thank you, Ms. Tracy. Perhaps in our questions we can give you some opportunity to elaborate a little bit more, because there were several questions that came to my mind. Developmental delay is not a term that I'm familiar with and it made me wonder what the description of that is, but also has then there been a widening in the parameters and definitions of what is included in special education over the years? [LB826]

BRENDA TRACY: Not necessarily a widening of the parameters. Like I said, there was...our doctors are really becoming more aware. We're required to do Child Find, and so service units and other special education directors are really working with local pediatricians and saying hey, if you get these students in your office, make sure you refer them to your school for an evaluation. Any time a baby is born with any kind of syndrome or any kind of health condition at the hospitals, they automatically refer. The other thing that has come into effect the last...I'd have to ask, it's been several years, but is what we refer to as a CAPTA referral. Any child that is brought into...that gets involved with the Department of Health and Human Services, if there's any kind of abuse or neglect suspected they are required to have a referral. And so they refer to the district and so we have to do those evaluations too. Developmental delay...and kind of backing up, I was going...you know, they talked a little bit about too that with our disabilities, our area of specific learning disability and speech, language impairment are considered our mild disabilities. And with that, keep in mind that those students are average intelligence. You would not know...most of those kids if you met them, you would not know they have a disability. And that's where we spend, you know, those kids they just kind of go with the day, but they need those accommodations in the classroom. Developmental disability is our students, birth through up and to age 8, and what that looks at is you have to have an area below a certain area either in social/emotional language, cognitive, motor...probably forgetting one, or two areas below. And so it could be just a student that has some language delays that are severe enough that then they qualify for developmental delay, and then they would qualify...at least in our district we have a local preschool, they would be eligible for our preschool program. [LB826]

SENATOR SULLIVAN: You have mentioned, as well as a previous testifier, a level 3. What does that mean? [LB826]

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BRENDA TRACY: When we look at least restrictive environment, kind of what Ellen had said, level 1 would be pretty much your classroom--you're in the classroom, you don't need a whole lot of accommodations, and you can learn just fine. Level 2 would be a little bit step further, where you're maybe pulled out for a little bit. Level 3 is usually...some schools have a level 3 program themselves, which is more severe, for either emotional disabilities or your kids that are severe/profound that have...you know, that's the other issue is that we have students that have severe and profound disabilities, kind of like what you alluded to. So we have students coming in that are vent dependent that require an RN, plus you have to have a para professional with them. You have kids that come in that are oxygen dependent, nonverbal, I mean those kinds of things that also cost a lot of money, and then our students that we are required to serve until they're 21 years old. And so we have to come up with programming for those students that we are required to serve until they're 21, so the developmental disabilities can take over, or DHHS. [LB826]

SENATOR SULLIVAN: What is the enrollment at Norris? [LB826]

BRENDA TRACY: Right around 2,200, 2,250. [LB826]

SENATOR SULLIVAN: And do you have any idea how many students fall into the classification of special ed qualifying for special education, what percentage? [LB826]

BRENDA TRACY: We have about 10 percent and we're low. I mean, we're lower than the state average. And I do have a handout for you, I forgot to hand that out. We have about 227 kids that are verified for special education. [LB826]

SENATOR SULLIVAN: And then how many total staff do you have, do you have any idea? [LB826]

BRENDA TRACY: (Exhibit 4) It's in my handout. I didn't hand it out. Did you see my handout? [LB826]

SENATOR SULLIVAN: No, I didn't. (laughter) [LB826]

BRENDA TRACY: We currently have for special education...well, for staff we have 13 teachers, that's just our school-age, so kindergarten through 12th grade. We have two-and-a-half early childhood...they are all three... [LB826]

SENATOR SULLIVAN: Yeah, we're just talking that special ed right here. [LB826]

BRENDA TRACY: Well, but they serve our special ed preschool program. And so they're endorsed, they have to be endorsed in early childhood and special education. So we have two and a half of them--FTEs. And then we have three and half speech/language pathologists, and then we contract out privately for occupational therapy, physical therapy, hearing, vision, and mobility. [LB826]

SENATOR SULLIVAN: And does that service come through the ESU? [LB826]

BRENDA TRACY: One. Our occupational therapy we contract with Beatrice Community Hospital...I'm sorry, physical therapy. Our occupational therapy is a private contract, hearing is through ESU 6, vision and mobility is private contracts. And they do set the...we pay what the...there's a state-approved provider rate, and so that's what the state will reimburse you up to...or that's the rate they approve and then they'll reimburse you the percentage of that. And so we pay the state provider rate. [LB826]

SENATOR SULLIVAN: Okay, very good. Senator Kolowski. [LB826]

SENATOR KOLOWSKI: Thank you, Madam Chair. Dr. Tracy, what are some of your biggest challenges on staffing? Finding certain people...could you elaborate on your needs? [LB826]

BRENDA TRACY: Right now we're kind of dealing with one that's...it's kind of interesting that you asked that. We have a student that was removed from our district last year and has been in residential treatment down in Kansas since last January. And what's difficult is that they have said that he...they have done as much as they can for him, and so Magellan has said he will be discharged. Well, to find...when he was here, he was very aggressive, violent, required a lot of one on one time, and academically he is performing significantly below grade level, which we would suspect because he's had so many behaviors. So he's coming back into our district and we've had several meetings over the last couple months, and we are not able to find the paraeducators that are needed to provide one on one services to this student to help him be safe in our school and in the classroom. And so DHHS has agreed, they are working with us and Omni, to come in and help us for six weeks with this child. But with that, this child is going to have 12 different people working with him. And so...I mean, it's out of their hands. There's nothing they can do, because they have to make sure that they're not paying somebody overtime or too many hours in the day, or you know, all those issues, and they're working pretty hard with this family. So...but that's one thing is we've advertised for the last two and half months to find a paraeducator that is trained and willing to work with a child with those severe disabilities is tough. [LB826]

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SENATOR KOLOWSKI: What about SPED teachers themselves, in a direct relationship to their "normal" classrooms? [LB826]

BRENDA TRACY: Right. I mean, we're lucky because we are right south of Lincoln. You know, we get a lot of applicants for a lot of our positions. SPED is lower than our others, but...so we don't necessarily have the difficulty of hiring that other districts out west you hear stories. And it's not just stories, I talk to other special education directors. They just can't get people to apply or there's just not a lot of people in special education. The other area that's really difficult right now is speech/language pathologists, and that's difficult even for us right here. You can't...it's very difficult to find a speech pathologist. [LB826]

SENATOR KOLOWSKI: Thank you. [LB826]

SENATOR SULLIVAN: Okay, and can you explain that, because I noticed on your listing that's one of highest disabilities. Where does that stem from? [LB826]

BRENDA TRACY: A lot of that, when you look at speech/language impairment, you have to keep in mind that there's two different areas with speech/language impairment: there's articulation and there's language. So articulation, how can you say your r's, your w's, those kinds of things. If you talk a little bit funny, you can't say your sounds. And then there's language, how receptive and expressive language, how well you can understand language, how well can you express yourself. And a lot of our kids with speech/language impairments are those...there's this...a lot of them are articulation. And so there are kids that are typical developing, but they might not be able to say their r's, or their w's, or their s's, and a lot of those kids start to get services at age eight. There's a formula or articulation norms for the state of Nebraska, and if you can't say certain letters...and eight is kind of a magical number, that if you can't say certain letters by that time in the beginning, in the middle, or the end of word then you would qualify to receive speech/language services. [LB826]

SENATOR SULLIVAN: Okay, thank you. Senator Baker. [LB826]

SENATOR BAKER: Thank you. Dr. Tracy, have you always imagined this would be a great way to celebrate your birthday, to come and testify before... [LB826]

BRENDA TRACY: Thanks, Senator Baker, yeah. [LB826]

SENATOR BAKER: You know, I'm very biased, but I think you did a great job with your testimony today. Thank you. [LB826]

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BRENDA TRACY: Thank you. [LB826]

SENATOR SULLIVAN: Senator Groene. [LB826]

SENATOR GROENE: Thank you, Chairman. Give me some definitions. You said we're one of the birth to 21 states, is that by state law or the way state statute...constituional, or is it HHS? [LB826]

BRENDA TRACY: No, it's state law. Because then we have rule to follow that. [LB826]

SENATOR GROENE: Is that educational rule or is that state law? [LB826]

BRENDA TRACY: Rule 11. [LB826]

SENATOR GROENE: It's the Department of Education mandate, not something we did here at the Legislature? [LB826]

BRENDA TRACY: No. I'm sorry, I didn't understand the question. [LB826]

SENATOR GROENE: No. I'm just trying to find out. I mean...who defines the have-to's again? We have to do this, we have to do that? Our constitution says instruction, is this because we took federal money it's coming from the federal mandates? [LB826]

BRENDA TRACY: The have-to's are what...again, kind of what does that child need to be able to make gains and make that progress to grow as another child would. Not that you would expect every child to catch up, but especially if you're able to intervene early... [LB826]

SENATOR GROENE: Who...you follow statutes, you follow regulations. [LB826]

BRENDA TRACY: Right. [LB826]

SENATOR GROENE: Who is defining this, this have-to? [LB826]

BRENDA TRACY: The IEP team. The IEP team would look at okay, this child let's say is two years below grade level for their reading. We have the research now with the...sorry, I'm just looking at him. [LB826]

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SENATOR GROENE: Yeah, that's fine. [LB826]

BRENDA TRACY: We have the research to show us what does a child need in order to make those gains to get up to grade level in reading. And so then as an IEP team, you would have those professionals at the table to say okay, if this child is two years below in reading, we know that they would need at least 60 minutes of additional reading instruction a day. [LB826]

SENATOR GROENE: You know this because there's been a study that shows you get the results. [LB826]

BRENDA TRACY: Lots and lots of research behind the reading instruction. And so we know through research that all students should receive 90 minutes of uninterrupted reading instruction a day. And then we know if a student is below, you know, you can look at okay, if we're going to make those gains, we need to provide not only 30 minutes of intervention, but we would need an additional 30. [LB826]

SENATOR GROENE: Now, this is your team's description. Is that the same team in North Platte, where I'm from? Has this same have-to's? [LB826]

BRENDA TRACY: They wouldn't necessarily have the same have-to's, but a lot of the districts are looking at the same research. You know, because we're expected to have those kids proficient, and what do we need to do to do that. And so...and we also know through the research that if we don't have them there by the end of third grade... [LB826]

SENATOR GROENE: But it's a local decision what the have-to is? [LB826]

BRENDA TRACY: Ultimately, yeah. [LB826]

SENATOR GROENE: And the money you've spent is locally by that team. On this therapy-- vision therapy, physical therapy, psychological therapist, where does that come from, that the money for public education is being spent on that. That sounds like Medicaid. [LB826]

BRENDA TRACY: And we do get some Medicaid reimbursement for physical and occupational therapy. What...there's a big difference, and we have to explain this several, several times throughout the year to not only parents, but to common people that come in. Because there is a big difference between educationally based physical and occupational therapy and medically based physical and occupational therapy. Educationally-based physical and occupational therapy makes you so that you're functional within the classroom or functional within the educational

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environment. You don't have to be perfect, a lot of times a kid will still qualify for medically-based physical or occupational therapy, but they don't necessarily qualify for educationally-based. Like for example, occupational therapy, our biggest thing is can a child form letters, are they able to write those letters, are they able to zip and button their coats or their pants so they can go to the bathroom, tie their shoes, those kinds of things? Whereas occupational therapy in the medical world could look at a lot of different things. [LB826]

SENATOR GROENE: So basically it's we don't have any Department of Education rules. It's local. I mean, that team... [LB826]

BRENDA TRACY: Well, there's criteria that a student has to meet to qualify for those services, yes. And then once they qualify for those services, if there's...you know, because we have to give certain assessments and say okay, this student is below average or significantly below average in this area, in his fine motor, his gross motor skills, so therefore they would qualify for physical or occupational therapy. There's assessments that have to be given to determine that yes, you get those services. [LB826]

SENATOR GROENE: Thank you. [LB826]

SENATOR SULLIVAN: Senator Schnoor. [LB826]

SENATOR SCHNOOR: Doctor, you talked about education and oh, I forget what the other term was, I didn't write it down. But you know, can a student have an IEP even though reality tells you there is no way that child will ever graduate from high school and can never function on a level as his or her peers...and they will still have an IEP? But I think I may be understanding you, then it's not really based on education issues. Did I understand it or did I misunderstand that? [LB826]

BRENDA TRACY: Right. Our students, like I said, we're...every district is required to serve those students if needed, up to or through the school year of which they turn 21. [LB826]

SENATOR SCHNOOR: Agreed, yeah. [LB826]

BRENDA TRACY: We have students...and districts can kind of look at this differently. Our students that go into our 18 to 21 program, when they...once you give a student a diploma, they're done with special education services. They are no longer entitled to special education service. So like in our district, we have students that are severely mentally handicapped that would not meet typical graduation requirements. They're not going to take three years of math,

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they're not going to take four years of regular English and graduate. Our students then go into our 18- to 21-year-old program, when they complete that 18 to 21 program, we give them a high school diploma from Norris. Some districts will give a certificate of completion, we actually give a diploma. And most districts I think lean that way. [LB826]

SENATOR SCHNOOR: Okay, but in reality they have not met the requirements for graduation? [LB826]

BRENDA TRACY: What we have to do as an IEP team is you write their IEP and they have to meet those IEP goals, and what are those transition goals, what do we want them to be able to do when they leave Norris, and those kinds of things. So they meet their IEP goals, that makes them eligible to graduate. [LB826]

SENATOR SCHNOOR: Okay. All right, thank you. [LB826]

SENATOR SULLIVAN: Senator Baker. [LB826]

SENATOR BAKER: Thank you. Dr. Tracy, I'm giving more of a statement than I'm asking a question. But I understand where Senator Groene's question comes from, Senator Schnoor, from hearing on previous hearings. But I think the question why do we have to do this, where did this all come from? I remember very well. It was my first year as a superintendent, 1974, 1975 that P.L. 94-142 passed as a federal law that requires education of all handicapped children. And the promise at that time...the federal government was going to make you do it, but they were going to pay for it all. Well, that never happened, so here we are. What percent today do we get from federal? [LB826]

BRENDA TRACY: Yeah. Our state is at 14.7 percent. [LB826]

SENATOR BAKER: So the money didn't follow as promised, but the requirements that you deal with, all handicapped people remains. [LB826]

BRENDA TRACY: Right. [LB826]

SENATOR SULLIVAN: Any other questions for Dr. Tracy? Senator Groene. [LB826]

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SENATOR GROENE: Let me clarify something. The fact that we're doing it 0 to 5 is a Department of Education regulation, not a federal mandate or our constitutional requirement to educate 5- to 21-year-olds? [LB826]

BRENDA TRACY: I believe that's correct, because not all states have birth... [LB826]

SENATOR GROENE: Just...have you felt good about that you had some real successes, they went through your 21 program and they're out in the world? Or do some of your graduates end up at Beatrice? [LB826]

BRENDA TRACY: We have...this is my 14th year at Norris, and we haven't had any of our students go to Beatrice. We have a great program running right now, and they've expanded throughout the state. It's called...I just lost the name of it...thank you. I was doing Para Promote...Project Search. There's too many terms in special education. Project Search, which is run through vocational rehabilitation, and we are partnering with St. Elizabeth's Hospital and the heart hospital, and so our students that are in that 18 to 21 program their last year can go into those facilities. And then they have different facilities across the state in different communities-- Omaha has a bunch. And then the end goal is employment. And so they do six different rotations, like internships, and then their end goal is employment. So that's been good for some of our kids. [LB826]

SENATOR GROENE: Thank you. [LB826]

SENATOR SULLIVAN: And Dr. Tracy, correct me if I'm wrong, in trying to listen to the questioning back and forth with Senator Groene, our state statutes expand to 0 to 3, and once we did that, we were one of the early providers. And so then when the feds got involved, it's a matter of maintenance of effort and keeping that going. We really can't turn back the clock so to speak or turn back the support. [LB826]

BRENDA TRACY: Right, nor would we. I mean, I guess my opinion would be with research you would never want to do that because you want to intervene at the youngest age possible to avoid those delays being longer. You know, the longer...the earlier you intervene. [LB826]

SENATOR SULLIVAN: Well, yes. And I think that's what the federal government has said in terms of pushing that, is that the research shows them as well that that's where the biggest bang for your buck comes. [LB826]

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BRENDA TRACY: Right. Especially before the end of that third grade year is really kind of that critical point. You know, if they don't by the end of your third grade year, you know, research will show that you're four times less likely to graduate. And then if you're low socioeconomic, which I heard somebody ask that, you're six times less likely to graduate. [LB826]

SENATOR GROENE: But you're talking about handicapped children, special needs? [LB826]

BRENDA TRACY: I'm talking any child. There's a lot of our students that will come in, that will have a delay that if you catch them early enough they would no longer qualify in a few years, because you've provided that intervention. [LB826]

SENATOR GROENE: The 0 to 5, how do you...parents bring you to them? Or you said it comes from HHS that says they come to you and say this child needs to be in your program, they're one-year-old, they've just been born. [LB826]

BRENDA TRACY: Right. [LB826]

SENATOR GROENE: That's how you identify them? [LB826]

BRENDA TRACY: The way Norris does it...districts are a little bit different, but our birth to 3 referrals come from our service unit. All of our referrals birth to 3 go to our service unit, then they have a services... [LB826]

SENATOR GROENE: You mean ESU? [LB826]

BRENDA TRACY: Yes, and then they have what's called a service coordinator, and that person kind of contact us. And then there's a team that goes out and evaluates. [LB826]

SENATOR GROENE: Parents bring them to the ESU or HHS contacts? I'm just trying to figure out how this system works. [LB826]

BRENDA TRACY: No. Parents would make a call, or a doctor or a babysitter could make a call and say, hey, we have concerns about the developmental process of this child and where they're at. And then the services coordinator would get in touch with the family, the family would answer a few questions, and then that service coordinator at the service unit in your region would contact your district, and then you have 45 days from that time to say...to go out and evaluate,

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your team would go to the house and evaluate and then determine if the student has a disability or not. [LB826]

SENATOR GROENE: One last question. You said we're one of the 0 to 21. Do you know how many states are 0 to 21? [LB826]

BRENDA TRACY: I don't. I could find out and let you know. There's quite a few. [LB826]

SENATOR GROENE: Just out of curiosity, how our special ed programs compare. [LB826]

SENATOR SULLIVAN: Senator Schnoor. [LB826]

SENATOR SCHNOOR: All right, our constitution says provide for instruction in the common schools, ages 5 through 21. And we talk about that a lot and everybody always asks the question of why 21. And you have mentioned in your testimony here that...I think you called it the 18 to 21 program. Could you elaborate on that a little bit more, please? [LB826]

BRENDA TRACY: What it looks like or why we have it? [LB826]

SENATOR SCHNOOR: Well, just what it is in general. [LB826]

BRENDA TRACY: Right. Our 18 to 21 program is for students that have more severe needs--mental handicaps, students that are not able to graduate due to cognitive delays. Sometimes it would involve students that maybe have missed out on school or...just lots of determining factors if they haven't met those graduation requirements due to...I'm trying to think of...we don't have one right now that's not cognitive delay, but if they've missed school or instruction for that time and they're not able to complete those criteria or their IEP goals by the time their class graduates. And so then you're obligated as a school district to serve them through the school year in which they turn 21. And so a lot of times, once our kids have reached that age, like we have three students that will go into that program next year. One has what we call Angelman syndrome, she's developmentally disabled, she's nonverbal, but we will work with her on job skills, just daily living, those kinds of things. And the biggest thing too, at least in Nebraska, is that any of those students that qualify for developmental disabilities, that doesn't kick in until they're 21. So if a school says we're done, we're graduating them a 18, those students have a lapse of services until they're 21. Those parents cannot get those services to help those students until they turn 21. And so it's kind of a thing within our state too that, you know, there's kind of that gap. And so you're obligated to educate until they're 21. [LB826]

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SENATOR SCHNOOR: Is that why we have the 21 years of age? [LB826]

BRENDA TRACY: No. No, because every, I mean, all states... [LB826]

SENATOR SCHNOOR: It just all works together? [LB826]

BRENDA TRACY: Right. [LB826]

SENATOR SCHNOOR: Okay. [LB826]

BRENDA TRACY: It just gives them those extra couple years to meet those goals and to develop. [LB826]

SENATOR SCHNOOR: Okay, thank you. [LB826]

SENATOR SULLIVAN: Well, Dr. Tracy, we didn't mean to grill you, but you provided us with some very helpful information. Thank you and happy birthday. [LB826]

BRENDA TRACY: Thanks. [LB826]

SENATOR SULLIVAN: We'll continue with proponent testimony on LB826. Welcome again. [LB826]

JOHN BONAIUTO: Thank you, Senator Sullivan, members of the committee. John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, testifying for the Nebraska Association of School Boards, and supporting LB826 as a piece of what might be future tax policy. I enjoyed the testimony and the changes that we've seen over the years in special education. And what this bill brings forward is a vehicle that understanding that every district is required to provide these services, and that the federal government has really never lived up to the 40 percent that it had promised to be a partner with the states in funding these services. And the state of Nebraska has stepped up and created the state's special ed reimbursement fund, which is coupled with the federal money. But at best, you know, we fall way short of what districts are spending. This bill and the fiscal note, which frankly was even more than I had anticipated, speaks to what districts are doing. And the districts are taking money from the general fund in helping to fund the gap in reimbursement for special ed. So if this bill were used to help provide tax relief, it's something that would go to every district across the state. So it's a different vehicle. There are bills that talk about flat grant or apportionment aid, foundation aid, different ways to help districts so that they would lower

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their property taxes. And so I think that this is one of those bills that at some point may be discussed, not alone, but as part of a larger solution. There are many ideas out there and those ideas will need to come together. But I can tell you that school boards closest to the tax payers hear about the high property taxes, and so we're very interested in how this unfolds. And with that, I will conclude my testimony, and be happy to answer any questions. [LB826]

SENATOR SULLIVAN: Thank you, Mr. Bonaiuto. I suppose the accompanying question to that is yes, but where does the money come from? [LB826]

JOHN BONAIUTO: That's exactly...yes. And you know, this is that difficult piece...what is the right balance for the state being a partner with the local school district and taxpayers. And we know that part of the reason for high property taxes is the fact that our aid to schools is on the lower side. So it is difficult that the state has only so much money to spread. And I know that when we talked to school board members, we're always cautious about saying, you know, we aren't the only ones that the state has to worry about. You have to worry about corrections and health and human services. Education is obviously a big part of that and so, you know, I wish that there was some new revenue streams that we could tap into and look at. But I look at some of the bills that have been introduced, and just ratcheting down and tightening is...it will make a small impact, but that is not a long term solution. And so I think that looking at some of your ideas which will cost money will help for a long term solution to lower the property taxes. But I know that that's not going to be easy. [LB826]

SENATOR SULLIVAN: Any questions for him? Senator Groene. [LB826]

SENATOR GROENE: Thank you, Chairman. What's...we already do, I mean, outside of state aid, you know, we're \$956 million, close to \$1 billion on state aid. That's TEEOSA. The \$225 million we give for special ed is outside of that. [LB826]

JOHN BONAIUTO: Yes, it is. [LB826]

SENATOR GROENE: It's well outside...that's extra, that's extra already. [LB826]

JOHN BONAIUTO: Yes. [LB826]

SENATOR GROENE: So when you say the \$9 billion covers that first \$10,000 of a student, because every student is equal, but then now we have the handicapped and then that's where the \$225 million is supposed to cover that extra cost. So the state has tried to step up, outside of the state aid to education formula. [LB826]

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JOHN BONAIUTO: Absolutely, Senator. It is true that the...you know, and not something that's... [LB826]

SENATOR GROENE: That's 20 percent of our state aid. That's as much as 20 percent on top of state aid. [LB826]

JOHN BONAIUTO: Absolutely. And it's appreciated, and it's something that does not go unnoticed that the state really does try to make an impact on the expenses. I think that...and I hate to use a figure, but I was thinking that the gap is still...you know, between state and federal reimbursement we may still only be at about 55 percent. There's a considerable gap there and so that's where districts are taking money out of the general fund to help fill that gap. And so it's...this bill, I think the attempt here is to increase the allotted money districts would get, they would not have to take as much local resource, and that's how property taxes would be impacted. Senator Sullivan asked the key question is where does that \$120 million come from, or the \$150 million in year 2 in the fiscal note? [LB826]

SENATOR SULLIVAN: Any other questions? Thank you, Mr. Bonaiuto. [LB826]

JOHN BONAIUTO: Thank you. [LB826]

SENATOR SULLIVAN: Welcome back. [LB826]

JOHN SKRETTA: (Exhibit 5) Hi. Good afternoon, Senators. My name is John Skretta, that's J-o-h-n S-k-r-e-t-t-a, and I'm the superintendent of the Norris school district. And you already heard eloquent, articulate, and highly expert testimony from Dr. Brenda Tracy, none of which I can extend upon, so I'm not even going to attempt to. I'm simply going to share with you a couple key points to reinforce the message that what you heard from her and what you heard from prior testimony in proponent fashion is reflective of STANCE member school districts. STANCE is a coalition of 15 mid-sized Nebraska public school districts and we are submitting the testimony that's going around in written format to you on behalf of Senator Davis' LB826. A couple just real key points. So for Norris at the local level these are resources which could really tremendously impact us if we had increased special education reimbursements for the 2014, 2015 year. For instance, our reimbursements would have been about \$400,000 more than what we got, because the differential right now is, you know, receiving just over 50 percent reimbursement for special education, and this would bring us to 80 percent. Obviously, what's already been shared provides tremendous insight into some of the specifics, in terms of student needs. When we look at STANCE school districts across Nebraska, and the member school districts are listed there on your handout. Speaking on behalf of all of our districts, special education services are mandatory. We practice inclusive models and that's something that I think

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is generationally different. I know when I was in elementary and secondary school myself, special education was nowhere near as inclusive as it is now and that's a tremendous thing. That carries with it implications for resources. These are our kids, birth to 21, they're our kids, and that means cradle to career or cradle to college. That's a way to think about it as we work with these kids. And then to reiterate a point that I believe Senator Kolowski made initially, and that's that medical advancements in scientific technology have brought us the opportunity to serve more students who are medically fragile or who have a need for an exceptionally high level of care. And there are cost implications with that, some of which you've heard about. And we just want to, on behalf of STANCE, thank Senator Davis for sponsoring this legislation, we want to thank each of you for your careful consideration of his proposal. Thanks. [LB826]

SENATOR SULLIVAN: Thank you, Mr. Skretta. Any questions for him? Senator Kolowski. [LB826]

SENATOR KOLOWSKI: Thank you very much. John, thank you for your testimony, and I think it highlights the issue of the figures that we have of how short we are, and the issue of human capital. That (inaudible) pay us now or pay us later is what we have to face. And if we don't do that properly, we'll be incurring even more costs as we go down the line without proper work training, education goals too. [LB826]

JOHN SKRETTA: I know. It sounds overly simplistic, but it goes back to that adage about educate or incarcerate. And we have an opportunity with kids early, and those early interventions make a huge difference. And I know Dr. Tracy made the point too that special education doesn't mean special ed for life. Special education means many of those kids...the earlier you intervene, the more powerful and effective those interventions are up front, the less likely it is that they'll need services later. [LB826]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. [LB826]

JOHN SKRETTA: Thank you. [LB826]

SENATOR SULLIVAN: Welcome. [LB826]

VIRGIL HARDEN: (Exhibit 6) Good afternoon, Senator Sullivan, members of the Education Committee. My name is Virgil Harden, V-i-r-g-i-l H-a-r-d-e-n, executive director of business for Grand Island Public Schools, but here on behalf of the Greater Nebraska Schools Association. We are a 26-member school district that is here in support of LB826. Every Nebraska school district incurs the special education expenditures, which is mandated by of course both federal

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and state law. Special education expenditures represent resources spent to educate Nebraska's most vulnerable children. In Nebraska school rooms today, one in seven, or approximately 15 percent of the student body, requires special education needs or an IEP, or special education services. GNSA schools then of that 15 percent, we represent over two-thirds of all special education students in the state. Historically, both federal government, which originally promised 40 percent funding back in the early 1970s, and is now half of that, and the state, which you've heard earlier promised somewhere in the 80 percent, and now is maybe at best 53 percent. So they've fallen short. And so...sorry, 50 years old and I have bifocals now for the first time. So I every once in a while can't quite follow my own reading. So of course this underfunding then that the both federal and state is clearly an unfunded mandate, unfortunately, for all Nebraska public school districts. With the current system that we have in place, as far as budget limits and levy limits, the underfunding of the allowable special education cost results in fewer general education dollars for operation of all Nebraska school districts. These restricted general funds special education expenditures represent opportunity lost for non-special education pupils. In essence, if districts were reimbursed appropriately, school districts would have more resources to attack other educational needs. Again, of non-special education students, things like poverty and English as a second language, which simply not...these kids may not necessarily need special education services. So with that, we would conclude our testimony in support of LB826. [LB826]

SENATOR SULLIVAN: Thank you, Mr. Harden. It appears in some of the testifiers that we've heard, special education population among the students is anywhere from 10 to 15 percent. Would you think that's about right for your member GNSA schools? [LB826]

VIRGIL HARDEN: Well, I can't speak for every member district, but for Grand Island, I think that's very close. Yeah, somewhere in that range. [LB826]

SENATOR SULLIVAN: Okay, all right. Any other questions for Mr. Harden? Thank you for your testimony. [LB826]

VIRGIL HARDEN: Thank you. Welcome back. Are you feeling any better? [LB826]

JON HABBEN: Good afternoon, Senator Sullivan, and the committee...again. My name is Jon Habben, J-o-n H-a-b-b-e-n, Nebraska Rural Community Schools. I'd like to return the discussion a bit to this issue of money. We are trying to serve the kids that come to us as best we can serve the kids that come to us. It doesn't necessarily look identical in each district, because each district has different capabilities, and its geographical proximity may affect some of those. In three of the districts where I was at, which incidentally, the first district was when reimbursements were in that nearly 80 percent category. The next district it had slid down to

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about 65 percent, and in the next district it was barely 55 percent. Think of it this way: the same youngster with the same special education circumstance, the district trying to serve them in the same way; look at the impact as a percentage of the budget for a child that may have incurred expenses of let's say...severely involved...\$30,000. On a school that is very small, that is obviously a larger percentage of the total budget than in a school that is larger. But the school that is larger has more of those children that may be severely affected. The point being we're all in this. And the thing that I think is so important about special education reimbursement is that it's tied directly to the costs of teaching the children with the disabilities. And that means that if I'm not doing this in my school, I don't have a child in the severe category, I'm not paying that bill, I'm not getting that reimbursement. That's as it should be. If I do have that child, and I do have those expenses, then I'm hoping for as much reimbursement as possible. You've heard people talk about this clash between the special education dollars and the regular education dollars. As a principal and a superintendent who's done many, many budgets over the years, that clash is real and you cannot ignore it. And the bigger your special education budget, the more potential you have for that clash with regular education. It's just the way the numbers work out. I want to simply say...I'm running out of voice. I just want to tell you that for all schools this is the same issue. It's dollars tied directly to special education services and costs, and it matters in the sense that yes, you can talk about it in terms of the potential to ease property taxes, you can talk about its potential in the attempt to serve children. Both exist everywhere. But you really have to look at this as this population, that most needy, that's a core principle as to why we're in the business we're in. And I hope the effort to grow this reimbursement hope it's successful in some fashion. Senator Sullivan has pushed that button upward in front of the Appropriations Committee a few times. We're always hoping that it grows even more. Thank you. [LB826]

SENATOR SULLIVAN: Thank you, Mr. Habben. It's a need in every school district. In your association you work with very small schools in some remote areas. How do they access services? [LB826]

JON HABBEN: There's some real dilemma there. And I can give you some examples of where I was. In one particular school district, we had no choice but to send a child to Bethpage in Axtell. The issues were simply that severe. And in order for the parents to even cope, and for us to provide any level of educational services, that's what had to be done. Now in another district, we were able to do those things, but we were able to do them in the parents' home. In another district, we were able to do them actually partially connected with the student population. Parents were always wonderfully supportive, but if you don't have the services that does not prevent you from being responsible for seeking out those services. And in seeking out those services, it may be the program next door that has that. It may be you hiring somebody, if you can find somebody. It may be sending the student...for example, in Falls City we sent students to Nebraska City, to the school for the visual handicapped. These are things you just have to do. They aren't wasted dollars. You know, I've heard a little bit of concern that maybe the dollars

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aren't most efficiently used there, but in the sense that these are special education needs and we pay attention to all of our vulnerable kids, they're important dollars and they draw important services toward the life of those kids and those families. [LB826]

SENATOR SULLIVAN: (Exhibit 7) Thank you. Any other questions for Mr. Habben? Thank you for your testimony. Any other testimony in support of LB826? I do have one letter of support from Jay Sears, from the Nebraska State Education Association. Anyone to speak in opposition? Or in a neutral capacity? Welcome. [LB826]

TIFFANY JOEKEL: Thank you. Good afternoon, my name is Tiffany Joekel, J-o-e-k-e-l, and I'm policy director at OpenSky Policy Institute. We are hear today to testify in a neutral capacity. As has been noted, the bill comes with a relatively large price tag, and we recognize the constraints the Legislature is dealing with, this session in particular. But we would like to acknowledge that we think this is good policy for a lot of the reasons that have been stated before. And should this committee or the full body be interested in advancing this policy, we of course would be happy to work with you to find and analyze ways we may be able to find the revenue to support such a policy. We think it's good policy because, as many folks have said, this is a shared responsibility of school districts across the state. It is tied directly to costs incurred, and we think setting a reimbursement factor of 80 percent, or whatever percent should be chosen, does increase the predictability of funding available to a district. We also recognize that this is a growing area of school spending. The LFO report that was provided to the super committee over the interim did a great job of detailing the increasing impact of special ed costs relative to other costs within a school district's budget. Over the last 30 years, the portion attributed to special ed, the portion of the general fund dispersement, has increased by 4.5 percent. And what we've seen is regular instruction then has decreased by 30 percent. Special ed was the fastest-growing area of spending over the last decade at 4.5 percent, whereas regular instruction grew at 4 percent, and overall, school general fund dispersements grew at 4.1 percent. So again, we just would like to reiterate that we think this is good policy and we would be happy to work with the committee and the body to help identify revenue sources that could move this forward. We do think there is a relationship between increasing school spending in this area and growing reliance on local sources of revenue to support those needs to the extent that the state reimbursement is declining, relative to the overall share of costs. So with that, I'd be happy to answer any questions. [LB826]

SENATOR SULLIVAN: Thank you, Tiffany. Any questions for her? Senator Kolowski. [LB826]

SENATOR KOLOWSKI: Yes, thank you, madam. Ms. Joekel, in your former life, when you worked here, we were able to secure some additional funding that had not been drawn upon in the past. Would do...do you see any other aspects where that is possible within your knowledge of what we do and how we do that at the current time? [LB826]

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TIFFANY JOEKEL: Sure. Well, I must clarify that you were not actually successful while I was here, that was the staffer after me, so I can't take credit for that being successful. [LB826]

SENATOR KOLOWSKI: You started it. [LB826]

TIFFANY JOEKEL: You know, I think school districts are looking to find ways to better utilize...more effectively and efficiently utilize available federal Medicaid funding that are available for services being provided, but I can't speak to that specifically. [LB826]

SENATOR KOLOWSKI: That was a difference of how many million? [LB826]

TIFFANY JOEKEL: Oh, jeez, a lot. [LB826]

SENATOR KOLOWSKI: Sixteen, twenty? [LB826]

TIFFANY JOEKEL: Yeah. I would have pulled out 20, but I couldn't tell you for sure. [LB826]

SENATOR KOLOWSKI: Yeah, I thought 20. Thank you. [LB826]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. [LB826]

TIFFANY JOEKEL: Thank you. [LB826]

SENATOR SULLIVAN: Welcome. [LB826]

BRIAN HALSTEAD: Good afternoon, Senator Sullivan, members of the Education Committee. For the record, my name is Brian, B-r-i-a-n, Halstead, H-a-l-s-t-e-a-d. I'm here this afternoon representing the State Board of Education. Some of you may well know the state board yesterday spent most of the day reviewing bills introduced this session by the Legislature. I can tell you that they spent about 15 minutes just talking about Senator Davis' bill, for a whole number of aspects. They certainly recognize that it's the Legislature's responsibility to provide for the free instruction in our schools, and recognize that you have the difficult jobs of funding education. At the same time, they are well aware, because every year we have to submit our budget requests in the growing needs in special education. So they took a neutral position on this bill. They wanted to thank Senator Davis for pointing out how both the state and federal government have failed over the last 15 to 20 years to keep up with the funding promises that were made in the 1990s. I think you've heard from several that back in the 1990s the state was contributing at about an 80

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percent rate. The federal government in 1974 promised they would cover 40 percent, and with the ARRA funding they got to 20 percent, but it's never been what they promised. It was fascinating to listen to the board members, because they spoke of it not about property tax relief or not about state aid, but more about making sure quality is there for every student and ensuring that the schools have the resources to make sure they have quality staff, quality programs. And it doesn't just apply to the public school districts, because children in the private, denominational, and parochial schools are also impacted by these services. I think Senator Krist, who was here earlier on the bill before you, pointed that out. It's about every student, every day. They recognize that the price tag for this bill, \$125 million, that is what has accumulated over the last 15 to 20 years in not meeting the needs of special education funding. And they recognize you're not going to get out of this, this year or next year, but we need to start addressing the lack of funding for the quality service we expect for all of these kids, and start working to solving the problem, instead of just waiting another year to solve it. So I know there were a whole number of questions asked during other people's testimony. Nebraska actually had a special education act before the federal government started, but there are in fact numerous federal regulations that come along with the federal funding for IDEA. By statute, the Legislature has determined that students will be served from the date of diagnosis through age 21, and that continues even if the child turns 21 in their last year. The school can and shall finish serving the child through the rest of that school year. So there is both federal law and state law. And yes, the state board promulgates Rule 51, it's a really thick rule that covers all the regulations that school districts have to meet, in order to receive both their federal and state funding. It had gotten so large that now the below age 3 program, it's in Rule 52, so that we could better differentiate and make it clearer to people. So there is a large list of statutes that the Legislature has enacted, there's the regulations the Department of Education has, both here at the state level and the federal level. Several of the people testifying talked about well yeah, that's a decision we get to make, but when they're making those decisions, they still have to meet the minimum federal and state requirements. It's not really a well, if we don't want to, we don't want to. No, they have an obligation to meet the needs of the students. So I'm going to stop there, if there's any other questions. There is a large area of law that addresses special education. [LB826]

SENATOR SULLIVAN: Thank you, Mr. Halstead. Any questions for him? Thank you for your testimony. Anyone else wishing to testify in a neutral capacity? Senator Davis for closing. [LB826]

SENATOR DAVIS: Thank you, Senator Sullivan, members of the committee. You've had a long afternoon, I appreciate your interest and engagement in the discussion here. I especially appreciate the experts who came and talked about special education and the complexity of the problems that are associated with it, and the costs. This proposal is a worthy one, which I think is something we really need to explore for a number of reasons. The facts have been stated earlier, but I'm just going to restate a little bit of those. This is aid that's going to go to districts where the

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need is. So if you've got a number of students in your district that are special education students, you're going to get more dollars than a district that doesn't have those. So it's fairly distributed. It's not like foundation aid, where you're getting x amount of dollars, whether you need it or not. This is a fair approach. Senator Groene made reference to some people who moved to Elkhorn from North Platte, because they wanted to have better services. You do have flight from one place to another in order to get better services. That particular district in Elkhorn is now bearing the cost of that. So this is a little more...it's a fair approach. And I think the fact that the state has reneged on its promises to the taxpayer, in terms of its obligation to fund it...and you know, when you drop from 80 percent to 52 percent and you impose \$150 million on the backs of the property tax payers within the state, regardless of their ability to pay, that's a problem the Legislature needs to address. I realize it's going to be hard to do that in a short session, and with the other impending problems that we have facing us. One option might be to take some funding out of the property tax credit fund and put it into a special education piece. That's something the committee could maybe consider amending. I really think that the testimony that we've had here today demonstrates what a great service this is. And I'd like to also say remember...and I think Brian talked about this a little bit, we serve every student: at the private schools, in the public schools, home schools if they need it; but those dollars are coming out of the local entity right now. So it's a good idea that I think really deserves some traction. I hope you'll consider working with me to maybe advance the bill. Thank you. [LB826]

SENATOR SULLIVAN: Thank you, Senator Davis. Any questions for him? Thank you very much. [LB826]

SENATOR DAVIS: Thank you. [LB826]

SENATOR SULLIVAN: This closes the hearings for today, and thank you all for attending. [LB826]