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Education Committee  
February 19, 2008

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[LB990 LB1023 LB1083 LB1152 LB1153 CONFIRMATION]

The Committee on Education met at 1:30 p.m. on Tuesday, February 19, 2008, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1023, LB1083, LB990, LB1153, LB1152, and a gubernatorial appointment. Senators present: Ron Raikes, Chairperson; Greg Adams; Brad Ashford; Bill Avery; Carroll Burling; Gwen Howard; and Joel Johnson. Senators absent: Gail Kopplin, Vice Chairperson. []

SENATOR RAIKES: Good afternoon and welcome this hearing of the Education Committee of the Nebraska Legislature. We apologize for the delay in getting going today. We're behind the Retirement Committee and they had some testimony that took a while. So here we are; we're ready to go. We're going to hear five bills today, but preceded by a confirmation hearing. For each of the bills, we'll have our usual procedure: an introduction, followed by proponent, opponent, neutral testimony, and possibly a close by the introducer. We'll limit testimony to five minutes, so please honor that. We've got a little light system that will give you a green light to the end of four minutes, then a yellow, and then the red, the dreaded red. So we'd appreciate your being aware of that. Also, as you come to testify, please be sure to tell us your name and also spell your last name. That's not a test. That's for the transcriber. We need to have that information. There's little form sheet that I think there's in the back corners or something where you put your name and the bill and so on, bring that with you and throw it in the box. I'll proceed with introductions. To my far right, at some point, will be Matt Blomstedt, our committee's research analyst; Senator Brad Ashford from Omaha will be in the next chair; Senator Gwen Howard from Omaha is already in her chair; Senator Carroll Burling from Kenesaw; this is Tammy Barry, our committee's legal counsel; I'm Ron Raikes, District 25; Senator Gail Kopplin, our committee's vice chair will be gone this afternoon attending a medical situation; Senator Avery does not know who he is or it's Adams? (laugh) Adams? None of them know who they are. Here we have Senator Greg Adams from York; then Senator Joel Johnson from Kearney; Senator Bill Avery from Lincoln; and Kris Valentin, our committee clerk. So with that, please turn off your cell phones and we will proceed, and our first item of business is a confirmation hearing, Phillip Dudley, to the Nebraska Educational Telecommunication Commission. And Mr. Dudley, if you'd come forward. [CONFIRMATION]

PHILLIP DUDLEY: Sure. Do I sit or stand or... [CONFIRMATION]

SENATOR RAIKES: Kneel (laughter). [CONFIRMATION]

PHILLIP DUDLEY: Okay. I will do that as well. Yes. Whatever it takes, Senator, whatever it takes. [CONFIRMATION]

SENATOR RAIKES: Thanks for being here, and please tell us a little bit about yourself

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and the reason you're interested in this position. [CONFIRMATION]

PHILLIP DUDLEY: (Exhibit 1) Well, I'm Phil Dudley, the president of Hastings College and began my career in higher education at Doane College in Crete in 1969. Phil Heckman, who was the president of Doane, hired me. I think he's taken criticism over that over the years, but he did make that decision and I spent four very good years there. And then earned my Ph.D. in economics from the University of Nebraska in the late seventies; moved to Hastings College in 1973 as a professor of economics; also at Doane and at Hastings somehow I ended up coaching the defensive line in football. I don't quite know how that happened, but I suppose that uniquely qualifies me to be a college president. I became the president in 2000 after being a vice president for many years. And so I'm finishing my eighth year as the president of Hastings College. Phil Heckman, a few years ago, contacted me, and I think Phil had been on the Nebraska Education (sic) Telecommunications Commission for many years. And then Fred Brown, who recently retired as the president of Doane who's a good friend, both contacted me and asked if I would be interested in representing the independent college sector, and said I would be very willing to do that. So I've attended, I believe, four or five of the meetings. I certainly believe in the mission of NET, which is certainly to connect Nebraskans across the state and to respect the history of this great state. And then to provide educational services for enriching our citizens, and then also for the betterment of our community. So I found that to be the case and am very excited about being invited to be on this very important commission. [CONFIRMATION]

SENATOR RAIKES: Okay. Thank you, Dr. Dudley. Questions for Dr. Dudley? Senator Adams has one. [CONFIRMATION]

SENATOR ADAMS: I think you already started to answer my question... [CONFIRMATION]

PHILLIP DUDLEY: Yes. [CONFIRMATION]

SENATOR ADAMS: ...right towards the end of your comments, but elaborate for me a little bit more. In terms of curriculum and value to the education system, where do you see the commission fitting into that? [CONFIRMATION]

PHILLIP DUDLEY: Just in the three to four meetings, Senator, that I've attended, I mean, just the wealth of programs and information and public radio and television and just what's being broadcast and the quality, I think the integrity that the commission and these people have and the trust that I think they have from the communities and individuals of Nebraska is really overwhelming. And just the personal witnessing of the quality of the services, and so that's why, again, I think it's a certainly a part of the mission of Hastings College and also in the independent colleges, as well as of course our public education systems of higher education. [CONFIRMATION]

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SENATOR ADAMS: Thank you. [CONFIRMATION]

PHILLIP DUDLEY: Um-hum. [CONFIRMATION]

SENATOR RAIKES: Any other questions for Dr. Dudley? Senator Avery has one.  
[CONFIRMATION]

PHILLIP DUDLEY: Senator? [CONFIRMATION]

SENATOR AVERY: This commission, is this the governing body of NET?  
[CONFIRMATION]

PHILLIP DUDLEY: Yes, that's correct. Um-hum. [CONFIRMATION]

SENATOR AVERY: I hear a lot of comments, mostly complaints, that a lot of the people in the state who live in sparsely populated areas don't have access to much TV other than NETV, and they can't always get programming that they would like to have. For example, you cannot get women's volleyball. You can't get baseball a lot of times. Do you know if the commission is doing anything at all to improve the ability to provide that kind of expanded program in these sparsely populated areas? [CONFIRMATION]

PHILLIP DUDLEY: Well, I can certainly explore that with Rod Bates, who's the director. And as I said, I've been to four meetings and have not heard that. But what I have heard is a concern is, you know, I believe it's in February of 2009 when we are converting in television from analog to digital, there's some real challenges there. And I think they did a recent...some research that indicated about 225,000 homes that have television will possibly have problems with this conversion. So I know there's great concern there on how to modify these satellite systems and the signals that they have. But I can certainly bring that up at our commission meeting and will do so. [CONFIRMATION]

SENATOR AVERY: Okay. Thank you. [CONFIRMATION]

PHILLIP DUDLEY: Thank you. [CONFIRMATION]

SENATOR RAIKES: Any other questions for Dr. Dudley? To what extent has Hastings College involved itself in distance education? [CONFIRMATION]

PHILLIP DUDLEY: Senator, we do very little of that. And we do not have satellite campuses, and we at this point feel that our mission is to provide relatively small classes with full-time faculty in the classroom. And so we've explored this with a couple of graduate programs that we're looking at. At this point, we do not do much in distance education. [CONFIRMATION]

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SENATOR RAIKES: Okay. I don't see any other questions. Thank you for being here, and thank you for your willingness to serve on this commission. [CONFIRMATION]

PHILLIP DUDLEY: Thank you very much, Senator. I appreciate your time.  
[CONFIRMATION]

SENATOR RAIKES: Okay. Is there proponent testimony for this confirmation? Opponent testimony? Neutral testimony? Okay. That will close the hearing on the confirmation for Dr. Phillip Dudley, and we'll now move to LB1023. And Senator Friend has arrived. Senator, welcome. [CONFIRMATION]

SENATOR FRIEND: (Exhibit 2) Thank you, Chairman Raikes and members of the Education Committee. I'm here to introduce Legislative Bill 1023, as Senator Raikes mentioned. The bill would limit levy authority in Section 77-3442 for educational service units, or ESUs, to those ESUs which do not have any school districts which are members of a learning community. Section 79-1225 would also be amended to limit the levy authority or authorization for ESUs to ESUs which do not have any learning community school districts. Technically, I also have another amendment and I was going to distribute this to committee members because I think it provides a little more clarification and a little more creativity hopefully for the committee to deal with. It actually expands some of the taxing authority, you know, for that local district, if you will. Members of the committee, as Senator Raikes and Senator Adams and Tammy and a lot of you know, I participated in a special needs, a special education task force this summer and also this fall. And other than the normal contact that I had through the channels of education in our state, which of course dealt with myself and then also with my own children and how my wife and I have dealt with their situation, that's how far my experience went. But it was an educational process this summer. It was a very educational process during the entire task force, and I guess I came to a couple of conclusions after that task force completed its work. One of the things that I came into the Legislature and one of the ideas that...utopian ideas that I thought I could provide was that we look out for taxpayers and look for things like fiscal restraint. We look for some fiscal responsibility, the capability, giving citizens the capability or the opportunity to look at some streamlined efforts and ideas that we as senators could provide. In five years I hadn't been able to produce any. When I looked at this situation, I also talked to one of the other members of the task force about it, a gentleman named Steve Curtiss, I saw an opportunity to maybe force some of those efficiencies. I wouldn't even say "force." I would say creatively, you know, deal with possibly some efficiencies that we might not otherwise be able to affect. And I also looked at it and said there's an educational opportunity here, too. Because of all the things that we were talking about, it kept coming back to me that if we helped to promote some creativity, the learning community did that last year, if we could jump and piggyback on that and help produce some of that creativity, produce some of the empowerment that I thought, you know,

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that maybe a bill like this could produce for the districts, then those districts would get that issue back. Those districts would get that power back. I could be wrong. I don't know. But this certainly starts a discussion that was started during the task force and, in my view, in a lot of ways not really completed. I know in a weird way, Senator Raikes has a bill I think later on today that deals with similar subject matter. I think at the very least this gives us an opportunity to talk about some of the ideas that I brought out, and quite frankly to see if there's any interest in changing our direction and changing our route in regard to some of the ESUs in the way they operate. And one more quick thing, I hope you understand this isn't an ESU bashing bill. I think some of you know me well enough to know that that's not the case. I just know that I think that there are states around us and other entities that deal with the funding mechanisms in a different manner. That's why I'm here. And I'd be happy to answer any questions that might have popped into your head. [LB1023]

SENATOR RAIKES: Okay. Thank you, Senator. Questions for Senator Friend? Senator, elaborate a little bit more, if you will, on your objective. And as you envision what might happen with a proposal like this, you simply would not have any school districts in a learning community belonging to an ESU? [LB1023]

SENATOR FRIEND: Well, no. I think that we're talking about just funneling...we're talking about funneling the financing in a different way. The districts would control...you know, we were talking about the 1.5 cent and I know some would say, well, what does that really add up to? That's not that much. I mean, the ESU in this new learning community will have that 1.5 cent, you know, ability to levy. But my point is already working with the districts. I mean, to me it empowers the district in a greater way. Is that a good thing? I mean, I think that that's open for debate. I just think that it changes the way...we change the way we...my thought process from the very beginning is we're changing the way we're doing business with the learning community. And I think that we may want to visit the way we're doing business with the ESUs and how they work with the learning community. Does this get to the heart of that? I think so, but I'm not positive. I'd be open to, you know, the committee's suggestions and ideas in this area. I hope that helps. But my initial impetus started last year before I even went onto the task force to say we're changing the way we're doing business, particularly in Douglas County and Sarpy County. But totally? Not really. It's business as usual. So I think at the very least it was worth some discussion, and I know the conversations I've had with Steve and then with folks on the task force, it was intriguing. I don't know if anybody on the task force liked it except Steve and I, but we didn't really take a poll. So... [LB1023]

SENATOR RAIKES: Senator Avery and then Adams. [LB1023]

SENATOR AVERY: Thank you, Mr. Chair. Senator Friend, do you think that if we were to pass this into law that it would effectively eliminate those ESUs? [LB1023]

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SENATOR FRIEND: I think that it's possible. But I also think that if there's some viability...I think Omaha...I think OPS and some others might tell you that there's viability. I think that they would say, no, that's not what would happen. We would put the money where we need it to go, and if it has to go to this ESU to help us with resources and everything else, than that's what's going to end up happening. But I think that that's a possibility. But only the way this is drafted in those particular areas because of, you know, the incremental approach that I thought we should take here. [LB1023]

SENATOR AVERY: Do you think one could make the argument that with the creation of the learning community that ESUs are less important, perhaps not even necessary anymore? [LB1023]

SENATOR FRIEND: I think before I started talking to folks on the task force, I would have thought that. I'm not positive about that right now. I think that that's up for debate. [LB1023]

SENATOR AVERY: Thank you. [LB1023]

SENATOR RAIKES: Senator Adams. Let me ask you this, do you think it's prudent to have basically three administrative units that are overarching among school districts in the learning community? You've got ESU 3, ESU 19, and the learning community council. Do we need all three of those? [LB1023]

SENATOR FRIEND: I don't believe we do. But to qualify that, I don't want people to think that you and I sat down during the task force and said that. I mean, we never had that conversation. [LB1023]

SENATOR RAIKES: I thought I heard you say that. [LB1023]

SENATOR FRIEND: Am I under oath? I would say that we discussed this, but I don't know that...my point is it wasn't a leading question. You and I didn't sit there and say it's not prudent. I think the reason that I came into that task force with the idea that I had is because we talked for a whole 90-day session about the bureaucracy that we were creating. And then I'm staring at, you know, an opportunity to maybe do some streamlining. I mean, so my answer is no, I don't think it's prudent. But in fairness, I don't think, you know...if people are wondering, no, you didn't put a stick in my back and say, hey, you know, run this out in front of me so I can, you know, get this word out there. It's my idea. I just don't know if it's a tremendous one yet. [LB1023]

SENATOR RAIKES: Although you did notice that you appeared on the hearing schedule before me today. [LB1023]

SENATOR FRIEND: Yeah. That's convenient. [LB1023]

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SENATOR RAIKES: Any other questions for Senator Friend? Don't see any, Senator. [LB1023]

SENATOR FRIEND: I'll hang around unless there's, you know, something bad going on down the hall and then I might have to duck out. [LB1023]

SENATOR RAIKES: Okay. [LB1023]

SENATOR FRIEND: Thank you. [LB1023]

SENATOR RAIKES: Thank you. Proponents for LB1023? Steve, welcome. [LB1023]

STEVE CURTISS: (Exhibit 3) Senator. Good afternoon, Senator Raikes and members of the Education Committee. I am Steve Curtiss, C-u-r-t-i-s-s, and I live in Gretna, Nebraska. I'm the president of MatrixPointe. MatrixPointe is a consulting firm that works in school funding and Medicaid issues for a number of states. Prior to this, I was the director of Health and Human Services here in Nebraska during the Johanns administration. I also recently served with Senator Raikes and others, Senator Adams, Senator Friend, on the Special Education Services Task Force. And I'm also the father and a parent of a child with special needs. I'm here today to testify in support of LB1023, including the amendment that Senator Friend offered today. The bill alone with the amendment attempts to address a question that I think many taxpayers have, and the question is what is the role or the need for an ESU in an urban or a suburban district? The interim study of LR336, which was completed in 2006, provides some key details to the creation of ESUs in Nebraska, and I think they're worth noting here. Page 3 notes that ESUs were created in 1965 as cooperative programs. Page 5 points out that they were intended to address service needs in small, rural districts, and the model was promoted by the National Association of Rural Education. So I think "rural" and "small" are kind of key words there. Page 5 goes on to state that "smaller districts could not afford to provide special education services because of the few students needing services. It was not feasible to hire specialists within the school system. ESUs could provide the services which the school districts could not afford because the ESUs would be serving a larger population." I believe the challenges in the rural districts have not changed much since the creation of ESUs. But the use of ESUs with separate taxing authority in large urban and suburban districts I think is worth some further review. What the legislators were contemplating at the time they instituted ESUs was based on the cooperative model, and it's based on their own words. LB1023 encourages the use of a model much like the cooperative model, which is used successfully in other states. I first became acquainted with the cooperative model in South Dakota. I have a contract with the state of South Dakota to work with all school districts to secure Medicaid funding available to public school districts. Because of this, I have become very familiar with the funding of all of the districts and cooperatives in South Dakota. In South Dakota, the

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schools in rural areas work together to form cooperatives to serve their area. They determine the appropriate staffing expenses and other needs, and they fund them from their existing school district budgets. Cooperatives were not granted their own separate taxing authority in South Dakota because the taxpayers wanted a simple, tax efficient, and locally accountable system. They also staff the cooperative board with district members or other district representatives from each participating district. This structure has reduced expenses for items like lobbyists, board elections, and excess administration and have helped focus their precious tax dollars on providing special education and other needed services. In the cooperative model, as schools grow in size, their need for staffing assistance and other services through cooperatives seems to diminish at enrollment of about 2,000. At that point, the district is of a sufficient size to provide most services it needs through its own means, with occasional purchase services from community providers. In the cooperative model, it would be rare to have a cooperative that serves primarily urban or suburban districts. LB1023 simply puts the funding back in the hands of the urban and suburban districts that are ultimately responsible to see that the service is provided. These districts can choose to continue their use of the ESUs exactly as they do today. Over time, though, many of these districts will become, I believe, more focused on the funds and the use of the funds, and I suspect that in the urban and suburban districts, the needs for ESUs will diminish. I urge you to give serious consideration to this needed reform, and I thank you for your time. [LB1023]

SENATOR RAIKES: Okay. Thank you, Steve. Questions for Steve? Senator Adams. [LB1023]

SENATOR ADAMS: Steve, thank you for being here. Good to see you again. As I paraphrase what you said today, I want you to just correct me if I'm off base. But the essence of your testimony then, you're saying that there is a need for the ESUs, the cooperative value in rural Nebraska, but in the urban areas we need to take a look at that again. [LB1023]

STEVE CURTISS: I would say, yes. That's an accurate reflection of my reading of the bill as written. Yes. [LB1023]

SENATOR ADAMS: Maybe this is overreaching your testimony, but is there an assumption here that in a larger school district, say a Lincoln or an Omaha or a learning community, that given the very nature and economy of scale that they can provide for themselves or their immediate neighbors the kind of services they need in-house without having to coop for them the way it's done in rural Nebraska? [LB1023]

STEVE CURTISS: Yes. There are...part of what I did, I went through the schools in South Dakota before I came down today to see where that cutoff was, and it was around 2,000. At that point, they stopped participating so much or at all in the

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cooperatives because they had enough of the need on their own to provide those services themselves. Some of them choose to provide a little bit of supplemental staffing potentially through a local hospital or other provider. But their need for involvement in a ESU or cooperative, as they're called up there, kind of seemed to diminish at around 2,000 enrollment. [LB1023]

SENATOR ADAMS: Thank you. [LB1023]

SENATOR RAIKES: Senator Avery. [LB1023]

SENATOR AVERY: Thank you, Mr. Chair. Would you characterize ESUs as essentially interlocal agreements? [LB1023]

STEVE CURTISS: Interlocal agreements with who? The school districts? [LB1023]

SENATOR AVERY: Um-hum. [LB1023]

STEVE CURTISS: I assume they do. I don't know that for a fact, but I assume they do have some sort of interlocal agreements like we used to have in Medicaid with providers and others. [LB1023]

SENATOR AVERY: Yeah. With the emphasis on "inter," meaning you have an agreement between two or more entities. How would you explain the existence of an ESU where there is only one district? [LB1023]

STEVE CURTISS: I think that's a great question. That's part of what I think we're looking at today, and I think we all know there's one more that sort of fits that description that's not necessarily covered by this. But that's a good question. [LB1023]

SENATOR AVERY: You could argue in this particular case that you have 11 districts and 2 ESUs, or you could make the other argument you have 1 district, which is the learning community, and 2 ESUs. [LB1023]

STEVE CURTISS: Certainly the learning community initiative puts a new spin on how this...but I think this idea had merit even before the idea of a learning community came along, it was that question that you just asked: What is the need, when schools are large enough and have economies of scale, what's the need for another taxing entity on top of those other entities? [LB1023]

SENATOR AVERY: That's all. [LB1023]

SENATOR RAIKES: Senator Howard. [LB1023]

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SENATOR HOWARD: Thank you, sir. Just a quick question. I think we all want to see our tax dollars be spent direct services to the students whenever possible. Do you see this movement as being helpful in that sort of...moving in that direction? [LB1023]

STEVE CURTISS: I think it does give more control of those funds to the local districts, particularly in these areas where there may be a question of the need for that other entity anyway. Yes. [LB1023]

SENATOR HOWARD: Okay. Thank you. [LB1023]

SENATOR RAIKES: Steve, interlocals was brought up, and it almost sounds to me like the cooperative model in South Dakota really is an interlocal, an interlocal among school districts to provide services which we think of here as those provided by ESUs. Then you basically, once...if school districts become a certain size or if they are a certain size, they either phase out of the interlocal because... [LB1023]

STEVE CURTISS: At their own choice, yeah. [LB1023]

SENATOR RAIKES: ...at their own choice, yes. But it is the school district that is the decision maker in this regard. [LB1023]

STEVE CURTISS: Right. Yes. [LB1023]

SENATOR RAIKES: So you've got basically an interlocal at the choice of a school district and either remaining in the interlocal or exiting the interlocal also at the choice of school district, and presumably the decision would be based on how can we most efficiently provide these services? Have I got the idea? [LB1023]

STEVE CURTISS: Yeah. Up there...and it's kind of funny the way that I ran across this was I had to do a lot of financial work for those districts, and as we came to these cooperatives, I needed to find out their...part of the way we leverage the Medicaid funding there is by their taxing authority. So started going through their taxing authority and finally somebody looked at me and said, we don't have any taxing authority. And I said, well, ESUs in Nebraska do, and they just kind of chuckled and said I don't know why they would, but I guess that's a decision you folks made down there. But the genesis was not different than it was here. Primarily rural districts--and South Dakota is a fairly rural state--they had to get together and decide...particularly with things like IDEA and things that came starting around '65 and have kind of evolved since then, they had a lot of needs. And kind of to your point, they kind of looked at each other...and there's probably some empowering statutes that grant these cooperative some existence--and may not, I don't know that they need statutory authority to do it. But local districts in a few counties would get together and say, well, why don't we band together and let's all get a therapist for speech and a therapist for an OT and PT, and let's share

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since I only need it one day a week, you need it one day a week; let's figure out how to do that together. And that was kind of the genesis of how they did that. So without a lot of fanfare or taxing authority, they came together and did that. [LB1023]

SENATOR RAIKES: Well, let me ask you this. Certainly there are services that are locally directed that you could see that as the school district gets to a certain size and no longer is necessary for this, we've got enough scale within the district to provide these services. But you can also see that there are services that...and maybe, you know, more so recent times that really make sense to be provided at a statewide level. So for example, if there's software package, accounting or something like that, maybe, no matter how big the school district, it makes sense to have some sort of an entity that contracts for all the school districts in the state for that license or whatever it might be, maybe even interstate, I don't know. How do you deal with those kinds of services? [LB1023]

STEVE CURTISS: Well, the notion of a cooperative certainly...and it's a common notion in healthcare and other industries where they have cooperative purchasing. So you could either arrange that through the state or through a multicounty, multidistrict organizations. I think that's still very capable or possible. One of the things that I know that ESUs have been empowered with over the last probably five or ten years is technology. And I think it's interesting to note that when we got to South Dakota, they had...they're a little ahead of us there in technology, which kind of surprised us, but they already had a statewide network. It's called the DDN, the Dakota Digital Network, and through that they can do distance learning from any corner of the state to another corner of the state. I mean, we've used it at times to have all districts in the whole state on at one time, and we presented some learning presentations to administrators across the state. And then we use it probably on a monthly basis to have limited groups of six or eight schools and do some training over this, and that was all coordinated at the state level. And then each school across the state has their own...generally has their own technology person who kind of makes sure the equipment is set up properly there. And then I think the cooperatives at times on the really small districts assist with that as well. [LB1023]

SENATOR RAIKES: Okay. Thank you. Any other questions? I don't see any. Thank you, Steve.. [LB1023]

STEVE CURTISS: Thank you. [LB1023]

SENATOR RAIKES: Any other proponents, LB1023? Are there opponents, LB1023? Mary. [LB1023]

MARY CAMPBELL: Senator Raikes, members of the Education Committee, my name is Mary Campbell, C-a-m-p-b-e-l-l, and I'm here to provide opposition testimony to

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LB1023. While the bill primarily focuses on the metro learning community and ESUs 3 and 19, there is the opportunity in the learning community legislation that other communities could develop in other parts of the state. And if so, I think then we have to look at this bill in that context as well. And for that reason, I'm testifying in opposition on behalf of all the ESUs because they could at some point possibly be effected by these provisions. But turning first to the case at hand, nearly \$4.7 million in educational resources would be lost to the 18 school districts that comprise ESU 3 because 10 of those districts will be members of the metro learning community. In addition, another \$2.7 would be lost to ESU 19 because its district is a member of the learning community. And so you would have a case of 4 counties out of all 93 counties who would be denied the tax support that comes currently from ESUs. And so I think there are a lot of policy questions that this presents, and maybe the first one, given the context of the bill, is whether the development of this first learning community in the state warrants this kind of change in ESU funding, which conceivably could affect many parts of the state in time. Will this strategy create the very kinds of inequities and disparities and inefficiency which regionalization is intended to address? Will the non-learning community schools be required to pay for ESU services, which in most cases is not the case today? Or will they have to end up creating those services for themselves that are currently provided in the cooperative manner? According to the most recent ESU study, which was done in the 2006 interim, the highest priority for ESU services were special ed, staff development, co-op purchasing, and technology--all expensive and complex services, services that we contend can more efficiently be delivered with economies of scale, services that free up or enhance teaching time in the districts. We look at LB1023 and respectfully suggest that it is disruptive of that process and will lead to more costly delivery in the future. And for that reason, we suggest that this bill have a long life in the committee or be killed. [LB1023]

SENATOR RAIKES: Okay. Thank you, Mary. Senator Avery has a question. [LB1023]

SENATOR AVERY: Mary, can you think of any services now provided by these ESUs that could not be performed by the learning community? [LB1023]

MARY CAMPBELL: I almost want to defer your question to LB1083 because I planned to expand considerably more on that and certainly the governance issues which were raised by the previous speaker and the introducer. [LB1023]

SENATOR AVERY: I'm willing to wait. [LB1023]

MARY CAMPBELL: Okay. Maybe that will be a more efficient use of our time. [LB1023]

SENATOR AVERY: Yeah. Okay. [LB1023]

SENATOR RAIKES: I'm not. [LB1023]

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MARY CAMPBELL: Okay. Go ahead, Senator. [LB1023]

SENATOR RAIKES: You know, address the issue. [LB1023]

MARY CAMPBELL: Okay. [LB1023]

SENATOR RAIKES: Does it make sense to have three separate overarching entities, actually one of them just overarches one school district, in the metro area. [LB1023]

MARY CAMPBELL: And I guess I need to know what you mean by "overarching." I guess going back to... [LB1023]

SENATOR RAIKES: Well, certainly with the learning community and with ESU 3, you have multiple school districts involved in a single organizational entity, and they overlap. [LB1023]

MARY CAMPBELL: I do think the functions and the mission do not overlap, and I'll expand on that more in the next bill. What the learning community is designed to do is a whole set of tasks and needs quite separate and distinct from the kinds of things that ESU 3 is doing for its 18 school districts, and ESU 19 is doing with itself. So I don't see overlap in that sense. Now, are there boards in each instance? Yes. Again, skipping ahead to the next bill, we want to present a plan which we think takes care of some of that governance overlap and does facilitate implementation of the learning community in an efficient way. So again, I'll delve into that more in the next bill, where I think it relates more directly. [LB1023]

SENATOR RAIKES: Okay. I'll wait for that. Senator Adams. [LB1023]

SENATOR ADAMS: Mary, quickly, at ESU 3 how many...you say there are a total of 18 schools that are members? [LB1023]

MARY CAMPBELL: That's correct. [LB1023]

SENATOR ADAMS: How many of those are members of the learning community, of those 18? [LB1023]

MARY CAMPBELL: Ten. [LB1023]

SENATOR ADAMS: Ten? [LB1023]

MARY CAMPBELL: Um-hum. [LB1023]

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SENATOR ADAMS: Okay. [LB1023]

SENATOR RAIKES: To follow up on that a little bit, you mention equity considerations. Is there a possibility when you've got...if it is true that large school districts can be self-contained on at least some of the ESU services, whereas smaller school districts can't. To what extent are you transferring resources from urban to rural districts by having an ESU? [LB1023]

MARY CAMPBELL: Well, there is the 1 percent money, which everyone shares in. And so I think that even, you know, 18 and 19 are part of sharing with the smaller districts from some of their wealth. Losing my train of thought. If you could repeat... [LB1023]

SENATOR RAIKES: Well, the issue is to the extent you have, hypothetically, a large urban district that is of sufficient size that they can provide a lot of special ed, professional development, and those kinds of services on their own. To what extent...and you've got rural districts--small or smaller, whether they'd be rural or urban--very small districts which can't. If you tax everybody to provide the services, aren't you in effect using taxing resources in the urban district to support services in the smaller districts? [LB1023]

MARY CAMPBELL: To a degree, yes. In the case of (ESU) 3 though, they have a very interesting...not by law, but by cooperative agreement among themselves that if some of the large school districts do not need the service, they don't take it and monies are returned to them from the ESU. So I think there is attempt to try to balance some of that out. But yes, we are sharing. But when we don't need something flat out, we don't have to be paying for it. [LB1023]

SENATOR RAIKES: Okay. I don't see any other questions. Thank you, Mary. [LB1023]

MARY CAMPBELL: I'll be back shortly. [LB1023]

SENATOR RAIKES: Other opponents, LB1023? Is there neutral testimony on LB1023? Senator Friend? [LB1023]

SENATOR FRIEND: Thank you, Chairman Raikes. And just briefly because I know you have a lot of stuff this afternoon. I wanted to apologize right out of the gate to Ms. Campbell. She has not seen the amendment and I couldn't expect her to speak rationally to it since she had not seen it. But I do think it changes the discussion a little bit. And a learning community's key function...one of the key functions of learning communities is going to be funding. And what is the learning community suppose to provide? It's suppose to provide, to a degree, fiscal equity. We all know that. Now, the amendment that would take that 1.5 cents of levy authority and give it back to those districts, you know, could deal I guess with some of the consternation or the reticence.

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I'm not saying that Mary would have less...or anybody would have less of a problem with this because they have other issues that she raised. But I do think that that changes the discussion a little bit. I wanted to apologize to her because she had not seen that. I wanted to apologize to the committee. It's the first time you've seen it, and with that, I would just say that I appreciate the time, and we could move on if you'd like. [LB1023]

SENATOR RAIKES: Okay. Senator Adams. [LB1023]

SENATOR ADAMS: Senator Friend, one more quick question. [LB1023]

SENATOR FRIEND: Sure. [LB1023]

SENATOR ADAMS: With the adoption of this amendment, have we or would we be negating your intentions with this bill, do you think, or are you comfortable? [LB1023]

SENATOR FRIEND: To a certain degree. But I also realize...look, what you're doing with that amendment is you're saying the district gets that 1.5 cents to do...from a resource standpoint, to do what it needs to do. I understand that after a lot of discussions that I had with Steve and cursory discussions even that I had with you guys, that we could still promote some efficiencies, even though it's revenue-neutral, even though you're just shifting the money to a different area. [LB1023]

SENATOR ADAMS: Okay. [LB1023]

SENATOR RAIKES: Senator Avery. [LB1023]

SENATOR AVERY: Let me address the comments made about shifting the money. If you have 18 school districts in an ESU, then what you're really saying here with this amendment is that each one of those could levy another 1.5 cents. Correct? [LB1023]

SENATOR FRIEND: Unless they chose to give it, you know, to that ESU. [LB1023]

SENATOR AVERY: Yeah. But the ESU, when they levy, they levy 1.5 cents across the entire ESU. All 18? [LB1023]

SENATOR FRIEND: That's my understanding. Yeah, I guess. [LB1023]

SENATOR AVERY: So this might actually lead to more levy authority and not less. [LB1023]

SENATOR FRIEND: It could, but I still think in the long run it would promote efficiencies because I guess I inherently believe that the district is better equipped to...and this is

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where Mary and I might part ways. I think the district is better equipped to deal with those services and the distribution of those services. But I don't want to put words in her mouth. [LB1023]

SENATOR AVERY: I don't necessarily disagree with you. What I was trying to figure out is what impact this would have on property taxes in the 18 school districts, whereas under an ESU arrangement, it would be a 1.5-cent levy spread across 18 districts. [LB1023]

SENATOR FRIEND: But there's more accountability. I mean, people have less places to look for the amount of tax money that's being pulled from them. I mean, that's the theory. [LB1023]

SENATOR AVERY: It focuses more attention on the school district than school board. [LB1023]

SENATOR FRIEND: Sure. Possibly. [LB1023]

SENATOR RAIKES: Okay. I don't see any other questions. Thank you, Senator. [LB1023]

SENATOR FRIEND: Thank you. [LB1023]

SENATOR RAIKES: That will close the hearing on LB1023. Senator Burling. [LB1023]

SENATOR BURLING: Senator Raikes to open on LB1083. Welcome. [LB1083]

SENATOR RAIKES: Thank you, Senator Burling, members of the Education Committee. Ron Raikes, District 25, here to introduce LB1083. LB1083 will hopefully continue our discussion on ESUs, and this bill focuses particularly on the learning community, or ESUs within a learning community. But as Mary Campbell testified, the learning community is intended to be a statewide concept, so certainly it has implications statewide. Specifically, what this would do is propose that for school districts that are in a learning community, very rough and somewhat inaccurate description is that half of the money, half of the core service money would go to the learning community. The other half would stay with the ESU. School districts would be given a choice to either remain in the ESU or opt out of the ESU. If they opted out of the ESU, the other half of the core services money and 1 cent of levy authority would be theirs, so to speak. If they elected to remain in the ESU, then as I say, the core services would...the rest of the core services money would remain with the ESU, and the ESU would have the maximum levy authority that it now has of 1.5 cents. A couple of things about this: This makes school districts the decision makers regarding ESU services. Now, I think as the testifier, Steve Curtiss, mentioned earlier, you know, you might

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consider this modeled after what's done in South Dakota, but actually that wasn't the case. We're thinking about...I think a couple of factors. One of them is that ESU services are extremely valuable and important to lots of school districts. You may be able to separate those by size or, you know, there may be other factors. But I think the critical thing is the assumption here is that the school district can make that decision, that if it's given the financial options of either having the levy authority themselves and part of the core services money themselves or remaining a part of the ESU, they can do that calculus and see which in fact, how they come out better. The other thing is this would provide funding to the learning community to carry out functions in the learning community. And as you recall, right now with the statute, the learning community I think has up to \$1 million a year to cover all of the services that they need to provide. So I don't know that I need to expound a lot other than to respond to your questions. That's the basic idea. You would be making school districts decision makers as to what services they need and feel are in their best interests to receive, either through their own budget and their own activities or through an ESU. It would provide some funding in addition for the learning community. [LB1083]

SENATOR BURLING: Any questions for Senator Raikes? Senator Howard. [LB1083]

SENATOR HOWARD: Thank you, Senator. Senator Raikes, it sounds like in a lot of ways you're trying to eliminate a duplication of services. [LB1083]

SENATOR RAIKES: Well, I don't know that...I mean that certainly is one way to view it. I think the way I would put it, although it may not be anymore accurate than what you've suggested, is that you're allowing the school district to decide what's the best way for them to receive the services. You know, the testimony we had earlier was that you have some school districts, maybe in several ESUs but I think reference was to ESU 3, that don't need the services, they can provide them on their own. So the arrangement has been for the ESU to in effect buy them, pay them...I was going to say buy them off, but I wouldn't say anything like that, to pay them a sum of money so that they are comfortable staying in the ESU, even though they're not participating in the ESU in the way that it was envisioned. It seems to me like this is a better strategy for that sort of a circumstance than that one. The one that's in place now is very consistent with the idea that we don't want to change anything. You know, whatever we've got now, we have to keep and there's all kinds of reasons you can't do anything any different. You know, and I'm not to suggest to you that always the status quo is the wrong way to go about things. But I think, you know, that indicates a situation where you clearly have services that are not needed by particular school districts, at least from the ESU. They can better be provided within the school district, so why not simply allow the school district the option to be on their own and provide those services? [LB1083]

SENATOR BURLING: Any other questions? Senator Adams. [LB1083]

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SENATOR ADAMS: Senator Raikes, if I understand what you're saying, the logic behind this, at least in part, is that let's say for instance the school districts in learning community already has an assistant principal for assessment, or whatever it may be, and hence, there's little value in them being part of an ESU that has someone that's in charge of assessment when they have their own person that they were able to afford to have in charge of it. Is that part of the thinking here? Does that example work? [LB1083]

SENATOR RAIKES: That is part of the thinking, and hopefully, you know, there would have been a careful decision on that. Are we better off to hire our own assistant principal? Can we show or can we convince ourselves that we're going to receive better services or services more nearly directed to our needs if we do it that way than if we go through the ESU? But yes. I mean, I think those kinds of outcomes are possible. And if they are possible, it seems to me you ought to honor them. You ought to allow the school district to make the choice and to go ahead with it. [LB1083]

SENATOR ADAMS: Have you thought about a backfire effect where schools do an evaluation and say here's an opportunity for us to go get our own person, and now all of a sudden we have X number more administrators than what we had? [LB1083]

SENATOR RAIKES: So you're talking about the circumstance in which the school district, if left to its own discretion, would make the wrong decision and choose to provide the service in an inefficient fashion. [LB1083]

SENATOR ADAMS: Right. [LB1083]

SENATOR RAIKES: The school districts in Nebraska would never do that. Now, in Iowa, it's a threat, (laugh) but not Nebraska. [LB1083]

SENATOR BURLING: Any other questions? Thank you, sir. Are there proponents, LB1083? [LB1083]

KYLE FAIRBAIRN: Senator Burling, members of the committee, my name is Kyle Fairbairn, F-a-i-r-b-a-i-r-n, the director of finance with Bellevue Public Schools. Just want to take this chance to thank Chairman Raikes for bringing this bill forward. I testified in front of this committee last year on LB590. LB590 was a bill from Senator Cornett that basically would allow a district of a certain size to get out of an ESU. Right now, Bellevue Public Schools is part of ESU 3. Of ESU 3's total, income from Bellevue from last year's budget is about \$650,000. Of that, Bellevue Public Schools gets about \$310,000 back, and ESU 3 keeps \$331,000. Bellevue Public Schools uses absolutely no service from ESU 3 currently. The only thing that we get is a part-time technology person because they give us back some days to use. So of that \$331,000 that is kept within ESU 3 right now, we receive no services for that money. That money is all split out between other districts. The 1 cent that would come back to Bellevue Public

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Schools, in our scenario, we have not used that money recently; we've not used it through ESU 3. So our taxpayers would see a decrease in their taxes because we would not tax our citizens that other 1 cent that we would have the ability to. Also would be more money for the learning community, which would help out focus schools and things like that as we move forward with the learning community. That's basically what I have, and I'd sure answer any questions if you have any. [LB1083]

SENATOR BURLING: Any questions? Senator Adams. [LB1083]

SENATOR ADAMS: Maybe I'm missing the obvious, but if Bellevue were to leave given the contribution do you make, then do you leave more smaller school districts within ESU 3, more rural districts within ESU 3 more financially burdened? [LB1083]

KYLE FAIRBAIRN: We're a small...I mean, we're a pretty small contributor to ESU 3, Senator. Honestly, of that, I think Millard on last year's budget puts in \$1.2 million. So my \$330,000 is not a huge amount. Yes, I do think there is an additional burden on the rural schools. But you also have less children to deal with too as the larger schools opt out. So I think in the long run it's taxpayer money that's going to a system that is not used, and at our size, it doesn't make sense for us to use the services that are provided. [LB1083]

SENATOR BURLING: Any other questions? Thank you for your testimony. Next proponent? Any other proponents? Opponents? No opponents? Are you an opponent, Mary? [LB1083]

MARY CAMPBELL: (Exhibits 4, 5) Rushing back up. Mary Campbell, C-a-m-p-b-e-l-l. Again, representing the ESU Coordinating Council and testifying on behalf of all the ESUs because of the potential statewide nature of these discussions. The provisions of LB1083, which deal with changes to ESU funding, are complex, far-reaching and difficult to assess, in part because they depend on whether school districts which are currently members of an ESU will at some point exercise the option to leave the ESU. Generally speaking, the more opt outs you have, the less cooperative service delivery and the greater the potential for inefficiency, inequity, or duplication. Taken to its extreme, I think the bill could be a mechanism leading to many ESUs around the state. Again, taking this to an extreme, we might that have the concept of regional or statewide cooperative service delivery really marginalized. I don't know that we need to destroy this system to develop an effective and a creative learning community in Omaha. And that leads me to the second point I want to make and that really what I think is the underlying issue or a very big underlying issue of LB1083. I suggest the governance changes are the true, if unspoken, motivation for much of this bill and other ESU bills introduced this session. Some say that the governance issue is right in the metro area as the learning community plan approaches its implementation. And in response to that real or even just perceived need to change governance, ESU 3 is

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offering the following plan: When the learning community begins, if you look at the first handout that is a single sheet, the new learning community is going to have some very immediate organizational and operational needs. They're going to have to find a spot to be and get some staff and think about policies for their meetings and everything else that goes with setting up this community. Our suggestion is that the metro learning community contract with ESU 3 to provide these services immediately and very likely at little additional cost to the community. This would enable the community to begin working on plans for kids right away, without having to delay as they look for office space or clerical help whatever. This plan would avoid duplicative infrastructure and redundant costs. But it would also let ESU 3 continue to serve its 18 school districts under the direction of the advisory councils and the ESU 3 board. In the second handout, I think the point I'm wanting to make here is just how different the functions, the missions, the tasks, the use of the monies are between ESU services to schools and learning community operational needs. I also think it might be helpful to look at the school districts in ESU 3 on the back page and see the services they have selected, and that would include Bellevue in that list. And I see several check marks for the 2005-2006 school year where services were provided and Bellevue did avail themselves of them. Again, separate missions, separate functions of the district and the learning community. I think the learning community council should lead the learning community and the ESU 3 board and it should serve this 65,000 or 70,000 students that are in the ESU 3 area. Let the learning community take immediate advantage of the infrastructure and management services of (ESU) 3, and then, let's say after a year or so of operations, evaluate how well that management agreement worked and come back with recommendations to the Legislature. In summary, we are suggesting a plan to facilitate the immediate operations of the metro learning community without having to deal with the politically charged and logistically difficult task of reshaping both funding and governance for ESUs statewide. We're offering instead an incremental change which will immediately benefit the implementation of the learning community, and which we think could also down the road provide future guidance on governance and on other changes to the ESU system. And with that, I'm out of time. I'm going to take your questions. [LB1083]

SENATOR BURLING: Thank you, Ms. Campbell. Any questions? Do you think it would be better if every district in the learning community was a part of the one and the same ESU? [LB1083]

MARY CAMPBELL: If every... [LB1083]

SENATOR BURLING: Every member of the learning community... [LB1083]

MARY CAMPBELL: So you're suggesting the elimination of one of the two in the metro area... [LB1083]

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SENATOR BURLING: Yeah, I'm asking if you think that's the way it ought to be structured? [LB1083]

MARY CAMPBELL: Again, based on the fact that the missions and the tasks and the needs are so different, I don't see the overlap that is being discussed. And I think if you did the contracting with (ESU) 3 to do the management, the administrative, the infrastructure, that doesn't take any duplicative governance. That would be done through the learning community solely on a contract basis. So I think you just have to sort out missions and services and I think the path gets clearer and cleaner. [LB1083]

SENATOR BURLING: Okay. Any other questions? Seeing none, thank you very much. [LB1083]

MARY CAMPBELL: Thank you. [LB1083]

SENATOR BURLING: Next opponent. [LB1083]

ROGER BREED: This is where I kneel? [LB1083]

SENATOR RAIKES: It's too late for you. [LB1083]

ROGER BREED: (Exhibit 6) Oh, I'm beyond saving. I'm Roger Breed, B-r-e-e-d, I learned from last time, superintendent of the Elkhorn Public Schools. Appreciate the opportunity, Senator Burling, Senator Raikes, members of the Education Committee. For the past 21 years, I have served as a liaison from the Elkhorn Public Schools to Education Service Unit 3, and have on each year had occasion to decide on those services, to interact with ESU 3 and the other schools districts of ESU 3 to determine those services that we choose to participate in a cooperative and cost effective manner. The assertions that cooperation and efficiency might be the objective of other legislation I think kind of misses the point that ESUs were created for and have existed for the past several decades. Presently, Elkhorn is a member of ESU 3 and will, as of January 2009, become a member of the learning community in Douglas and Sarpy County. The school district presently depends heavily on ESU 3, and I've listed several items. Pentamation is an integrated accounting payroll software personnel system for management and support that we use for all of our payroll, all of our accounting through ESU 3. That is purchased as a cooperative in ESU 3. ESU 3 basically houses the software, has contracted with Pentamation to provide the software, and there's no way we could as effectively or as efficiently access that level of software to use without ESU 3. ESU 3 also provides the connectivity and security to the Internet for all Elkhorn school buildings and classrooms. It also provides access to a cooperative school, Brook Valley, for level 3 special education students. It also provides technology support programmers, which we cannot employ in the school district in sufficient quantity or afford to do so, to create and assist in managing district online teacher appraisal and professional development

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programs. Further, we access professional development speakers and workshops. The total cost of those--we just pushed a pencil a little bit yesterday--would be about \$750,000 if we were to do that ourselves or on our own. So our penny that we would draw out of this if we choose to opt out, which would provide about \$300,000 this year, would be wholly inadequate to do those services. Again, I think leaving the ESU and leaving districts the option to choose to use services or not use services within the ESU, which is a choice we presently have, is to me the more cooperative and effective and efficient way to go about business. With that, I'll respond to any questions you might have. [LB1083]

SENATOR BURLING: Any questions for Mr. Breed? I see none, thank you. [LB1083]

ROGER BREED: Thank you. [LB1083]

SENATOR BURLING: Next opponent? Any other opponents? Yes. [LB1083]

GEORGE CONRAD: (Exhibit 7) Members of the committee, my name is George Conrad, C-o-n-r-a-d, and I'm the superintendent at Douglas County West Community Schools, and I also am providing some written points for you in representation of DC West, Bennington Public Schools, Gretna Public Schools, and South Sarpy. We're trying to keep the time down for you. What I've tried to provide for you and the very first point is a collection, a comprehensive collection, rather than explaining to you everything that we receive at DC West regarding ESU 3 services, tried to lay out for you the variety and array of services that are provided to member districts. And I would say that while the amount of services used by different districts are different, in a cooperative they help us due to economy of size. I'll give you an example. One of the things that's not listed here, for example, and maybe to address a question regarding an assistant principal of assessment. An example would be that with the money that Millard Public Schools contributes through that penny and half, ESU has made arrangements with them, and as the director of personnel, former director of personnel for Millard Public Schools, worked with employees of ESU 3 who were housed and worked solely for Millard Public Schools. So they actually provided specific services to Millard, even though that was money that was generated by the ESU so it provided services that met the needs of Millard. And I think that's pretty critical because one of the overtones that I caught in some earlier testimony was the notion of ESU 3 being over its member districts, and I've never seen ESU 3 in that manner. I find that ESU 3 to be integral to my survival in the relationship to economy of size and being able to offer services which I get to pick. I meet with the ESU representatives every year through staff development, and I think staff development is critical as we think about the learning community and the discussions we've had about the need for intense staff development. That's not something I could afford to do with staff on my own, but could do collectively. I also heard some earlier testimony regarding the notion that here's how much money goes in and here's how much money we get back. I'm not sure how that all gets calculated, but I

can tell you that when I listen to districts who suggest that they don't receive services from ESU, I'm not exactly sure which services they're referring to. As a matter of fact, I attended an excellent workshop on how you assess staff development and how you really relate staff development to student performance. Nationally known speaker brought in by ESU 3, which I could not afford to do on my own, and actually some larger districts could afford, but at a much higher cost to them rather than sharing that economy of size. And that workshop was not attended just by small school districts, the 18 in ESU 3, but also had representatives from Bellevue, Westside, Papillion-La Vista, and Millard. They were all present with us as we took advantage of those opportunities. I think the other thing that I want to make sure that I talk about...I'm not going to belabor some of the points that I have here because you can read them. But I think I want to continue to stress the notion of economy of size and the flexibility that I have. The other thing that I want to mention is that the four smaller school districts and the learning community have continued to support, we believe, the principles of the learning community. The idea of providing services to all students is important. As I testified with you last week, I mentioned to you that DC West at this point in time has the third highest level of poverty students. And yet under LB641, we stand the chance of moving dollars from direct services to my students to other members of the learning community due to the distribution of equalization money as compared to local property tax. That whole cooperative nature in terms of the bill I think is really important as it reflects to this bill because in the one hand we're saying we need to make sure that we're flowing dollars to meet the needs of all students, and yet we now look at a bill that potentially erodes the tax base of ESU 3, which potentially has a negative effect on my school district and the high poverty needs and students that I have in a smaller school district by reducing that economy of size. And to that, I'd be happy to answer questions. [LB1083]

SENATOR BURLING: Thank you. Any questions for Mr. Conrad? Senator Adams. [LB1083]

SENATOR ADAMS: You know what? You don't have to respond to if you don't want. [LB1083]

GEORGE CONRAD: Okay. [LB1083]

SENATOR ADAMS: I'm trying to think through the question here. But what I'm wondering is is the issue that this bill is trying to address, is it one of allowing schools of size to go on their own, should we be incenting that, or we should be doing the reverse and telling them to cooperate? [LB1083]

GEORGE CONRAD: I think my perspective is the whole concept of the learning community is to promote cooperation. So to suggest the idea that we shouldn't be recommending that large districts cooperate with small districts as we're asking small districts to cooperate with large districts would hold to the same principle of cooperative

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consideration. [LB1083]

SENATOR BURLING: Any other questions? [LB1083]

GEORGE CONRAD: You had some really great ones. I'd love to hear some more of the... [LB1083]

SENATOR BURLING: I see none, so thank you very much. [LB1083]

GEORGE CONRAD: Thanks so much for your time and attention. [LB1083]

SENATOR BURLING: Next opponent. [LB1083]

STEVE SHANAHAN: (Exhibit 8) Senator Burling, members of the committee, my name is Steve Shanahan, S-h-a-n-a-h-a-n. I am superintendent of schools in Blair, Nebraska, and I'm here today representing the school districts of Washington County--Blair, Fort Calhoun, and Arlington--as well as the Cass County School Districts of Plattsmouth, Conestoga, Louisville, Elmwood-Murdock, and Weeping Water. We are members of ESU 3, although we are not members of the learning community. Our decision to speak with you today comes as a result of our concern for the possible loss of valuable services we now have through ESU 3 as a result of the issues presented here today in LB1023 and LB1083. In April of last year, I, along with several other superintendents from these schools, met with Senator Raikes and explained what we thought were some extreme hardships that the potential loss of services would create for our school districts if we were forced to leave ESU 3 as a result of the learning community. LB1023 and LB1083 would have the same impact, we feel, on our school districts. Just briefly, the 1.5-cent property tax levy that would be eliminated under LB1023 for any ESU that contains schools that are part of a learning community completely eliminates the opportunity for our school districts to continue with services that we've been accustomed to. Quite simply, it's financially impossible for any school district to pay out of general fund monies the costs of services offered at ESU 3. In our district alone, and I think Dr. Breed alluded to it also, we've estimated that these services would run well over \$750,000 because of the efficiency and economy of scale that we've all heard about through ESU 3. We are able to access about \$150,000 in taxing authority, that 1.5 cents. That would not be nearly enough money to offer those services on our own. To have 4 counties out of 93 in the state not able to levy funds for ESU operations seems, to me, inherently unfair. The ability of schools under LB1083 to withdraw from the ESU offers no better scenario for our group of schools. And I think this has been talked about too, with fewer schools over which to spread costs and from which to gain revenue, ESU 3 would have to increase prices for services offered. Local school districts would have no option but to find money in the general fund to continue to offer those services that parents and students have come to expect. I think again larger school districts with the revenue and infrastructure may be able to support these varied

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programs and services and will most probably be able to do so and carry these on in-house has been suggested, but still not, at least in my opinion, in the cost efficient manner of ESU 3. Even larger school districts receive financial benefit by working with the other metro area school districts for needed common services. Many school districts will not have the money, as our school district would, or manpower to continue as they have in the past. It will simply be impossible to do so. One of the questions I get and asked most often is: Why not just join another ESU? If you're not part of the learning community, leave them alone. Certainly they could offer the services you'd be losing. I'm sure you are well aware, and we've talked about it before, that districts, like ESUs, are not always created on an equal basis. All ESUs, like all Nebraska school districts, offer basic programs and basic services at the ESU. These are called "core services." But for services beyond that, school districts and ESUs begin to differ because of the unique needs of the school districts and their constituents. Their educational opportunities are different, they're more diverse, they're tailored to the needs and values and wants of the community. Size matters, even though we'd like to think it doesn't. For as long as ESUs have served their constituents, they've been an integral part of the services provided to the students of the 18 schools that have been part of the unit. I've listed for you several of those services and many of the other people before you have presented their...have talked about those, so I won't go on to list those. Should our eight schools in Washington County and Cass County become part of another ESU or simply have to pay increased costs, some or all of these services would not be available to us, and there's really no guarantee that the required two-thirds of the schools representing 50 percent of the students in another ESU would even consider offering the services that we might demand. Even if these services are available, they may not be delivered at the same level of experience or with the same programming requirements. In short, it would be a costly endeavor, not only in financial impact, but in staff time, effort, and morale. The financial equity, not to mention the sweat equity, that we've all given to the ESU 3 over the last 40 years would simply be thrown away. And I'd just urge you to consider the impact of LB1023 and LB1083 on the level of services offered to our schools and our students. I'd be happy to answer any questions that you might have. [LB1083]

SENATOR BURLING: Thank you for your testimony. Any questions of Mr. Shanahan? I see none, thank you very much. Next opponent? Is there neutral testimony? Senator Raikes to close. [LB1083]

SENATOR RAIKES: Thank you, Senator Burling and members of the committee. Several points in response. One is you recall last year in the ESU formula change that we did, we included an equalization component. I don't know that this was directly touched on, but there was the issued raised that well, if we lose this property or this district, that's going to have a financial impact on the district. Remember, with that equalization formula, we do in fact take into account valuation, number of students, and a number of things. So we made a significant effort, I think, last year to address those

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kinds of issues. A couple of other things in response. Clearly Elkhorn and the districts that Superintendent Breed talked about would want to stay in the ESU, although I will tell you that I don't think...if I heard his testimony correctly, he talked about the \$750,000 worth of services and the \$300,000 worth of taxing authority that they would also get as a member of ESU 3, opting out they would get half of the core services money, too. So that would add to the \$300,000. But I would still probably fully agree with the notion that for a district the size of Elkhorn, even though they're rapidly growing, the size they are now, it probably makes a lot more sense for them to be a part of ESU 3 than to be out. A couple of comments about the plan that is somewhat encouraging, although I would say a little bit late. We have been anxiously awaiting something from the folks at the ESUs about the issue at the learning community, and basically have heard up to this point nothing except "we won't change anything." At least this is an offer of sorts to help with the administrative burden of the learning community. And I did note also the offer to consider recommendations for the future, although I didn't hear anything about restructuring ESUs over a period time so that they would have...we would make the ESU structure consistent with the learning community structure or something like that. I think if that were in there, it would be more interesting. Okay? The other thing that I'll mention quickly, you heard that ESU functions and learning community functions are different, so you simply can't include them in one entity. On the other hand, I think you could say that Elmwood-Murdock is a lot different than Millard. But yet you can include those in the same entity. I am still stuck on the notion that rather than being constructive in considering these issues, we're insistent on the status quo. But I'll stop there, invite your questions, if any. [LB1083]

SENATOR BURLING: Any questions? Thank you, Senator Raikes. That will close the hearing on LB1083. [LB1083]

SENATOR RAIKES: Senator Christensen, welcome. [LB990]

SENATOR CHRISTENSEN: Ready? [LB990]

SENATOR RAIKES: Representing the "Deciding Vote District." (Laughter). [LB990]

SENATOR CHRISTENSEN: You ready? [LB990]

SENATOR RAIKES: Please, go ahead. [LB990]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman, members of the Education Committee. I'm Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District. I'm here today to introduce Legislative Bill 990. LB990 would allow a special education student in Nebraska to receive a certificate of attendance and participation in a school graduation ceremony. Currently, some districts may have different policies that would not allow a special education student to participate in a

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graduation ceremony without the completion of requirements of the student's individualized education plan, IEP, or a high school equivalency. At the request of a parent or guardian, LB990 would allow any special ed student who has reached the age of 17 and has not completed their IEP to receive a certificate of attendance and participation with their class in the graduation ceremony. A student may receive only one certificate of attendance and participation in only one graduation ceremony based on such certificate. This bill would not prohibit a school district from allowing a student who previously received a certificate to participate in additional graduation ceremonies when that student receives a high school diploma. This bill also clarifies that receiving a certificate of attendance does not affect a school district's obligation to continue to provide special education services to each student. Thank you, and I would be glad to address any questions. [LB990]

SENATOR RAIKES: Thank you, Senator. Questions for Senator Christensen? Senator Avery. [LB990]

SENATOR AVERY: Senator Christensen, are there school districts now that do not provide any kind of certificate, attendance or participation? [LB990]

SENATOR CHRISTENSEN: Correct. I know of two in my district. One has just allowed a student to go through this year after being challenged on it or asked about it, I should say. But even my home school does not allow it at this present time. [LB990]

SENATOR AVERY: So a parent would have to specifically and individually petition the superintendent in order to get this in these schools that you mentioned? [LB990]

SENATOR CHRISTENSEN: Correct, and you have to go to the board, and I had one that was going to allow a student to go through because it was written in the IEP, and if it hadn't when I went and visited with some of them, they told me that they would not have allowed it. [LB990]

SENATOR AVERY: And did they give a rationale for this? [LB990]

SENATOR CHRISTENSEN: It was just against their policy and they didn't want to address the policy during a school year. [LB990]

SENATOR AVERY: Was it the superintendent's policy or the policy of the school board? [LB990]

SENATOR CHRISTENSEN: It had to be the board because it was predetermined rules, yes. [LB990]

SENATOR AVERY: The board sets policy and the superintendent carries it out. [LB990]

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SENATOR CHRISTENSEN: Yes, set policy. [LB990]

SENATOR AVERY: Okay. [LB990]

SENATOR RAIKES: Senator Johnson. Welcome, by the way. [LB990]

SENATOR JOHNSON: Thank you. Well, I just want to make one short comment. I guess I came in at the right time because North Dakota is way ahead of us. I happen to have a rather severely handicapped grandchild with Downs Syndrome, and this last year, she was treated like any other student at the graduation. Not only was it good for her, but it was good for all of the other students. There were two students who took particular pleasure in helping her at the graduation and so on. So it was good for everybody there and everybody in the audience as well. [LB990]

SENATOR RAIKES: Senator Adams. [LB990]

SENATOR ADAMS: Senator Christensen, I know I should be asking a question, so I'll eventually get there. But 31 years of teaching, we always let students go across the stage, knowing full well Monday morning they will be back in the classroom, probably until age 21, but we put a cap and gown on, provided for their special needs. I guess my question is, but it's already been asked by Senator Avery, what's the rationale for not? [LB990]

SENATOR CHRISTENSEN: I do not know. All I could get when I went and visited one board member was that it was not their policy. [LB990]

SENATOR ADAMS: Maybe if a proponent comes up we can ask that question (laugh). Or an opponent, I mean. I'm sorry. [LB990]

SENATOR RAIKES: Senator Avery. [LB990]

SENATOR AVERY: I can't resist this. This reminds me of what I said many times. One of the cardinal rules of politics: We've always done it this way, we've never done it that way (laugh). [LB990]

SENATOR RAIKES: Correct. Senator Howard. [LB990]

SENATOR HOWARD: Thank you, Chairman Raikes. I'm really glad you brought this bill and I would see this as much for the parents as the students because certainly these parents have really put so much effort into their child's education and deserve that satisfaction of seeing the child, as Senator Adams says, walk, go across the stage, being able to have that opportunity. I can't understand why we wouldn't allow that. So

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thank you. [LB990]

SENATOR RAIKES: Let me remind the committee that, you know, this business of being kind and supportive to people who introduce bills...(laughter) we can get carried away with that. [LB990]

SENATOR AVERY: Out of character. [LB990]

SENATOR CHRISTENSEN: I like this committee. [LB990]

SENATOR RAIKES: Let me ask you, Senator, is it the case that some parents may have backed away from having the special ed student participate in the graduation ceremony because that would provide an opportunity for the school district to discontinue special ed services from that point on? [LB990]

SENATOR CHRISTENSEN: Correct. I was told in this particular case if they wanted to graduate that would be fine, but that would end services. And that wouldn't be a good situation. [LB990]

SENATOR RAIKES: So your bill specifically provides that even though they do participate in the ceremony that the services would continue. [LB990]

SENATOR CHRISTENSEN: Correct. [LB990]

SENATOR RAIKES: Okay. Don't see any other questions. Thank you, Senator. [LB990]

SENATOR CHRISTENSEN: Thank you. [LB990]

SENATOR RAIKES: Proponents for LB990. Welcome. [LB990]

MARY ANN FILIPI: (Exhibit 9) My name is Mary Ann Filipi and this is my daughter Karen, and my last name is spelled F-i-l-i-p-i. And eight years ago, Karen was told she could not graduate. And she had an IEP, and she met that IEP. She fulfilled it for 13 years, and when it was her moment to go, they told her she was no graduate, she would never be able to go across the stage. I hired a lawyer and I fought it, but I didn't win. Our superintendent would not allow her to go across the stage. She was never offered no cap, no gown. She never had her moment of glory. She's never going to get married, she's never going to have a baby, and yet the one thing that she could have shined on that day and had her picture taken, she never got. It's gone. And she has been considered part of the class since kindergarten. She's had her picture with the rest of the kids. She went on field trips. She got a class ring. They never stopped her from getting a class ring. She had all those things until that senior year they told me she was no graduate. And they said she could graduate at the end of her transition period. Well,

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those kids are strangers because at the end of her...when she ended this 12th grade year, she went onto Region V for her transition period, and she is not familiar with, you know, those kids at that school. That would have been a strange environment for her. She needed to go through with the kids that she was familiar with. I don't see the fairness in this, why they held her out of graduation. It brings tears to my eyes. It was not fair, and sometimes I wonder who's more handicapped--the child or the school officials? I think we're sending a wrong message when we don't allow them to go across that stage. It has a nice impact on graduation ceremonies because these kids have a right to be there too. And I think we need to start holding doors open and make some changes for these children. And there was one board member...he is now our mayor of our town, but at the time when Karen was going through this graduation, I wanted to comment that Russ Karpisek, Senator Russ Karpisek was our mayor at the time and I don't think he knew about it, but I don't think...he didn't help, you know, any situation out at all. But there was a board member that took over as the mayor of our town and when he resigned from the board, he come up to me and he says, "Mary Ann, I have one regret on that school board all these years"...and he was on it for a good eight, ten years, I don't know for sure exactly how long, but he says, "I regret not letting Karen not go across that stage." He says, "I sat on the last night of our school board meeting and I told it to everyone that we made a mistake, and some of them agreed yes, it was a mistake we didn't let her go across that stage. But then there was a few saying oh, no, we did the right thing." To me it's discrimination, and I felt my daughter was discriminated against that graduation day, and I hope I never have to see it again for any other child with disabilities because education is very hard for parents. We went through hell through her 13 years of school. And I guess there's a little slogan that I hang onto, and that's "Expect respect." And that's all I have for you. Thank you. [LB990]

SENATOR RAIKES: Okay. Thank you, Mary Ann. Questions for Mary Ann? Senator Howard has one. [LB990]

SENATOR HOWARD: At the risk of sounding supportive (laugh)...I really had to commend you for your investment and being there for your child. I don't think there's anything that ever can top that that you do in life when you take care of your child and you're there for them when they need it, and I agree with you. I don't understand why you can't be allowed the opportunity to do that. [LB990]

MARY ANN FILIPI: Right. [LB990]

SENATOR HOWARD: And as long as you're education isn't impaired and she can continue to stay in school and learn, so good for you. [LB990]

MARY ANN FILIPI: Well, I think she would have look pretty cute in a cap and gown but she has never had one. [LB990]

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SENATOR HOWARD: She'd look very cute in a cap and gown. [LB990]

SENATOR RAIKES: Senator Johnson. [LB990]

SENATOR JOHNSON: Just one last comment. [LB990]

MARY ANN FILIPI: Sure. [LB990]

SENATOR JOHNSON: You ever stop to think how lucky you are by having a handicapped child, because it makes you a lot smarter than the people you are dealing with. [LB990]

MARY ANN FILIPI: Oh, yeah. They don't know sometimes what they've missed. [LB990]

SENATOR JOHNSON: That's exactly right. [LB990]

MARY ANN FILIPI: There's a lot of smiles and a lot of laughs in our house and you would not believe...I know my boss says, "I don't know how you go home to what you go home to." He says, "I could never do that." And I thought, buddy, you don't have the smiles and the laughter in your home like we do because she's got her little ways that makes you laugh and giggle. [LB990]

SENATOR JOHNSON: Thank you for coming out. [LB990]

MARY ANN FILIPI: Thank you. [LB990]

SENATOR RAIKES: Thank you, Mary Ann. Do we have other proponents for LB990? Jay. [LB990]

JAY SEARS: (Exhibit 10) Good afternoon. I'm Jay Sears. I work for the Nebraska State Education Association, J-a-y S-e-a-r-s, and NSEA is here in support of LB990. You might think it unusual because most of the time you see us in front of you talking about local control, letting districts do what they need to do. But sometimes we need strong legislation to send a message to some districts that don't do what they should do. Personally, things like this upset me. I'm a 25-year...no, I'm going on 32-year educator, and I'm a recovering special ed teacher also. And so I have trouble doing this testimony but I asked to do it because sometimes we have to get the attention of some districts, unfortunately, because I think the majority of the districts do what's right for students. This bill doesn't interfere with any process that's happening in school districts. For parents not to be able to see their children cross the stage, no matter what types of courses they may be taking in school, is not easy for them. I've been fortunate to see my three daughters walk across the stage. Sometimes the antics at graduations upset

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me as a parent, but the fact that my daughters have completed and gone through with their peers is very important to me as a father. I don't know if this legislation will get out of committee, but you all have the hammer. You can use the hammer. Maybe districts will listen. I remember back, we spent a number of years working on bullying. We finally got a bill out of committee and we got a bill on the floor and we got a bill passed. Some people didn't listen, and it took legislation and pretty good legislation to deal with those issues. And if that's what it takes today to make sure the people--like your daughter--get to graduate with their peers or at least walk across the stage with a cap and gown and receive a certificate and continue their services, then maybe that's what we need. That ends my testimony, and I would be glad to answer questions. [LB990]

SENATOR RAIKES: Thank you, Jay. Questions for Jay? I don't see any, but thank you for your testimony. Are there other proponents, LB990? Welcome. [LB990]

CYNTHIA COLLINS: (Exhibit 11) I'm a proponent, and my name is Cynthia Collins. I'm from Norton, Kansas, and I previously lived in Arapahoe, Nebraska, and my son's senior year was very traumatic. He has a full-time job right now, and it's to hide his disability. He didn't feel anyone knew about it until confidentiality was breached in Arapahoe. He didn't want to come today in case someone would let it be known that he has a disability. He told me he would support learning disability children, but he didn't want anyone to know that he had the challenge. For many years, people that are not associated with learning disabled children have no idea what a parent goes through. It's a constant fight to get what your child needs. I promised that I would respect his wishes. My son didn't know I was having a problem with letting him graduate until after our first board meeting. Rita, who was his transition counselor, and I were in an executive session with the school board members only. We requested that he be connected to the school for two years with a unsigned diploma and get to go through graduation. The superintendent said he wouldn't be allowed to walk across the stage and get an unsigned diploma. It wasn't in the district's policy manual. It was told to the school board that other school districts do it without being in their manuals. On Tuesday morning after the board meeting, the special education teacher, who I had sole support for, overheard the superintendent's son saying to another boy that my son wouldn't have enough credits to graduate. My uncle went with me to the superintendent's office, where he denied talking about this issue at home in front of his family, even though it looked pretty probable. The superintendent called his son into the office in front of us and drilled him as to where he got the information. He blamed it on another boy. He then brought him to the office and threatened him as to where he heard the information. The whole day was very upsetting. On Wednesday on the front page of the town newspaper in the article about the meeting, it stated: "Cynthia Collins requested a change in graduation ceremony." The owner of the newspaper had a husband on the board. My uncle and I then went to the newspaper office to ask the editor where she got her information that took place in an executive meeting. My uncle told her she better not be printing anymore information that she shouldn't know in the first place. At this time, for

our protection I had hired a lawyer, who knew nothing about the subject. I taught her more with the experience we went through. I needed her for intimidation and to protect my rights. The school board meeting tabled the request until April, so I had to tell my son what was going on since it was on the front page of the newspaper. This was extremely upsetting for both my son and I. My husband had passed away when my son was a junior in high school. He would have been very mad with the superintendent and the school board and what they put us through. In April, the school board brought up the issue before the superintendent could say anything after the board members heard the report how other schools had handled a similar situation. They voted to his benefit and later on changed the district's policy so no other children or parents could have to go through the terrible turmoil we did. So in the end, we accomplished a great stride for the kids that were right behind my son in a wheelchair or just learning disability. My son asked me to write how he would of felt if he hadn't got to go through graduation ceremony. At the time, he didn't know anything was wrong until his friend, the superintendent's son, was talking about him not graduating. I had to explain after it was in the paper. He said he probably would of did something not very nice that would get him in trouble. As I said, he doesn't want anyone to know about his disability. After working with two providers here in Lincoln, he was able to get the job he has on his own and he has worked there for three years. My son never got into trouble like some learning disability children do. He was always respectful to his elders. Since the red light is on, there's a letter here from the resource teacher that Ryan had, and it is to the president of the school board and it explained why Ryan should get to graduate. Does anybody have any questions? [LB990]

SENATOR RAIKES: Okay. Thank you. Are there questions? I don't see any, but thank you for being here and sharing this testimony. [LB990]

CYNTHIA COLLINS: Thank you. [LB990]

SENATOR RAIKES: Are there other proponents for LB990? Welcome. [LB990]

LARRY RANDOLPH: (Exhibit 12) My name is Larry Randolph, R-a-n-d-o-l-p-h. I'm from Indianola, and I'm one of the parents that Senator Christensen was talking about earlier. My experience as a parent of a special needs child that we were trying to get to participate in a graduation ceremony as a senior in their high school started out with our local school board, and they would not allow a social graduation. That's what we have come to call it is a social graduation. As a matter of fact, they have a policy prohibiting it, as if my daughter's disability was a disciplinary problem. And a little side bar, the superintendent that we are dealing with now is the same superintendent that Mrs. Collins dealt with eight years ago or whatever. So he hasn't changed. We asked our school board to allow our daughter to socially graduate, and we also asked them to change their policy and allow special needs kids to have social graduation, just to walk across the stage in a cap and gown. We went to them and our board refused to change

their policy, absolutely refused to change their policy under the advice of their superintendent. But they did allow our daughter an exception to walk across the stage, and we think that the only reason that it was allowed then was because it was included in my daughter's IEP. Somehow we were lucky enough to include that part of her development was to be allowed to graduate. Now in our school, we're planning on my daughter going for two more years when she graduates this spring. But at our school, if you walk across the stage with the senior class, you're done in the system. You're absolutely finished, no matter what kind of needs you have. And I know for a fact, the year before a girl wanted to continue on, special ed girl, my daughter's best friend and she wanted to graduate, she chose to graduate and went out of the system. To get the exception, we had to appear in front of the school board twice, and the first time we were grilled by them like we were being interrogated for a major crime, and we were asked why we couldn't just let our daughter graduate with the class, and said why don't you people just further her education on your own. And in our area, that's a very difficult thing to do. We live in a town of 600 people. She would have normally, if she would not take the graduation, she would be able to come back in two years after going through the continuous education deal, she would be able to come back and graduate with the class two years behind her. But we've set down and talked with my daughter--and these were kids that she started preschool with--and we didn't think it would mean as much to her. It meant so much to be with her classmates. We would like this to be made law because special ed kids, special needs kids, they have a difficult time with everything. Everything is a struggle with them. I know some of you know this, but their life is difficult, and this is a very small thing to ask for. But there are some people that don't agree with it. And if I could, I have the policy, the school board policy, in front of me here. Would it be okay if I read it? This is Southwest Public Schools Policy 6006, Commencement Ceremony Policy. "The district shall conduct a commencement ceremony for members of the senior class at the end of the school year. Participation in the ceremony is a privilege, not a rite, and the superintendent may prohibit students who have violated conduct rules from participating in the ceremony as a consequence for the misconduct." They handled my daughter's disability like it was misconduct, almost. And then it has a second paragraph: "Only students who have completed all graduation requirements, i.e., completed the required course work or achieved the goals set in a student's Individual Education Plan, which will be allowed to participate in commencement exercises." And that was our thing that got us the deal was we accidentally had it included in my daughter's IEP or we wouldn't...she would have been, you know, able to graduate this spring with her class or to walk across the stage. That's all I have. [LB990]

SENATOR RAIKES: Okay. Thank you, Larry. Are there questions for Larry? Let me ask you this one, so is the concern that you would have to...if you allowed a special needs student who had not completed the graduation requirements or whatever, if you allowed them to go across the stage, is there somehow a threat that you would have to allow a nonspecial needs student who had not completed the requirements also to go across? [LB990]

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LARRY RANDOLPH: No, sir. I don't see that because they already spell it out individually as, you know, disciplinary problems. And to me they're trying to look at a special needs student as having a disciplinary problem, their disability as something that they can control, which is isn't. And I do know of one thing the superintendent has said that he was burned in the past, but I've also heard that the student that burned him in the past was somebody that had a disciplinary problem. It was not a special needs student. He had a student that promised he would get some other classes if they'd let him go across the stage, and he let him and the student didn't fulfill his end of the deal. But I can guarantee my daughter will fulfill her end of the deal. [LB990]

SENATOR RAIKES: Okay. I don't see any other questions. Thank you for being here. [LB990]

LARRY RANDOLPH: All right. Thank you for listening. [LB990]

SENATOR RAIKES: Other proponents. Welcome. [LB990]

LYNNE KINNE: (Exhibit 13) Thank you, Senator Raikes and members of the Education Committee. My name is Lynne Kinne, L-y-n-n-e K-i-n-n-e. First and foremost, I am a parent of a special needs student. However, I am also a teacher of students that this bill would impact. I am very much in favor of supporting LB990, and I have handed out some points there for you to look over. Probably the biggest issue is that the passage of LB990 would allow for uniformity in all Nebraska schools. Currently, we do leave that decision up to local school boards, and as one of the senators already alluded to, unfortunately, they are not educators, they do not do always what is in the best interest of students. They are there as policymakers, and sometimes they feel like this is the way that it's always been done, therefore we're not going to change it. A social graduation for most students with disabilities is very important to them because they already have large challenges and they see the same students day in and day out. They go through their high school career. You know, they buy the class rings. They do the homecoming dance. You know, most of them go to their prom. The passage of LB990 is allowing them to participate in high school at the same rate as their regular ed peers, culminating with a social graduation wherefore when they...you know, going across the stage, receiving a certificate of attendance, and then ultimately coming back until...the majority of them come back to the age of 21. And the difference when they come back is their education takes a different role. You know, it's not always the reading, writing, math, science, social studies. We focus more on life skills. We focus on community building. We focus on vocational job skills. So their education has changed from that of a traditional high school. And I would just hope that you would allow the passage of LB990 for those students who might be impacted by this. [LB990]

SENATOR RAIKES: Okay. Thank you very much, Lynne. Questions for Lynne? You

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have a section in the material that you handed out on... [LB990]

LYNNE KINNE: Yes. [LB990]

SENATOR RAIKES: ...state standards and you talk about testing. So is this that some students in order to receive services don't graduate, therefore they have to be tested until they're... [LB990]

LYNNE KINNE: Well, currently we, you know, have state standards and students are tested based on their abilities. We have alternate assessments. However, some of the students that we have who stay in school until they are 21, they fall in a gray area. They're no longer a junior, or a senior, or they become a junior five years in a row, kind of muddying up the water and looking at them having to be tested more so than they would normally be. I think this bill would help in essence because students would have their four years of high school, culminating with that social graduation, and then their education would look differently for them. [LB990]

SENATOR RAIKES: Okay. I don't see any other questions. Thank you for being here. Other proponents, LB990. Welcome. [LB990]

KELLY BUCK: (Exhibit 14) Senator, members of the Education Committee, my name is Kelly Buck, B-u-c-k, and I have taught at Holdrege High School the last 18 years, and I am thankful that I participate in a school system or work for a schools system that allows student to walk across the stage at graduation time. Over the last ten years, we've had seven students, developmentally disabled students, that have walked across and performed in graduation time that have been able to participate in that ceremony. But obviously there's schools that don't allow that. I was made aware of this in the year of 2000 when the same superintendent that the other people have been talking about had called me and asked me how Holdrege Public Schools had students with developmental disabilities, and I told him they have the choice of whether they want to walk across and receive a certificate of attendance and then they can continue on with this until they're 21 and then receive their diploma when they're 21, but obviously he didn't pay any attention to my comments. If there are students with developmental disabilities in any school district that are not being allowed to participate in graduation, then hopefully the Legislature will take the steps to ensure them these rights. [LB990]

SENATOR RAIKES: Okay. Thank you, Kelly. Questions? I don't see any. Thank you for being here. [LB990]

RITA SKILES: (Exhibits 15, 16) Good afternoon. [LB990]

SENATOR RAIKES: Welcome. [LB990]

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RITA SKILES: My name is Rita Skiles, S-k-i-l-e-s. I serve as the director of transition services for Educational Service Unit 11 in Holdrege, Nebraska. I am the chairperson for Region III Developmental Disabilities Council. I serve on the advisory for the Association of Community Professionals. I'm a former member of SEAC, the Special Education Advisory Commission. I serve on the state's Transition Practitioners Committee, and I'm a former member of the Nebraska Department of Education Transition Advisory. I am one of those persons that's been around a long time. I was one of the original nine persons working with NDE staff, trying to help school districts across the state understand and implement the transition process. I humbly share this professional information, humbly, and only because at some time in each one of these organizations that I'm a part of and meet regularly with, we have talked about the situation of students not being allowed to participate in graduation. In 2000, there was a group of us that were part of the Transition Advisory that worked for several months looking at what other states were doing, and we found that most, if not all, other states were allowing for students to graduate in a social graduation. And we worked diligently to put together a document and sent it out to various persons to look at to see if it could possibly be something that could be used to inform administrators across the state. That information actually, in April of 2001, ended up with the Nebraska Association of Special Education Supervisors, and what we were hoping that they would see the importance of maybe making the recommendation that this be included in Rule 51. Their recommendation, after looking at it, was that they would rather see the department put out a technical assistance document and it would remain as best practice. Last evening, I called Don Loseke, who's with Nebraska City schools, and in 2001 when this decision was made, he was the chairman of NASES, and he was surprised in a way that we were having this hearing today because he said, "I would have thought in the year 2008 we would have moved beyond this." And I said to him, "Can you remember why your organization chose not to make the recommendation to include it in rule?" and he said he was not real sure other than the group always looks closely at what is in federal regulations because our Rule 51 reflects that. And there is nothing about graduation in federal regulations. That's just a social day that schools put on. In 2004, the Special Populations Office of NDE distributed a 27-page manual--and I've given you copies--and that manual outlines, among other things, options for graduations for students with disabilities. The document was widely distributed and remains online today as a resource. In spite of this wonderful document, the problem still exists in pockets of the state today. Parents with children with disabilities encounter so many heart-wrenching situations. We do not need to have one more family devastated by this situation. These students have earned the right to walk across the stage with their friends. It is the morally correct and the appropriate thing to do. I agree with our friend who earlier said you have the hammer, and I think it's time that the hammer comes down. I appeal to this committee to advance LB990. Any questions for me? [LB990]

SENATOR RAIKES: Okay. Thank you. Questions? Exactly, ma'am, what does this document say about... [LB990]

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RITA SKILES: If you'll turn to page 22, it lists the options that you've heard about earlier today, so I won't go through all of those. But I think the state department tried to put together everything leading up to it, how we document, how we work as a team to make sure we're coming up with the right decision. And there possibly are students that don't want to stay on or for whatever reason are ready to leave even though they have a developmental disability. For our students that are going to be eligible for services in Nebraska until they are 21, that funding isn't going to be in place for them. So that's why it's imperative as school people we're working with them during that time. We don't want to get so many wonderful place for them, and then have them walk across the stage, get a signed diploma, and sit home until they're 21 when developmental disabilities programs are going to find that they're at the that point eligible for their services. So we would have a large gap in what would be happening, and it's imperative that we're working with them. But it's also imperative that they're doing what their friends do on graduation day. So this document was looking at everything possible leading up to that event, getting ready for, making the decision of when a student should graduate, and here are the options and here's how you do it. And I know there was a lot of training, and I know the transition specialists across the state have carried it back to all of our districts and we've done training. Somehow it doesn't hold the legal clout that we need to have to make districts fall in line with doing what's really good for kids and their families. [LB990]

SENATOR RAIKES: Okay. Thank you. Thanks for being here. [LB990]

JAMIE GARNER: (Exhibit 17) My name is Jamie Garner, G-a-r-n-e-r. I'm a transition counselor for ESU 15. The sights of caps and gowns and the sounds of pomp and circumstance. Every student looks forward to completing four years of high school and graduating with their class. I had many points following this but some of them have already been said so I won't repeat them. But a couple of things I would like to add is that this is just not an issue for southwest Nebraska, as you've heard. There's pockets of the state that don't allow students to socially graduate, and even across our country. Texas passed a law that is effective September 1, 2007 that also addressed this issue because it's come up for parents and students. The other thing that I would like to emphasize, I guess, is that Legislative Bill 990 can be passed without any funding implications. It does not cost the state or the school anything to allow a student to be able to socially participate with their class and have that moment of glory. As you found that my handout, I said some things that the others have already said. So I will close, and I just want to urge the committee members to consider this bill and move it out of committee. Thank you. [LB990]

SENATOR RAIKES: Thank you, Jamie. Are there other proponents? How are we doing here? How many more proponents do we have? One more, okay. Welcome. [LB990]

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SHEILA BENSON: Hello. My name is Sheila Benson, B-e-n-s-o-n. I am 21 years old. I live in Holdrege, Nebraska. When I was 18 years old, I graduated with my classmates and walked across the stage to receive a certificate of attendance. I decided to go through the graduation ceremony because it was important to me. After I graduated, I completed three years transition and job experience program. I receive my signed diploma last summer from my superintendent, Roger Boyer, and principal, Vic Young. I hope that everyone will get the same chance to graduate with their classmates. Thank you for letting me talk with you today. Any questions? [LB990]

SENATOR RAIKES: Well, thank you for being here. Questions for Sheila? So what are you doing now? [LB990]

SHEILA BENSON: I'm working at The Drawer in Holdrege two days a week, and I'm also working with my mom in Kansas at her dentist office. [LB990]

SENATOR RAIKES: Okay. Thanks again for being here, good to have you. [LB990]

SHEILA BENSON: You're welcome. [LB990]

SENATOR RAIKES: Another proponent. Welcome. [LB990]

SHELLDON SKELCHER: My name is Shelldon Skelcher, S-k-e-l-c-h-e-r. I'm an attorney for Legal Aid of Nebraska. I helped the Randolphs with their case. Fortunately for their daughter they have very active parents who took a strong interest, and they were almost destroyed when they found that their daughter was not going to graduate. And I was here just one short week and a half ago with Leadership Scotts Bluff when we joined Box Butte Leadership and I talked to some people about what was going on, and they told me directly that they knew a parent, a single parent, a mom, who had a child who did not graduate from Alliance High School and it devastated the family. And I just thought, gee I, you know, just showed up a year too late. My background is I've worked in special education for 15 years. I've been an attorney. I've been a lead attorney for a protection advocacy of Wyoming, which here would be Nebraska Advocacy. I also taught special education law at the University of Wyoming for three years, and I think somebody mentioned it earlier, but I feel like I've took a step 20 years backwards. We fought this long ago, and I think the senators had some very valid concerns. How do you oppose this? I mean, what would be the rationale? Well, some of the rationale would be that it hurts students, but it's been my experience and I'm sure it's everybody's experience here that that's just not true. All these students want to support these children. At one point we had--just a short story--we had a young lady who was being teased outside the lunchroom, and because she was being teased and it was a dangerous situation, she was restricted to the lunchroom so that she would have supervision. Well, that's not the right solution, and the principal said two things. One thing he said was first, we're going to deal with the kids who's teasing him, and second,

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at our suggestion, can we get some peers to have lunch with the child. And the principal was agreeable to that but he said, "I can't make anybody volunteer for anything," and we said, "Well, let's just give it a try." They had so many volunteers they had to interview everybody. One day she went with the football team. One day she went with the cheerleaders. One day she went with...I mean, everybody participated. These kids are not bothered by that. The teachers...are the teachers somehow shortchanged? I think you've seen them all. They're very supportive. It seems just like it's kind of an administrative problem, and I think the biggest argument was local control. But we saw the state was here today saying that--for the first time in a long time--this isn't a local control issue, this is something they would like to see. Nobody is harmed by this. They're going to get a diploma anyway. I think a lot of people have talked about the caps and gowns. I would just like to say that a month and a half ago I was in Scottsbluff with Senator Harms at the Discovery Center watching kids with developmental disabilities do amazing things, and we allow them to receive a certificate of attendance and walk the stage. And finally I'd like to say, is there anything illegal about this? The feds encourage it. If you read the federal register, they don't want to impose it but they encourage it. If you see the Nebraska Department of Education, they issued this thing that's been passed out that pretty much encourages it. I just hope that it makes it out of this room because there won't be anymore kids like Alliance as long as I can find it out. Thank you. Any question? [LB990]

SENATOR RAIKES: Thank you, Shelldon? Questions for Shelldon? By the way just for the record, I don't regard the NSEA as the bastion of local control (laughter). Are there any other proponents? Are there opponents, LB990? Is there neutral testimony, LB990? Senator Christensen. [LB990]

SENATOR CHRISTENSEN: (See also Exhibit 22) Mr. Chairman, fellow senators, thank you for hearing the bill and I'd like to thank you for your time and I would like to ask you to advance this bill to the floor. I think it's as important for the whole class to see everyone go through graduation as it is the individual that is handicapped. You know, I can state that my son, Isaiah, everybody loves to have him around, his smiles, and they do, they migrate to him. And that's why I say, it's as important to the whole class that they get to participate than it is my son or anyone else's son or daughter. It's that important to the whole class, I believe. Thank you. [LB990]

SENATOR RAIKES: Thank you. Senator Avery. [LB990]

SENATOR AVERY: One thing. During the course of this hearing, it occurred to me that there might be some push-back from some of these recalcitrant superintendents and boards, and you have no enforcement mechanism in this bill. Do you think perhaps you might need one, some sanctions that would be levied against these who might say...you know, local control give us the authority to make our own policies? [LB990]

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SENATOR CHRISTENSEN: I guess I hadn't thought about that, Senator. But I would be glad to leave that to the committee and if they want to add it, I would support it. [LB990]

SENATOR AVERY: Okay. It wouldn't surprise me if you got some push-back. I can't explain it. I mean, who would do that, but I'm surprised by the testimony today. [LB990]

SENATOR CHRISTENSEN: Yes. [LB990]

SENATOR RAIKES: Okay. Any other questions? Don't see any, thank you, Senator. [LB990]

SENATOR CHRISTENSEN: Thank you. [LB990]

SENATOR RAIKES: That will close the hearing on LB990. Senator Burling. [LB990]

SENATOR BURLING: Okay. Senator Raikes is here with us to introduce LB1153. [LB1153]

SENATOR RAIKES: Thank you, Senator Burling. Ron Raikes, District 25, here to introduce LB1153. LB1153 is somewhat a broad-scoped effort at addressing special education issues, and there are a number of them that we deal with. Let me introduce it by pointing out that we did have a special education task force that worked over the interim as a result of Legislative Bill 316, which we advanced last year. And Senator Adams was a part of that group. We also had Senator Mike Friend, and I guess those were the three of us members of the Legislature that were on the group. I will tell you that to some extent, the two bills--LB1153 and LB1152--can be distinguished by LB1153, I think for the most part, includes items that there was a consensus about within the task force. LB1152 goes a little bit beyond what the task force was willing to endorse, in particular some provisions about changing finance mechanisms for special education. But at any rate, let me just kind of quickly run you through LB1153. One of the items that we addressed in there was the issue of is you have a special need, student that resides in one district and attends a setting for educational services in another district, current statute requires that the resident district contract the public school district in the other district to provide for those services. This would change that so that the resident school district would deal with the education school district, if I can describe it that way, if the education is done in the public school. If it's not, if it's in another setting, it would deal with the setting directly. It's meant to clean up the lines of authority a little bit. It is somewhat of a complicated issue, been around for a long time, seems a bit cumbersome, but hopefully this improves it some. The task force also was supportive of the idea of both a recruitment camp and an advertising campaign. I'll background that a little bit as follows. One of the issues that we heard a lot about in the task force meetings, as you might imagine, is the availability of special education teachers, particularly in certain areas, certain specialties, and also what I could

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generally describe as a burnout phenomena that seems to affect special education teachers. So the recruitment camp and also the advertising campaign are intended to deal with that. The advertising campaign maybe needs a little bit more explanation. What I would say about that is that I think there are great things being accomplished by special education teachers and staff members in terms of the advancement of students and some great things that are being done, and I think too few people hear about those things, including the people who are doing the work. But I think making information about that more available will help not only support the people who are doing the teaching, but also encourage people to become interested in this important field and apply for these kind of jobs. Attracting Excellent to Teaching Program is another area addressed in this bill. I think my recommendation to the task force...and again, the Attracting Excellence to Teaching Program is a loan forgiveness program for teachers. My recommendation was to restrict that program to teachers getting endorsed in the area of special education. The task force members were not willing to go quite that far, but at least they were willing to focus the loan forgiveness program on shortage areas. And at least in the first year or so of the program, there were not enough applicants in shortage areas, so they went to other areas. So that was a change that is being recommended here. Also, the annual loan amount, the maximum loan amount was changed from \$2,500 to \$3,000 a year. We heard quite a bit about parents of special needs students and their knowledge of the procedures and programs available and basically their rights as parents, and how do we better inform them as to what programs there are and what rights they have. And there's a provision in here to provide a guide to parents so that they can be better informed, a simple guide. And also, that guide would include information as to where they can go to get additional follow up information about the services that are available. Finally, equity of services was also an important topic. The issue here is if a--or one of the issues, I guess I should say--is, is it the case that if a special education student or a special needs student with a particular need landed in one part of the state versus another, would the programs and opportunities available to that student be roughly equal or be significantly dissimilar? And so this bill would require the department to do a study to evaluate that issue and report to the Legislature...I've forgotten now, I think we do it once and then evaluate the report and decide if we're going to go on with it. So it was something that we discussed quite a bit. Would another report be very helpful, and I think that remained a question. Seems like an important issue so let's try this and get the report, and if it works, we'll go on. So those are the main provisions in this bill, and if you've got any questions on that, why, ask Adams, he was on the task force. [LB1153]

SENATOR BURLING: Well, we'll start with Senator Raikes. Any questions for Senator Raikes? Senator Avery. [LB1153]

SENATOR AVERY: You've been around this place for a long time. You've seen task forces come and go, and you've seen interim studies come and go. What is your opinion about the relative value of the product produced by a task force compared to that of an

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interim study? [LB1153]

SENATOR RAIKES: Well, it all depends on the leadership of the task force, and this one happened to be very well led. That, by the way, wouldn't pass the whatever test...that response. But I will tell you that...actually there are a couple of things. It's a good question. A task force is certainly more rigid in the sense that you have a designated membership. It's statutorily designated. The executive branch, the governor participates in the selection of members. So there is less flexibility for legislators who are on the task force in a task force setting than if they are conducting an interim study. With an interim study, you pretty much can follow as you wish. So I guess I would say that the relative merit depends upon what you want to get accomplished and who you think you need in order to participate in that. In this particular case, I think the advantage was we had a...and by the way, a very dedicated group of participants. Attendance was very good and the schedule was somewhat rigorous. We met... [LB1153]

SENATOR AVERY: Including my legislative aide, by the way. [LB1153]

SENATOR RAIKES: Yeah, that's right. And we had good staff support and they did a lot of work. And so I think all of that was very good. We, as a result of that, were able to examine some issues very thoroughly. We had invited speakers come in who made presentations to everybody so everybody could react to those kinds of things. Probably one of the results of a task force versus an interim study, why you know, if we'd had an interim study, I would have combined LB1152 and LB1153 and explained to you that the interim study recommended both. The way it was, I kind of had to separate them here a little bit. [LB1153]

SENATOR AVERY: Well, you know, the Speaker did raise the issue of the proliferation of task forces the other day on the floor. And I thought about it a lot, and it occurred to me that, having served on a task force, that task forces seem to get more done and you seem to come up with specific recommendations because you bring together a collection of talent that may not be available to an interim study. [LB1153]

SENATOR RAIKES: And that certainly can happen. I suppose you can come up with examples where it doesn't, but it certainly can happen. [LB1153]

SENATOR BURLING: Senator Adams. [LB1153]

SENATOR ADAMS: Senator Raikes, I'm negligent for not having read the green copy of the bill, but let me ask you about the... [LB1153]

SENATOR RAIKES: Well, did you read this? (Laughter) [LB1153]

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SENATOR ADAMS: Oh, yeah. Yeah. I got through all of that just the other day. A couple of questions. When we were in the task force regarding this loan program, we talked about allowing nontraditional students to make application. And if I remember right, there was some discussion about allowing unused balances to carry over. Did we address that here or am I thinking wrong? [LB1153]

SENATOR RAIKES: No. I think we do. We did, in fact, we allowed...I can't remember the current language, but it limits it to undergraduates...I can't remember what level of undergraduate. But we expanded it to allow graduate students you'll remember, and the reason for that was that one of the areas that we're particularly short of is speech pathology, where in fact a master's degree is required. I think we do because we've restricted it to shortage areas. If we don't get enough applicants to use up the money in the shortage areas, then we do carry the balance over. [LB1153]

SENATOR ADAMS: Okay. Thank you. [LB1153]

SENATOR BURLING: Any other questions? Seeing none, thank you very much. Are there proponents to LB1153? Welcome. [LB1153]

TOM McBRIDE: (Exhibit 18) Good afternoon. My name is Tom McBride, M-c-B-r-i-d-e, and I'm representing Epworth Village, Incorporated, Uta Halee Girls Village in Omaha, and Cooper Village. And if it would please the committee, I hope the kinder and supportive continues with...You know, LB1153 does several different things, but I want to testify specifically on Section 1(8). Senator Raikes talked about that in his introduction when it talks about being able to contract from a local, home/school district with an agency. What we have in Nebraska is Rule 18 schools, interim program schools. They are subject to Rule 18 of the Department of Education. We operate one of those, as does Uta Halee and Cooper Village. When it comes to contracting for the education services of non-state wards, oftentimes it can be very confusing due to mobility of the parents to, you know, previous residential placements, a variety of things. And what this does is in the bill, it cleans up a portion of that that was very confusing previously. Basically it cuts out the middle man, where a district doesn't have...like the York Public Schools District does not have to act as the contractee; they can contract directly with Epworth Village as a Rule 18 school. It also allows for contracting with both entities, if that is in fact necessary. As it responds to the attracting teachers into special education, I really applaud that. Every year, it seems to be more and more difficult to attract good special education teachers. And this is going to become increasingly more difficult, I believe, as No Child Left Behind continues with highly qualified teachers, and that if you're a special education teacher but you're teaching a math class per se, you have to be endorsed in that math class as well. And I think this give some ability for those students to obtain all of the necessary credentials to be, you know, terrific teachers. I testified at the special education task force this year and enjoyed that opportunity. When you look at special education--Nebraska, Wyoming, it doesn't make

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any difference where you're at--I think people have different beliefs in what different ideas of what special education is and what those students are typified as. And oftentimes if you talk to someone on the street, they think, you know, that it is someone who has a speech-language disorder or a learning disability, a reading disability, something like that. In our case, we're working with children that have schizoaffective disorders, autism, the whole scope of disorders. And being able to serve them and to do so cost effectively, you know, in addition to providing good educational experience for them. There are portions of LB1153 we support and would like to see it move forward. And I have some written testimony. [LB1153]

SENATOR BURLING: Okay. Thank you. We have a question from Senator Howard. [LB1153]

SENATOR HOWARD: Hi, Tom, welcome to our committee. You made mention that this would assist you in providing educational services for non-state wards. [LB1153]

TOM McBRIDE: Correct. [LB1153]

SENATOR HOWARD: What percentage of your population is non-state ward? [LB1153]

TOM McBRIDE: It depends on the year. It depends on the time of the year. We typically will run 60 percent state wards, 40 percent non-state wards. However, this year we're probably running 70-30, 70 non-wards and 30 percent as wards. [LB1153]

SENATOR HOWARD: That's interesting. What about Uta Halee and Cooper, do you know? [LB1153]

TOM McBRIDE: I couldn't speak to their numbers. But we're seeing...increasingly we're seeing, you know, more private placements of kids coming into care. [LB1153]

SENATOR HOWARD: What's your payment source in that case? Is it insurance? [LB1153]

TOM McBRIDE: They can still be Medicaid eligible. [LB1153]

SENATOR HOWARD: Not be state wards. [LB1153]

TOM McBRIDE: But you know not be a ward, correct. [LB1153]

SENATOR HOWARD: Okay. Thank you. [LB1153]

SENATOR BURLING: Thank you. Anymore questions? Thank you, Mr. McBride, for being here. Next proponent. [LB1153]

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KORBY GILBERTSON: Good afternoon. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of Boys Town in support specifically of Section 1 of LB1153. Representatives from Boys Town did participate in the discussions during the interim with Senator Raikes and others, and they are very much in support of streamlining in layman's terms, or my layman's terms, tracking the payment for services to the district that should be paying and making that easier to track down. And this goes a long ways to doing that, and they would like to continue working on that in years to come. Thank you. [LB1153]

SENATOR BURLING: Thank you. Are there any questions for Ms. Gilbertson? Yes, Senator Howard. [LB1153]

SENATOR HOWARD: Thank you. Thank you, Senator Burling. Just a clarification, does this population referring too to the non-state wards? [LB1153]

KORBY GILBERTSON: That's my understanding. [LB1153]

SENATOR HOWARD: Okay. So the state wards don't fall under the same... [LB1153]

KORBY GILBERTSON: They go through--Tammy can probably answer that better than I can--through all the different rules. [LB1153]

SENATOR HOWARD: Okay. Thanks. [LB1153]

SENATOR BURLING: Any other questions? Thank you for your testimony. Next proponent. Are there opponents to LB1153? Is there neutral testimony? Welcome. [LB1153]

GARY SHERMAN: (Exhibit 19) Thank you. Get all this paperwork here. Okay. My name is Gary Sherman. I'm administrator of the special education office at the Nebraska Department of Education. I served as a member of the LB316 special education task force, and I appear today on behalf of the State Board of Education to testify in a neutral capacity. The first portion of LB1153 directed the department to conduct activities designed to address shortages in special education teachers in our state. We have conducted activities similar to those described as teachers world camp like ten years ago, and we were able to do that with the assistance of a federal grant. At that time, the purpose of the camp was to introduce minority students to the field of education, and the data that the department collected indicated that many of the participants did attend college and pursued teaching careers. Conducting an advertising campaign to attract individuals to teaching has also been previously pursued by the department to address shortages, in this case, to vocational education. The time and expense involved was significant and the results maybe not as good as we would have hoped. Regarding the

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attracting excellence to education scholarship program, funds would be directed to those teacher trainees who are majoring in shortage areas such as special ed, and the loan forgiveness would be available upon completion of teaching in Nebraska for two years. Some of the colleges currently participating in the excellence program have found it difficult to fill all of their scholarship slots because of students not wanting to remain in Nebraska because of the lower teacher salaries in our state as compared to surrounding states. As indicated in the bill, the department would attempt to collaborate with and seek financial assistance from other interested organizations in implementing the teacher recruitment camp and the advertising campaign. However, the department has not always been successful in seeking outside funds to implement department activities. In addition to addressing the special education staff shortage, the bill attempts to clarify issues relating to who is responsible for the cost of education services provided to a student who is placed in a residential setting for reasons other than education. The issue of defining residency for school enrollment purposes and district responsibility for special education continue to be challenging. The wording in the bill may have an unintended consequence of requiring school districts to purchase services offered at the residential setting which may not be necessary, or pay for additional services not offered by the residential setting to meet the needs of the individual students. The requirement to prepare a one-page summary of parent rights for a child receiving special education services can be cooperatively developed by the department and the parent training and information center, and this then would be distributed by school districts to parents. There would be some cost associated with the preparation of that in terms of preparing the summary in different languages and for printing costs. Finally, the bill directs the department to conduct special education statewide equity studies based on data already available to the department. The first report is to be completed and submitted to the Legislature by December 1, 2009. A second study, which may require the collection of additional data, would be conducted and a report submitted to the Legislature by December of, 2013. The requirement to conduct statewide equity studies would be additional responsibility for our office as staff concentrate on meeting current state and expanding federal IDEA requirements. The state board had a concern due to the department's need for additional resources to carry out these new requirements, even if other organizations would agree to provide assistance for some activities. However, the department should be able to accomplish the requirements as outlined in LB1153, but would ask that adequate appropriations accompany passage of the bill. [LB1153]

SENATOR BURLING: Thank you. Any questions for Mr. Sherman? Seeing none, thank you for your testimony today. Is there other neutral testimony? [LB1153]

JEREMY MURPHY: (Exhibit 20) Good afternoon, Senator Burling, members of the committee. My name is Jeremy Murphy, spelled M-u-r-p-h-y. I serve as associate director for education issues for the Nebraska Catholic Conference, and we're testifying in neutral capacity on this bill. I think our primary concerns of the bill are dealing with the

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AETP portion of the bill, and I would have three comments or points to make there. First of all, I should thank Senator Raikes, Senator Adams, Senator Friend, and the members of the special ed task force, including Gary Sherman. I attended those task force meetings and they were very helpful in expanding my understanding of special ed and how it's provided in Nebraska. The first point that I would make in the attracting excellence of teaching portion of the bill, currently there's a prioritized shortage area structure in place, and the bill appears to change that to making the shortage area...it become a precondition. It's required for the teacher to teach in a shortage area to be eligible for the scholarship. This means less flexibility for the program, and we're not sure that's a good thing, based on our analysis. The second point I would make on the...there's a two-year limit which requires the teachers who except funds from the program as far as loan forgiveness is concerned, there's a two-year limit. They must teach in a shortage area for two years. We think that's too restrictive provision, and we would ask the committee to take a look at that and perhaps consider changing it. There are also interest in penalties that are dealt with on page 12 of the bill where if someone doesn't complete the terms and conditions of the Attracting Excellence to Teaching Program, the interests and penalties are assessed against them. The interest appears to be statutory, although I don't recall seeing that in the previous statute. We just think the interest and penalties might be too harsh based on the conditions. I think there was some discussion at the task force of how many people they've had to actually try to collect these funds from. And I don't think there were a large number of people that were not complying with the conditions of the program, so I'm not sure that language is necessary. Additionally, we have a suggestion for the committee to consider, and I think I have enough copies of this. But basically this would allow for...well, it would change some of the language on page 13 and 14 of the bill. It would allow the two-for-one loan forgiveness portion of the bill to apply to teachers who teach in an approved or accredited private schools in Nebraska in which at least 40 percent of the enrolled students are free lunch or free milk students. So on page 13, line 17, it would strike the word "or," insert a comma, and then in line 20 it would strike the comma and insert "or teaches in an approved or accredited private school in Nebraska in which at least 40 percent of the enrolled students are free lunch and free milk students." The same change would occur on page 14. I think there has been enough discussion of poverty in Nebraska for us to realize that poverty affects all schools. It affects public school districts. It affects private schools..and I don't know. I think we have statistics in our office that suggest there might be maybe 12 to 15 approved or accredited private schools, Catholic schools in Nebraska that might have 50 percent or more free lunch or free milk students. We can check on those statistics if it would be helpful to the committee. But we would ask you to look at that. Title I in the federal system does look at poverty students based on them being poverty students and not being poverty students just in a public school district. I'd be happy to answer any questions, and we'd be happy to work with the committee on any changes or the language that we're suggesting. [LB1153]

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SENATOR BURLING: Thank you. Are there any questions for Mr. Murphy? Yes, Senator Avery. [LB1153]

SENATOR AVERY: Mr. Murphy, is there some reason why in your amendments you limit the language to free lunch and free milk students and not reduced as well? [LB1153]

JEREMY MURPHY: I think we would be flexible on that, and I don't know. I would imagine if there were...I'd have to look at statistics on reduced lunch and reduced milk students, but I would imagine that would be a change that we would support or work with. [LB1153]

SENATOR AVERY: I thought maybe you had a specific reason for the language. [LB1153]

JEREMY MURPHY: Well, I think our statistics in our office were based on free lunch and free milk students, if I'm correct, and I can double-check that if that would be of assistance to you or the committee. [LB1153]

SENATOR AVERY: Okay. Thank you. [LB1153]

SENATOR BURLING: Any other questions? See none, thank you very much. [LB1153]

JEREMY MURPHY: Thank you. [LB1153]

SENATOR BURLING: Any other neutral testimony, LB1153? Senator Raikes. [LB1153]

SENATOR RAIKES: Thank you, Senator Burling. A couple of quick comments. First, I'd like to thank Gary for his participation in the task force. He provided us a lot of reliable information about the way things are done now, and also ideas that we had about how we might do things differently only to find out that yeah, we tried that and it didn't work. So that was I think very helpful. Regarding the Attracting Excellence to Teaching Program, looking at the list of recipients of those loans. As I remember, you had people receiving those that were business majors, I think a couple that were religion majors. You know, and they're no doubt good students pursuing noble goals. But the idea here I think needs to be people that are interested in teaching and picking up where we have shortages of teachers and willing to stay here in Nebraska and complete that role. So, certainly I consider whatever suggestions are offered, but that one I probably would just add those comments for your consideration. [LB1153]

SENATOR BURLING: Any questions for Senator Raikes? Yes, Senator Howard. [LB1153]

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SENATOR HOWARD: Thank you, Senator Burling. I'm a little confused about the teaching for excellence. If we don't have a number of people that are applying for that anyway, do you think this going to reduce the number of people that are interested if we really become specific about the area, or is there another way to do it since you said emphasis on special ed? [LB1153]

SENATOR RAIKES: Well, it may, and that may be a concern. And certainly the Legislature can revisit this at any time. But if the program is intended to encourage people to pursue degrees in teaching, and particularly in shortage areas, then my view would be let's make it do that. And if in fact we don't have enough money or we don't have enough applicants given the program, we have money left over, well, then there are a couple of options: Either carry it over to the next year and see if we don't get more or increase the maximum loan amount so that we do maybe make it more enticing to those that would be interested. [LB1153]

SENATOR HOWARD: A couple of good ideas. Thank you. [LB1153]

SENATOR BURLING: Any other questions? Senator Raikes, I confess I have not read that document there in front of you. So I'll ask you how widespread is this shortage? Did the task force...I mean, is it huge or just spotted or... [LB1153]

SENATOR RAIKES: It's a very good question, Senator. To some extent, it's a perceived and forecasted shortage, rather than a shortage that you can actually grab your hands on and say well, we have this many open positions that we cannot fill. There certainly is what I'll describe as the "burnout factor" that you have, probably situations in school districts where people would like maybe to have their assignment changed perhaps away from special education but it simply can't be done because we don't have people that we can replace them with. So when you add together that phenomena where there actually are empty positions, and where you have...you can look at people that are going to be retiring in a short amount of time and then begin worrying about how it is you're going to replace those people once they've retired. [LB1153]

SENATOR BURLING: Okay. Thank you. Other questions? All right. If you're finished... [LB1153]

SENATOR RAIKES: I am finished. [LB1152]

SENATOR BURLING: ...that closes the hearing on LB1153, and you can open on LB1152. [LB1152]

SENATOR RAIKES: Okay. I will do that, Senator. Thank you. Ron Raikes, District 25, here to introduce LB1152. And LB1152 includes a number of issues in the area of special education, and I would describe the task force as somewhat timid in grabbing

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onto these ideas. But of course, they're wrong and I'm right (laugh). You know, this is a bill that deals with the important issue of special education finance, at least in part--well, in a number of different respects. And let me sort of introduce the topic this way. One of the things we found out, I believe in the special education task force, is that to some extent you have magnet centers for special education services, that is you have certain school districts that really offer expansive and very sound programs for special needs students, and others much less so. That's something that's perceived by parents of the special needs students, so you end up having, you know, a concentration if you will of programs in those districts. Well, the way we fund special ed in the state, I'll just remind you quickly, there is a reimbursement amount special ed services. I'm going to guess that it's around \$180 million a year, something in that range, and the growth in that is capped anywhere from 0 to 5 percent. That's the statutory cap. And currently I think in this year of the biennium, we're operating I believe...well, I think we're maybe 5 percent this year, but the second year of the biennium is 3 percent. I'm not exactly sure of that. So what happens is all of your school districts then incur special education services. You tally up what you spent for those special education services, turn that into the department. The department does some refinement of those expenses, which we'll talk about here in just a second. But by and large, once they get that refined number, they say, well, the total of everybody...all expenses that were turned into us were \$250 million. But the states reimbursement is capped at \$180 million, if those are the right numbers. Okay. So each of your school districts then are going to be reimbursed in proportion so that if that percentage, which I think it does now, come out around 60 percent, whatever you expended for special education services, you're going to get back 60 percent. That's the basic program we have now. So how do you pay for the other 40 percent? Well, you cover it with your general fund monies. And of course to the extent that it's general fund money, it's spent for special education purposes, it becomes a part of the spending base, which goes into the needs calculation and so on and so forth. But there is a--how would I describe it--perhaps an allocation that maybe if it isn't improper, at least I think it could be improved. If you have me as a school district that actually doesn't spend a whole lot on special education, so the demand that I have to make on my general fund dollars to make up the nonreimbursed parts is relatively small. You, on the other hand, are school districts that maybe you're these magnet centers that I'm talking about. You spend a lot. It's a relatively large budget, so there is a bigger obligation for you on your general fund dollars to make up the difference. The proposal in here says that we net out all your special education expenditures before we calculate the cost group cost in our current structure or the basic funding in the LB988 structure. And then we allocate, as an allowance, those dollars that are used to pay for the unreimbursed part of special education back to school districts on an 85 percent basis, 85 percent of the amount spent. Now, this is an allowance, so this does not increase the total amount of needs. Basically, this is a redistribution. How would the redistribution work? Well, either the cost group cost or the basic funding would go down for all school districts, and the school districts that spend a lot of money on special education then would be funded through this allowance so that their funding through this allowance

would go back up. So it's in effect a mechanism to redistribute funding from school districts that don't spend a lot on special education to those that do. Nobody would get 100 percent or over 100 percent of what they actually spent. But those who...well, basically all the districts would basically get back to the target of 85 percent of reimbursement for actual special ed expenditures. Not a particular easy concept to understand, but I think the basics are you're trying to direct the money to school districts that actually spend it on special education services. Now, they do get the state reimbursement, but that only covers about 60 percent. So in terms of the rest of it that they now have to take out of their hide, so to speak, their general fund, a bigger percentage of that would be covered by an allowance, a reimbursement allowance, in the aid formula. Okay, so that's one major provision in LB1152. Okay. There are a couple of other things. One is we've got provisions in there to require the Department of Education to approve rates for service agencies. These would be the Rule 18 schools and the like. One of my concerns for a number of years has been that, for state wards I guess in particular, we do not allow in the calculation of their costs, of the cost of the serving agencies, the Rule 18 schools, to include anything for overhead and facilities. It seems to me that, particularly for state wards, those are in fact state costs. We shouldn't expect donors to those agencies, contributors, however they might come to pay for those costs. So we've included a provision to include overhead and facility costs for those kinds of service providers. Another thing that's in here that's not particularly easy to understand, at least at first glance, as I mentioned earlier the refinement of the special education costs. I think what's recorded from the school district to the department is called allocated excess cost. Am I correct? I think I'm getting a nod that I am correct. Well, those costs can be adjusted based on how that student is educated in the school district setting, and basically there is a change here in the process. We're going to redefine the excess cost to subtract the district's average per pupil cost when the students spend less than 25 percent of their day with regular education peers. So if you've got a student...the idea is, if you've got a student that is entirely served in a special education setting, then as a school district, if you're going to count that special education cost, then you ought to be docked, so to speak, for the regular education costs. By definition, you're serving this student in a special education setting, you're accounting for the cost of that student strictly through those costs, so there is no regular education cost. Right now there's procedure for doing that sort of thing that the department uses. This would be a simpler one that says 25 percent is the cutoff. If the student is 25 percent or more in a regular classroom, you don't subtract the regular cost or the regular education cost, I should say. This, I think, fits well with the push of the federal law regarding IEPs and special education students, and that being that you are required by that law to as best you can include students. You don't separate them out as special education students. I think many school districts try very hard to do that and this would be a way, I think, to better recognize their efforts in terms of expressing their costs. So those are the provisions in this bill. As I say, it's a simple bill. [LB1152]

SENATOR HOWARD: Yet, once again. [LB1152]

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SENATOR BURLING: Okay. Senator Howard. [LB1152]

SENATOR HOWARD: Thank you, Senator Burling. Senator Raikes, I'm fascinated by your interest in the state wards to the example of reimbursement for some of the cost of their educational settings. But it crosses my mind that this may have a consequence that you hadn't thought of, which could be to encourage institutions to provide education in their own facilities, rather than have the students in the public education setting in the community. And I think in Uta Halee, which does provide an educational setting there in the facility, but they try to work with the students on an individual basis to get them into the public school settings as much as possible. So is that a risk that you think we're going to incur with this? [LB1152]

SENATOR RAIKES: Well, I don't think so. It's a good point but I don't think so, and fortunately we've got people here who know how this is done and can correct whatever mistakes I made. But there's basically different financial systems that we use. If in fact the student is educated in a public school setting, then you the student is included in the school funding formula, and we got down that road. My concern has been that you've got particularly a state ward that's a responsibility of the state, and that student is end up placed in the residential setting--and we're talking not about the residential cost, but we're talking about the education cost--and that institution is not reimbursed for the costs they incur, to the point where they need to depend upon other sources of funding, be it a religious organization or other contributors or whatever, in order to pay for that student. I think as a state we ought to fully recognize and compensate those institutions for the expenses they incur, particularly with state wards. Now, there are a number of implications, you know, of the issue. You've got, you know, to the extent that including this would allow Uta Halee's and other private providers an opportunity to charge more for their services, this would mean that for state wards and HHS, they would be paying more for the education of state wards, which has not been a happy topic with them anyway. On the other hand, if you have public school districts that are contracting with these entities for services, and the department has an approved rate for those services which includes overhead costs, then that rate is higher than it might otherwise be. And so what happens is instead of \$250 million versus a base of \$180, it's \$255 million. So what it does is it reduces the percentage reimbursement. [LB1152]

SENATOR HOWARD: I can think of facilities such as Douglas County Youth Center that would be very excited about this proposal. [LB1152]

SENATOR RAIKES: Yeah. And I think education services provided in an entity like that are treated yet again differently, and I can't explain to you just how. But maybe somebody can. [LB1152]

SENATOR BURLING: Senator Avery. [LB1152]

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SENATOR AVERY: Senator Raikes, you have another bill, I believe the number is LB988, that deals with the funding formula. Don't you have a special ed feature in that bill, and if so, how is this different from what you have in LB988? [LB1152]

SENATOR RAIKES: We don't have this allowance in LB988. We specifically kept this separate. But certainly if you're suggesting that this could be incorporated in LB988, that's a brilliant idea. It could, and in fact... [LB1152]

SENATOR AVERY: Well, it might be easier, given the fact that it's almost \$1 million, if you could mix it in the formula where you're going to have reductions if we pass that. It would be easier I think on many of us. [LB1152]

SENATOR RAIKES: I haven't even looked at the fiscal note, so I don't know exactly what they... [LB1152]

SENATOR AVERY: Yeah. It's \$902,000, almost \$903,000. [LB1152]

SENATOR RAIKES: Okay, significant amount of money. [LB1152]

SENATOR AVERY: Yeah. I thought there was an item in that LB988 to cover this, but I was wrong. [LB1152]

SENATOR RAIKES: Actually it doesn't do this. I'll have to look to make sure. [LB1152]

SENATOR BURLING: Any other questions? Okay. Thank you. Are there proponents to LB1152? [LB1152]

TOM McBRIDE: (Exhibit 21) Good afternoon again. Tom McBride, M-c-B-r-i-d-e, and there's a couple of things I hope that in the testimony that I'm able to answer some questions perhaps Senator Howard had. Once again, I'm testifying on behalf of Epworth Village, have programs in York and Grand Island and Uta Halee Girls Village, Cooper Village. Speaking specifically to Sections 8 and 9. Section 8, as Senator Raikes has brought up, would allow us to capture some of the costs that we currently don't have the ability to do that, and I really appreciate him bringing forth both LB1152 and LB1153. This is something that we have talked about for quite some time, and I think that perhaps this came out of the task force and people hearing what some of our pain was. We operate a school 218 days a year. It's a K-12 facility, primarily behavior disordered, access one disordered young people. And one of the things in direct response to Senator Howard's question about would allowing these costs to be incurred in there, would Rule 18 schools or agencies be incentivized to keep those kids in their own programs? And I can speak only for the programs that I know about, and specifically ours, and I would say, no. You know, we're working, doing what we do because it's the

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right thing to do. We have youngsters that come in to us that, because of, you know, their backgrounds, their history, their story, are five to seven years behind grade level. And what we're trying to do is to raise that grade level so that they can step into public school, and also that they have the behaviors that allow them to step into those public schools. We want to do that as quickly and as efficiently as possible. And you know, it's difficult work, but man when you see it happen, it's tremendously gratifying. Section 9 would allow us to continue also in that billing process with local school districts that we serve. And I would hate to ever think that a school district is restricting services for a child, special education services, because of dollars. But I think all of us could probably think that there might be a time when that happens. In addition to being a provider of services in a Rule 18 school, I'm also in my 12th year on the York Public Schools board of education. And you know, from a board member's perspective looking at a school district that pays a great deal of attention to the rights of those students, the entitlement of those students, and if they need services, they receive those services, really applaud the 85 percent rate in that for excess costs for special education. Part of that I think that we continue to have responsibility to go back to the federal legislature, you know, go back to Congress and say, you need to fund special education to the states at the level that you said you were going to initially. We've never gotten there. I think that, you know, once again there's elements of LB1152 that are forward thinking, and I really applaud that and would support any consideration you can give to those elements. [LB1152]

SENATOR BURLING: Thank you. Any questions for Mr. McBride? I guess not, thank you. Next proponent. Are there opponents? Well, Senator Raikes, no opponents. [LB1152]

SENATOR HOWARD: Any neutral? [LB1152]

SENATOR BURLING: Any neutral? [LB1152]

RUSS INBODY: Good afternoon, Senator Burling, members of the Education Committee. I am Russ Inbody, R-u-s-s I-n-b-o-d-y, and I just wanted to respond to Senator Howard's question on...not that I'm an expert on these Rule 18 schools, but what it would do is the rate that they could charge a school district would be higher because they get to include the facility costs. With that... [LB1152]

SENATOR BURLING: Okay. Senator Howard. [LB1152]

SENATOR HOWARD: Thank you, Senator Burling. I wonder if this would encourage local districts to keep youth in their own school district whenever possible. You know, sometimes kids would be sent up to Saint Kearney by the judge, when I wonder if there would be facility or the placement available in their own district if this would maybe be a persuasive factor. [LB1152]

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RUSS INBODY: Now we're getting in an area that I am definitely not involved in, although I'm related to a judge. But I think it would be the placement of, you know...they have to place them where the judge tells them. So...I mean, that's my understanding. [LB1152]

SENATOR HOWARD: Well, actually the Department of Health and Human Services recommends placement. [LB1152]

RUSS INBODY: Oh, do they? Okay. See, I didn't...that was an area I wasn't aware of. [LB1152]

SENATOR HOWARD: Thank you for attempting to solve that though (laugh). [LB1152]

SENATOR BURLING: Any other questions? Okay. Thank you for your information. [LB1152]

RUSS INBODY: You're welcome. [LB1152]

SENATOR BURLING: Any other neutral testimony? Senator Raikes? Senator Raikes waives closing, so that will end the hearing on LB1152 and the hearings for the day. Thank you for coming. [LB1152]

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Disposition of Bills:

LB990 - Indefinitely postponed.  
LB1023 - Indefinitely postponed.  
LB1083 - Indefinitely postponed.  
LB1152 - Advanced to General File.  
LB1153 - Advanced to General File, as amended.

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Chairperson

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Committee Clerk