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Education Committee
February 08, 2010

[LB1014 LB1071 LB1087]

The Committee on Education met at 1:30 p.m. on Monday, February 8, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1014, LB1087, and LB1071. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Brad Ashford; Bill Avery; Abbie Cornett; Robert Giese; Ken Haar; and Kate Sullivan. Senators absent: None. []

SENATOR ADAMS: We'll begin this hearing despite the fact that we're missing some colleagues here. They may be introducing other bills. So we're going to begin. Welcome to this afternoon hearing of the Education Committee. We're going to be hearing three bills today. We're going to begin with LB1014, then go to LB1087, and conclude the afternoon with LB1071. Like to first of all introduce the people that are here. To my far right, the committee clerk, Becki Collins, and what I'd like for you to do while I'm on the subject of Becki is if you wish to testify today, back by each doorway there's a form that you need to fill out. And we need very much for you to have that filled out before you come up here, and then when you come up, if you'd hand that form to Becki and begin your testimony by stating and spelling your last name so that we can get that clearly into the record. Next to Becki will be Brad Ashford, Senator Giese from South Sioux City is here. Senator Cornett will be here very shortly. Next to me is the committee research analyst, Kris Valentin. I'm Greg Adams from the 24th District. Next to me is the Vice Chair of the committee, Senator Howard; Senator Sullivan from Cedar Rapids; Senator Avery from Lincoln will be here in a few moments, and then finally, Senator Haar is sitting right there waiting to introduce a bill. The rules of the road are very simple. I think we are going to run by the lights--we always do. And I'm going to make a guesstimation at this point given the number of people that are here that we're not going to have a huge amount of testimony, so Becki, we will go on five minutes instead of three. We'll take proponents, then opponents, and then neutral as we move through. Turn off your cell phones if you haven't already, so as not to interrupt the committee in any way or the testimony that's being given as we proceed through this. With that, Senator Haar, you are open on LB1014. []

SENATOR HAAR: Chairman Adams, members of the committee, thanks for not putting me on a light (laughter). []

SENATOR ADAMS: That's the privilege of being a senator. []

SENATOR HAAR: That's it. Okay, one of the many. []

SENATOR ADAMS: Now if the light comes on, there's a reason now (laughter). []

SENATOR HAAR: Last year, at one point, Brad Ashford made the comment...he said, we haven't really done anything for teachers lately, and we were also looking at LB425,

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I believe it is, and this idea came to my mind. Here we have a new revenue source from renewable energy on school lands, that being the rental for turbines and possibly for solar in the future. And so, LB1014 creates a fund for teacher performance pay using that new revenue source, the money coming from wind and solar leases and from any portion of a lease attributable to carbine sequestration. Distribution would not begin until 2016. It's going to take a little time to get that money in, and when we talk about...again, it's a fund for teacher performance pay. Teacher performance may include but not limited to improving professional skills and knowledge, classroom performance, or instructional behavior and instructional outcomes. The teacher performance pay may include predetermined bonus amounts and pay-out criteria. So it's actually a really simple bill. I would like you to look at the fiscal note because I find it really confusing. And I talked with people from the fiscal department today, the analysis department, and they agreed the topic is confusing. So I would like you to look at the fiscal note for a minute. There are five paragraphs or actually six, and it's really three, four, and five that when I read over it three or four or five or six times, again, I found it quite confusing. Here's what happens. Because of LB1014, there is no more or no less money available to the schools. This money is passed out on the same basis that other school land funds. In other words, you divide the amount of money available by the number of students, and that's the way it's given out. Now what this does do is it tells schools how they would spend this money from renewable resources. So again, no less money is available to the schools, but it tells them that the money for renewables would be put into this...that is put into this performance pay fund would have to go for some kind of performance pay. And we put in the 2016 because it's going to take a while for money to start coming in, and between now and then, there would have to be...we could either designate that in law by changing the law and saying how we wanted performance to be awarded, or we could simply leave that up to the schools themselves. So once again, there's no more and no less money available as a result of this. There is less discretionary dollars for the schools because they would be required to take this money and use it to...for teacher performance pay. And so again, in the box where they talk about it, it's really hard to know how much money we're talking about here because we don't have any wind turbines or solar panels on school lands at this point, and they conclude by saying, that potential revenue stream could be available to reduce state general fund aid for TEEOSA school aid. And, again, I would just say, yes, it would reduce the amount of discretionary money by saying that this particular amount would have to go to teacher performance pay. So with that, I'd be happy to answer any questions you'd have. [LB1014]

SENATOR ADAMS: Thank you, Senator. Are there questions for Senator Haar at this point? Anyone? Thank you then. [LB1014]

SENATOR HAAR: I'll stay for closing (laugh). [LB1014]

SENATOR ADAMS: I'll bet you will. You better (laughter). [LB1014]

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SENATOR HAAR: Thank you very much. [LB1014]

SENATOR ADAMS: First proponent. [LB1014]

JESS WOLF: (Exhibit 1) Thank you, Senator Adams and members of the committee. My name is Jess Wolf, J-e-s-s W-o-l-f. I'm the president of the Nebraska State Education Association. The NSEA supports LB1014 and is grateful to Senator Haar for introducing it, and to Senators Avery and Carlson for signing on to this very significant piece of legislation. NSEA represents the interests of public school educators, staff, and students and has done so since 1867, so we're 143 years old. Today NSEA is a member-driven union with membership of more than 28,000 members, K-12 teachers, college and university faculty, and educational support professionals. Those educators and staff are in every public K-12 school in Nebraska, on every college university campus except UNL and UNO, and every legislative district, and in every community. You probably remember that...your first teacher or your teacher who had the biggest impact on your life. I do...it was Twila Hicks in the third and fourth grade. LB1014 establishes a teacher performance pay fund using revenue generated wind and solar lease on unsold school lands, but it does far more than that. LB1014 moves in a serious way the public policy conversation about professional pay for professional work. The arc of this conversation started with the civil and equal rights movements for equal pay for equal work. Those movements pushed the policy debate at the bargaining table with school boards across the country and produced the current, single salary system that we have today which has been in place for about 90 years. The association supports expanding that arc to include the important policy debate on professional pay for professional work. Professional pay for professional work is not about merit pay, simply paying teachers compensation for student test scores. The focus is on good teaching, knowledge, skills, pedagogy, and practice, rather than primarily on performance evaluations or student test scores. The association supports incentives for locally negotiated alternative salary systems. The association believes that any system that provides additional compensation to educational employees beyond that provided by the single salary schedule should meet the following minimum criteria: First, the design of the system must be accomplished through the collective bargaining process at the local level. Secondly, the system should reward excellent teaching, again, for the knowledge, skills, qualifications, and the practice. Third, any additional compensation beyond the salary schedule must not be based primarily on educational employees' evaluations or student achievement scores or attendance. Fourth, the criteria that are used to determine whether educational employees receive the additional compensation should be clearly stated and subject to objective measurements. Fifth, the system should not directly or indirectly limit the number of educational employees who are eligible for the additional compensation. Sixth, the full funding must be provided to sustain the system. The allocation of funds to provide for additional compensation should not prevent increases in the basic compensation for all educational employees.

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And finally, the system should not diminish the professional status of those educational employees who do not receive the additional compensation or in any way suggest that such educational employees are not qualified for the positions that they hold. State incentives for alternative compensation will foster local and state discussions of good teaching and how good teaching should be rewarded. We ask that you move quickly on LB1014 and move out of committee and onto the floor for debate and passage. And I'll answer questions if you have any. [LB1014]

SENATOR ADAMS: Very good. Thank you, Jess. Are there questions for Jess? Jess, if I caught your language correctly, it was knowledge, skills, and qualification. [LB1014]

JESS WOLF: Yes. [LB1014]

SENATOR ADAMS: Doesn't the current salary schedule credit that already? [LB1014]

JESS WOLF: Well, it does base it on in terms of additional hours, additional knowledge, yes, to a certain extent. We're talking here in terms of additional...well, it would be somewhat the same in relationship to those additional knowledge and skills, but some of it would be based also on what additional skills you acquire to help other teachers, to move that...those professional skills among the staff. [LB1014]

SENATOR ADAMS: Would it be safe to say that we would not...if we were going to do this, what we don't want school districts to do is to say, well, step V out here that's an MA plus whatever, we just want to put another thousand dollars into that. [LB1014]

JESS WOLF: That's correct. What we also don't want it to do is be based simply on those test scores that individual students may have in the classroom, and because...we know there's so many variations that go into those particular test scores, and they're simply a one-day snapshot of what that student's progress is. We don't want to see that type of thing happen. We want to see it based on what is good practice in the classroom, what skills are necessary to be a good teacher, those types of things. [LB1014]

SENATOR ADAMS: Okay. Are there other questions for Jess? Thank you then, Jess. [LB1014]

JESS WOLF: Okay, thanks. [LB1014]

SENATOR ADAMS: Next proponent? Any other proponents? [LB1014]

JOHN BONAIUTO: (Laugh) Senator Adams, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, and I am actually in agreement with what the previous testifier had to offer. And school boards feel that, you know, we need to begin this

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discussion on having other ways to look at compensation. I think that, over the years, we've become prisoners to the current salary schedule system, and a person that is, you know, not taking anything away from what is in place. But that system was intended to help raise salaries and bring salaries into a competitive nature. But right now, the salary schedules...if a person goes from step one to step two or step two to step three, they're going to get an increase that is based on the way that schedule or the boxes are constructed. It could be 4 percent; it could be 5 percent, depending on what has been put into place. And an individual that goes to...back to school and attains additional hours can move across whether it is 12 hours or 15 hours; that's another 4 or 5 percent. So everything is just based on very structured pieces that are in place. Doesn't talk about the skills and the competency and the other things that we would hope to look at in performance. And going down this path, I think it requires both the teachers and the administrators and the boards to take a look at how we do things differently. A better evaluation process and what we might base performance pay on, and it has to make sense and people have to be confident in moving to a different system. I think that it's nice to have the discussion. I know that boards would be happy to work with the school administrators and the union to take a look at how we can have a different option in place. And one of the things I like about this bill is it moves us in the direction we need to move without trying to push us into abandoning a system that we are probably not ready to abandon yet, but it's a system that may have outlived its time. With that, I'll conclude my testimony. [LB1014]

SENATOR ADAMS: Are there questions for John? Yes, Senator Sullivan. [LB1014]

SENATOR SULLIVAN: Thank you, Senator Adams. Is it safe to say, John, that if we move in this direction that boards would be more involved in determining and identifying what, in fact, teacher performance is and also measuring it? [LB1014]

JOHN BONAIUTO: Definitely. I think they would have to be as...again, as much as the administrators and the individuals that would be participating. The teachers would need to be involved in that process, and so I see it bringing all the parties together in a much more involved role. You know, I look to the future, and I know that's going to get...it's going to get tougher in the next biennium as we look at resources. And I'm thinking of school boards that without our current system, without a board opening their mouth. Negotiations don't have to take place without a board opening their mouth. People are going to get 4 or 5 percent increases because it's in the...that the process is in place. And the same with movement across on the salary schedule so it's...again, it...we are prisoners of the current system. [LB1014]

SENATOR ADAMS: Other questions? So John, if I picked up correctly, as you initiated your comments, your organization has endorsed this, and you say it with a smile like typically, we're not always on the same side of (laughter) NSEA, but today you find yourself in that spot. I won't say if it's comfortable or uncomfortable (laughter). So, but

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let me ask you this. Did your folks lean towards endorsing this measure because it was supplemental pay or because it was a way of looking at pay differently? Which one of those weighed heavily...most heavily? [LB1014]

JOHN BONAIUTO: Looking at pay differently and the fact that this doesn't get us to...where we need to be, but the discussion needs to...this doesn't get us to the place where we would hope to be. But the discussion has to start someplace and, again, I think previous discussions we've had, and I know we've looked at performance pay, and there are some parts of the country that have embraced this more readily than others. But talking about just taking the system and turning it upside down and making a move quickly has never been something that I think has worked over the long haul. And so I think moving in this direction makes a lot of sense. [LB1014]

SENATOR ADAMS: Okay. Other questions for John? Thank you then, John. [LB1014]

JOHN BONAIUTO: Thank you. [LB1014]

SENATOR ADAMS: Other proponents? [LB1014]

RUSS INBODY: (Exhibit 2) Good afternoon, Senator Adams, members of the Education Committee. I am Russ Inbody, R-u-s-s I-n-b-o-d-y, and I'm representing the State Board of Education in support of LB1014 because the state board supports the possibility of funds being reserved now and in the future for performance pay issues. I think some details may have to be worked out on this. The state board is concerned because state...this is a state apportionment type bill. State apportionment is an accountable receipt in the state aid formula even though it's going to be set off in a separate fund, and I think that should be...or they thought that that should be made clear whether it's going to be an accountable receipt in the future or not. And then the other thing is, if you're going to set the funds aside for specific purposes, does that mean it's going to be outside the expenditure limitation in the future too which, obviously, in both cases, if it's not an accountable receipt and you allow schools to spend more...two years later state aid is going to increase. So, with that, I'd conclude my testimony and respond to any questions you may have. [LB1014]

SENATOR ADAMS: Thank you, Russ. Are there questions for Russ? So Russ, in effect, apportionment dollars currently are an accountable receipt, and we would need to do the same with this. Otherwise, am I correct in thinking we'd end up paying for this twice? [LB1014]

RUSS INBODY: You could, yes, if it's not an accountable receipt. That would be correct. You'd be paying...you would...schools would be getting apportionment payments or whatever we are going to call this (laugh). Excuse me if I call it apportionment. And then they would also be getting an in-state aid too as an expenditure. [LB1014]

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SENATOR ADAMS: Okay. Thank you for drawing that to our attention, Russ. Appreciate it. [LB1014]

RUSS INBODY: You're welcome. [LB1014]

SENATOR ADAMS: Thank you. Other proponents? Go right ahead. [LB1014]

RENEE JACOBSON: (Exhibit 3) My name is Renee Jacobson, J-a-c-o-b-s-o-n. I'm the assistant superintendent for human resources with Papillion-La Vista schools. I come here today in cautious support of this effort for performance pay. As assistant superintendent for human resources, my lifeblood is making sure that we increase student achievement through quality teaching, and that we do that in a way that helps us recruit and retain strong individuals. I've spent a bit of my time investigating the best practices with regard to pay and motivation of teachers, and I have a little bit of background information that I thought might be helpful to the committee as you're considering this bill. There has been research that's been done by the London School of Economics, and additional research funded by the Federal Reserve Bank through Harvard Business School. And, basically in a nutshell, what they are saying is if you have a task that is very straight forward and mechanical, financial bonuses, if you will, can help motivate increases in productivity. However, there's caution needed when you've got a very complex task because if you're not very careful, you may increase motivation to obtain the financial incentive, but you may drive down productivity, so you have to be very careful in the way that you structure it. The things that they have found through the research to be important are first, that you have a fair and adequate system of pay, and our salary schedules are very much that; that you have a high moral purpose that people can attach themselves to. Again, education has a pretty good track record there. That you have opportunities to achieve mastery. That's where our professional development and our collaborative cultures come into play. And, finally, that there's a degree of autonomy that's provided to the person, to the employee. And there are many things over which teachers have some control. And I'm not going to go verbatim through what I have handed you here, but to give you a few of the highlights. The cautions that I would draw to your attention are a couple. First, if you're going to do this, the funding has to be substantial, and it has to be sustainable because if it is not that, then you set teachers up to play the system as opposed to increased student achievement, and it's very important that we don't design this that way. In order to accomplish that, we're going to need to do some additional work on the psychometrics that are available to educators, so that we can measure student achievement effectively across all levels of achievement, and we need better psychometrics with regard to evaluating teacher performance. We need training of our evaluators, so that they have a strong understanding of what it is they need to be looking for, and those evaluators may be administrators or they may be teacher-leaders. There are a lot of different ways to do this, and a lot of other states have explored a number of different ways of accomplishing

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it. So I think it's very doable, and I applaud the effort of this bill to try to move us in that direction because I think it's important to do so. I am concerned that the funding is not going to be sufficient to accomplish all that we want it to accomplish, and that the efforts to make the system effective are going to require enough resources and energy that is going to divert it away from the classroom. So I have concerns about it. I think we need to be careful. The fact that it doesn't go into effect until 2016 gives us a bit of time, gives us time to work with our collective bargaining units, gives us time to train our evaluators. So with that, I encourage you to consider it very seriously, cautiously. [LB1014]

SENATOR ADAMS: Thank you, Dr. Jacobson. Are there questions? Well, you've raised two interesting points. One of them...I'm not going to say much about. For 31 years of teaching, I was never very comfortable with the evaluators, and that is a key component. But the other point you make is very genuine I think, and I don't know that any of us have an answer, and that is, if we're going to be generating funds for this purpose off of wind generation, how long is that going to be a source of revenue? And then, let's say that for ten years it works and we've developed a good plan, and we're providing to X number of school districts in the state, some kind of supplemental arrangement for performance base, and then we say to them, can't do it anymore. Wind energy is not the deal. We've moved on to the next phase of energy. It's really a good point that you've raised. Thank you. Anything else? Thank you then. Other proponents? Are there any opponents to the bill? Neutral testimony? Senator Haar, you can close. [LB1014]

SENATOR HAAR: Thank you very much. For those of you who weren't here at the beginning again, I would just like to stress that this came out of a statement that Brad Ashford made last year when he said, we really haven't done anything for teachers recently, and here we have a new energy source we're talking about, new money. It is an ongoing resource. The primary money for this would come from wind lease...or leases on wind turbines and solar farms, and, you know, we talk about 20-year life span for turbines, that sort of thing. I also thought it was kind of interesting that Senator Adams, when he was talking about generating funds was going like this...wind turbine (laughter). I noticed that. I'm sorry. (Laughter) And then we will certainly look into some of the points that were raised, some good points about exactly what kind of fund is this? And I would ask you to move it to the floor. I think it's going to be an interesting discussion. Thank you so much. [LB1014]

SENATOR ADAMS: Thank you, Senator. Are there questions for Senator Haar? All right, thank you, sir. That will end the hearing on LB1014, and we'll move on to LB1087. Senator, it's all yours. [LB1014]

SENATOR HOWARD: All right, thank you. Welcome, Chairman Adams. []

SENATOR ADAMS: Thank you, Senator Howard. For the record, I'm Greg Adams,

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A-d-a-m-s, representing the 24th Legislative District, and here to introduce LB1087. I suspect in scouring the crowd just now that there are people that can speak to this matter in far greater detail and authority than I can, but let me at least do the minimum and that is to introduce this bill. Throughout the interim, I was approached by several...what we would call Rule 18 schools in the state. Those are interim schools, schools that have been accredited by the Department of Education, but they don't necessarily fit our normal paradigm of the Cedar Rapids public school or the Lincoln public school. They're schools that provide education within a residential setting. It may be an alcohol or drug treatment center, and they're providing schooling while one of our students is in alcohol or drug treatment. It may be for behavioral issues in a residential setting somewhere in the state, and education is being provided there. What these schools were telling me is that not universally across the state, by no means, but what they were telling me was that our current laws, our current statute, that outlines the relationship between the residential school...that is, the school that the student is currently in, and the Rule 18 school or the residential setting, that contractual relationship when a student moves from the resident school district where they're at to one of these Rule 18 schools, we have a rup (phonetic), and some of these schools, these Rule 18 interim schools, feel as though they're not being compensated. They feel as though the contractual relationship that we outline in current statute probably is not as clear as it could be. And at the time of my investigation, one of the things that I discovered was also that the Commissioner of Education really has few tools at his or her disposal in order to really respond to these complaints when they come in and handle them. So let me create a hypothetical for you so you better understand this relationship, but let's assume we have school district A, and that school district has a student and that student moves into a Boys Town or a Uta Halee or an Epworth Village. And they're there because their parents believe that there are behavioral problems that are beyond the scope of what they've been able to deal with...maybe drug and alcohol issues, whatever the case may be. And when they get there, there's really two things that need to happen. One, that child needs residential care--housing, food as well as treatment, but they also need education. And the component we're talking about here is the education component, not the housing, not the drug and alcohol treatment or the behavioral treatment. It's the school. So the child is here. I believe the intention of current statute was that the school district from where the child came from needs to develop a contractual relationship with the residential setting for the education. Currently, this school over here--this residential treatment school is kind of left out of the contractual arrangement. If this residential treatment center is in York, Nebraska, then the school district where the child is coming from will negotiate a contract with your public schools even though it's quite possible York Public Schools will never see that child. They may one or two periods a day, but they may not see them at all. The child is really here in that Rule 18 school within that treatment center. So what this bill proposes to do is to take this school out of the mix and let the resident school directly negotiate with the interim school where the child is going to be educated at for payment of services, all right? That's a big step. Another thing the bill will do, it eliminates from

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statute the requirement that the parent initiate all of this, that the parent formally initiate this process. The reality is, if a child has gone from here to here, it's initiated. It's initiated in this bill, and that contractual arrangement needs to occur. The other thing that the bill does is to say that if these two entities can't agree on what this contractual relationship is going to be, they can appeal to the Commissioner of Education and the Commissioner of Education will finally decide and when the decision is made, will have the authority to withhold special ed dollars from this entity if this entity is not going to pay this one. In a nutshell, that's the bill. In its summary, what we've done is create a little different relationship and give the commissioner the opportunity to say, after we've reviewed the facts, you owe the residential setting this...pay up, and if you don't I can withhold special ed dollars from you until you do. Now with that, I'd end my introduction, take any questions that you might have, and I know there's some folks behind me that you all kind of have that deer in the headlight look like maybe I didn't get all my pictures drawn properly. [LB1087]

SENATOR HOWARD: Well, maybe I'll start out with a question for you. In reading this introduction, it says this is in regards to the education of children who are in residential facilities, but who are not state wards... [LB1087]

SENATOR ADAMS: Right. [LB1087]

SENATOR HOWARD: ...and I think that's an important piece of this. [LB1087]

SENATOR ADAMS: That's a good point. It is a good point. [LB1087]

SENATOR HOWARD: How many children would this be as an estimate? [LB1087]

SENATOR ADAMS: I don't have a number. I don't...number. But the point you brought up is a good one, I think for the rest of the committee. If a child is a ward of the state or a ward of the court, these payments are automatically made by the state. The residential treatment facility doesn't worry about whether it's going to get its check. That's all taken care of. We're talking about a child who is not a ward of the state, not a ward of the court that has gone from here to here. It's a good point. [LB1087]

SENATOR AVERY: Senator Howard has to go to another hearing so I'm in charge now (laughter). [LB1087]

SENATOR HOWARD: Oh, you take that literally. [LB1087]

SENATOR ADAMS: (Laugh) You look to be relishing that, Senator Avery. [LB1087]

SENATOR AVERY: Any other questions? Senator Sullivan. [LB1087]

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SENATOR SULLIVAN: Thank you. Senator Adams, again, explain this a little bit on Rule 18 schools. How many Rule 18 schools are there in the state? [LB1087]

SENATOR ADAMS: I suspect that someone can come up behind me and better give that number than what I can. I don't know right off the top of my head. [LB1087]

SENATOR SULLIVAN: And so then I get the impression that some of them provide...in addition to the residential care, they provide education...some don't? [LB1087]

SENATOR ADAMS: That's correct. We may have a situation where...and that we attempt to address in the bill, too where a child may come from school district A, go to the residential treatment facility, but this facility not have a Rule 18 school. Instead, the school district wherein this residential setting is at will provide the service in which case now this school district will then contract with that school district, so that is a possibility. Good point. [LB1087]

SENATOR AVERY: Any other questions from the committee? Seeing none, thank you, Senator Adams. Proponent testimony. [LB1087]

TOM McBRIDE: (Exhibits 4, 5, 6) Good afternoon, Senators. Thank you very much. My name is Tom McBride, M-c-B-r-i-d-e, and I'm the president CEO of Epworth Village located in York, Nebraska, and I'd like to thank Senator Adams, first of all, for sponsoring LB1087 and the work in moving this forward. During my testimony, I'm handing out written testimony as well as I'm representing the Children and Family Coalition of Nebraska as well as Alegent Health. Many of us have worked for and around the issues contained in this bill for several years. I have a unique perspective in this. Not only does our agency have a very successful interim program school oftentimes referred to as Rule 18 school, but I'm also a fourth term member of the York Public Schools Board of Education. In subsequent testimony, you'll hear of the effectiveness of interim program schools and the unique populations that we provide education to. I think there was probably a time that there was a need for the current law found in 79-215(8) and, in particular, however, those times are past, and the law as it stands creates undue confusion, waste, and places some school districts in situations they do not find themselves in. For lack of a better term, and I think Senator Adams did a great job of depicting out the relationship there. I call it the triangle of confusion with the resident district, the interim program school, and then the school district in which the residential program is located. LB1087 really clarifies a great deal of that. By bringing in the school district in which the interim program school is located in, it creates another layer of authority, another layer of bureaucracy, and another layer of cost. It confuses the element of responsibility for the student and should a disagreement arise, it really places that local school district in a bad situation because like in the instance that Senator Adams described, if we have a youngster from school district A in our interim program school and some disagreement exists between us and that local school district,

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we have to go to the local school district in order for us to have mediation or a contention heard by the State Board of Education or the commissioner, so it really places the interim program schools in situations that they don't want to be in, and it places the local school district in situations that they may not want to be in, and they don't need to be in. It really eliminates a lot of the confusion under the existing statutes. There's been discussion of this bill changing the financial and educational responsibility from the residential district, and this bill does not do that. It does not change that responsibility. There have been some people that had questions about the interim program school simply choosing what rate that we would be reimbursed for, for the education costs. The Department of Education still supplies the formula to us on what are allowable costs that which we would be able to receive as reimbursement in the year after we have, you know, in a subsequent year. It doesn't place any particular hardship on any district. In fact, it's better for the local school districts under the new proposed LB1087 regulations. It assists interim program schools in our attempts to receive prompt payment of services and for disputes to be reconciled more quickly, and it also expands the commissioner's authority to determine the validity of complaints filed under subsection 8, and that the State Board of Education will provide an appeal from the commissioner's determination. Our interim program school operates 220 days a year. We follow the York district calendar, and we also have two four-week summer sessions. We have a seven-hour day. We are a classroom-based and curriculum-directed K-12 school, and we offer both regular and special education. We have one administrator, two secretaries, 12 teachers, 12 paras, and one school liaison. The school liaison is a position that is created by Rule 18. We mainstream from our school into the local school as much as possible when a youngster's academic and behavioral demeanor allows us to. Currently, we have 21 students mainstreamed into York Public Schools at the equivalent of 46 hours a day, so roughly 230 hours a week that we're mainstreaming. Approximately 38 percent of our students are nonward education students, so about...almost 40 percent. We've seen students come in one, three, five...up to seven years behind grade level, and we work very hard, very diligently to remediate these academic deficiencies, help them with their classroom demeanor behavior and mainstream them into their school and subsequently, successfully back into their resident district school. I'm out of time. There's a lot of people behind me that can provide a... [LB1087]

SENATOR AVERY: Thank you, Mr. McBride, for your testimony. Any questions from the committee? Senator Sullivan. [LB1087]

SENATOR SULLIVAN: Thank you. I'm going to need some clarification. [LB1087]

TOM McBRIDE: Certainly. [LB1087]

SENATOR HOWARD: When you say local, are you referring to York Public Schools? Are you referring to the school district where the student is coming from? [LB1087]

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TOM McBRIDE: This is part of that triangle of confusion. You have the resident district; the local district would be the school district in which the interim program school resides so... [LB1087]

SENATOR SULLIVAN: And when you say interim, you're talking about Epworth Village. [LB1087]

TOM McBRIDE: Right, our education component. So... [LB1087]

SENATOR SULLIVAN: So local means York Public Schools; interim means Epworth Village... [LB1087]

TOM McBRIDE: Correct. [LB1087]

SENATOR SULLIVAN: ...and then the resident is the school district from where the student is coming from. [LB1087]

TOM McBRIDE: Correct. [LB1087]

SENATOR SULLIVAN: Okay, and in the case of the interim school in this case, you do provide education there. [LB1087]

TOM McBRIDE: Yes, ma'am. Yes. [LB1087]

SENATOR SULLIVAN: But is the goal then to move that child before they go back to the residence...resident school district, to move them into the local school district? [LB1087]

TOM McBRIDE: That...we work very diligently to try to make that happen, and one of the things, you know, we're working with youngsters that have severe mental health, behavioral health issues. And what we want to...before we move them back in...or try to mainstream them, we want to get them up to as close to grade level as we can and know that when they go back into a mainstream class, that they can do that successfully, and also that they are able to manage themselves behaviorally within that class. That's...because they're in treatment and receiving education, it's really a wonderful concept where we can successfully reintegrate that student back into their resident district then because by the time that they are mainstreamed two, three, four hours a day, they're also coming to the end of their treatment needs as well, and we can demonstrate then that that youngster can move back into those resident districts successfully...more successfully. [LB1087]

SENATOR SULLIVAN: So then does the local school district get a part of those special

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ed funds when you're mainstreaming that student? [LB1087]

TOM McBRIDE: Yes. Yes, they do. [LB1087]

SENATOR SULLIVAN: Okay, okay. [LB1087]

SENATOR AVERY: Additional questions from the committee? Seeing none, thank you, sir. [LB1087]

TOM McBRIDE: Thank you. [LB1087]

SENATOR AVERY: Other proponent testimony. [LB1087]

MIKE LUCAS: My name is Mike Lucas, L-u-c-a-s. I'm a first-year superintendent of schools in York and appreciate the opportunity to visit today. I'm a proponent of this bill and want to thank Senator Adams for his work on it simply because of the layer of governance that gets involved, so I'll give you some real life examples from my position in York. If we have students that I will never see...my teachers, my principals will never see, and we have a district, and I'm not going to name districts, but districts that need to contract a student into Epworth, they do. But yet then we have to spend time and oftentimes our taxpayer money to involve legal counsel over a student that we'll never see and that quite possibly will never be mainstreamed into one of our schools, so it is something that's been a very...a tremendous source of frustration for us within the York public school system. To use a nonschool example, if Nebraska and Oklahoma want to work out a deal on trading some goods or services or personnel, they shouldn't have to talk to Kansas because Kansas is between Nebraska and Oklahoma. They ought to be able to talk to each other. And so, the thing I like about this is that the school district, the resident school district where the student lives, they're responsible for, they ought to be able to work directly with the Epworth Village or the Boys Town or whatever instead of the several school districts around the state that have a Rule 18 school within their geographic boundaries having to be involved. If you have any questions, I'll do my best to answer them. [LB1087]

SENATOR AVERY: Thank you. Any questions from the committee? Looks like you got off light. [LB1087]

MIKE LUCAS: Thank you. [LB1087]

SENATOR AVERY: Thank you. Next testifier. [LB1087]

MARY FRASER MEINTS: (Exhibits 7, 8) Hello, Senators. My name is Mary Fraser Meints, M-a-r-y F-r-a-s-e-r M-e-i-n-t-s. I'm here in support of LB1087. I represent Uta Halee Girls Village and Cooper Village in Omaha, and the Nebraska Association of

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Homes and Services for Children. I'm here to talk more about Interim Program Schools, what it is, and who we serve. In December, 2003, the Nebraska Department of Education created Rule 18 governing Interim Program Schools in county detention homes, shelters, and institutions. There are no such things as county detention homes--they're really county detention centers, but there are five detention centers in Nebraska, two shelters, and six Interim Program Schools and residential facilities. Not all residential facilities operate an interim school as we've talked about earlier. Uta Halee has the capacity for 48 girls and 47 boys, and we provide two gender-specific Interim Program Schools. We also provide services in the home and community, serving around 400 people per year. The majority of the kids in our Interim Program Schools are wards, and we have a few that are not wards. The Interim Program Schools offer a valuable educational program for kids who need it during treatment and safety. We have certified teachers, teacher aides or para-educators, an educational liaison, and a superintendent. When a student is assigned to our schools, when they come to live with us at residential treatment, they are assigned an educational liaison who works directly with the public school from where the student came, the resident public school. So we have that communication right up front and develop a plan for education. The credits need to transfer from our program to the resident school, so we work with them right at the beginning and all the way through as we transition them back, hopefully, home. The Interim Program Schools are required to teach language arts, math, social science, and science. We also operate a classroom-based program with teachers in the classroom directly with the students. We work directly with the schools to make sure that they get what they need. Students served in Interim Program Schools are frequently behind in their education and are missing credits. They have had tremendous complex trauma in their lives, and they need to focus on their mental health and addiction issues that may have prevented them from being in school in the first place. The goal is to return the student to the resident school district even though prior to coming to us, they may not have been successful in school, may have had a lot of absences. Our job at Uta Halee and Cooper Village is to treat and educate the student and get him or her back into the public school. Given the right amount of time and patience by the system, all students can be successful. This bill clarifies funding for students who are not wards in Interim Program Schools. You asked about how many...we have about five to ten students per campus, each Uta Halee and Cooper who are not wards. The rest of our kids tend to be wards. So this bill helps for the kids who are not wards. The funding for the wards comes through state ward education fund. I urge your support of this bill. Interim Program Schools provide a valuable education for students who reside in a residential setting for a temporary period of time. Clarifying payment of educational services by the school district of residence to the Interim Program School and taking out the middle school district is vital to our success. From the business perspective, this bill will ensure and speed up payment of educational services to Interim Program Schools. I did bring a list of the Interim Program Schools if you were interested in that. It has some hand-scratching on it, but if you're interested, I'd be glad to share that. I'd be glad to answer any questions you might have. [LB1087]

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SENATOR AVERY: Thank you for your testimony. Questions from the committee.
Senator Sullivan. [LB1087]

SENATOR SULLIVAN: Thank you. What is the average stay? [LB1087]

MARY FRASER MEINTS: For Uta Halee? [LB1087]

SENATOR SULLIVAN: Um-hum. [LB1087]

MARY FRASER MEINTS: The average stay varies from four months to nine months,
depending on the level of care. [LB1087]

SENATOR SULLIVAN: Okay. Thank you. [LB1087]

SENATOR AVERY: Any other questions? Seeing none, thank you for your testimony.
[LB1087]

MARY FRASER MEINTS: Yes. [LB1087]

SENATOR AVERY: Do we have additional proponent testimony? [LB1087]

ROBERT GEHRINGER: (Exhibits 9, 10) Okay. My name is Robert G. Gehringer, Jr. That's G-e-h-r-i-n-g-e-r, and I am the superintendent of Boys Town schools, and I wish to testify in favor of LB1087. I also have a letter here that I'm having passed out from Boys and Girls Home and Family Services of Nebraska, Inc., a letter of support also. So I have two cases to share with you to help clarify how this bill will help children. So first is students who need residential care are often moved from setting to setting as their needs increase or decrease. They often drop through the cracks in an out of sight, out of mind situation. We had a girl from an out-of-town school district placed at Boys Town residential setting. Since she was admitted in the summer, there was no return communication from the home district since it was summer. In August, we tried again to contact the home district regarding placement and special education status. The home district sent her Individual Education Plan and multidisciplinary report. Shortly after that, as her needs changed, she was discharged to another program. We contacted the home district, and the responsibility for education shifted to the home district and the new program. She was then later readmitted to Boys Town. We again contacted the home district because her IEP was due. No meeting was scheduled before she was finally discharged and enrolled in a new school district since her parents had moved. The new district refused to provide any special education services until a new IEP could be written since the old IEP was out of date, causing a further delay in her services, so the girl was not being served because she had fallen through the cracks in the system. So LB1087 will allow the Interim Program School to schedule and ask the home school

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district to participate in the drafting of a new IEP, and the Interim Program School who is educating the student can drive this process instead of waiting for the home school district to initiate the process, enabling the new IEPs to be written which will reflect the educational program in the Interim Program School. This will also provide for a smooth continuation of service for the students. Now my second case involves another student placed at a Boys Town residential setting. A letter was sent to his home district to see if they would contract with us to provide services. The home district sent a letter back, saying that they didn't believe the 79-215 was triggered, and that they were not responsible, so we then attempted to contact the parents which was a difficult task due to his family situation. After two weeks, the parents were contacted and they signed a letter requesting the educational services. The home district then says they will contact Omaha Public Schools to contract services with Boys Town since Boys Town is located there. OPS is now burdened with the paperwork and management to make this happen. It took five months to determine the services for this student. He was discharged three weeks later into another setting. So how does this affect the Interim Program School? Currently, it can take months to resolve who is the responsible school district, then obtain a parent request letter, then using the school district in which the residential setting is located as a pass-through district to the Interim Program School, and often by the time the contract is signed, the youth may be moving on to another placement or returning home. So LB1087 will allow the home school district to contract directly with an Interim Program School and allow that residential setting to request services and educational funds directly from the residential school district without having to obtain a parent request or to be processed by another district. This will allow educational funds which should follow the student to be utilized during their placement in residential setting. Thank you for your time. [LB1087]

SENATOR AVERY: Thank you, Dr. Gehringer. Any other...any questions from the committee? Senator Sullivan. [LB1087]

SENATOR SULLIVAN: Okay. [LB1087]

ROBERT GEHRINGER: Yes. [LB1087]

SENATOR SULLIVAN: Now there's...still trying to figure out that three-part confusion. Okay, you kept referring to the home district. That means the district from which the child is coming. [LB1087]

ROBERT GEHRINGER: Yes. [LB1087]

SENATOR SULLIVAN: And you're saying with this bill, that the home district can develop the contract with the residential program. [LB1087]

ROBERT GEHRINGER: Yes. [LB1087]

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SENATOR SULLIVAN: Without parental involvement? Did I hear you say that?
[LB1087]

ROBERT GEHRINGER: They don't need the parental request. The parents are already
in line with having the student at the residential setting for treatment needs. [LB1087]

SENATOR SULLIVAN: Oh, I see. [LB1087]

ROBERT GEHRINGER: And the parental request, they're saying, well, there's no
parent request, so we don't have to provide funds for educational services without that.
That's the confusion that's taken place. [LB1087]

SENATOR SULLIVAN: Okay, very good. Thank you. [LB1087]

ROBERT GEHRINGER: Okay. [LB1087]

SENATOR AVERY: Any more questions from the committee? Senator Haar. [LB1087]

SENATOR HAAR: You still...or is this another agency in Omaha that runs Dominican
High School? [LB1087]

ROBERT GEHRINGER: No, we don't do that. [LB1087]

SENATOR HAAR: Okay. [LB1087]

ROBERT GEHRINGER: Like the Father Flanagan Home is that...Father Flanagan High
School? Is that what you're referring to? [LB1087]

SENATOR HAAR: Yeah, yeah. [LB1087]

ROBERT GEHRINGER: Yes, and that's been closed. [LB1087]

SENATOR HAAR: It has been. Okay. I taught there in the seventies for awhile.
[LB1087]

ROBERT GEHRINGER: Yes. Okay. [LB1087]

SENATOR HAAR: Thank you. [LB1087]

ROBERT GEHRINGER: Yes. Thanks. [LB1087]

SENATOR AVERY: Maybe that's why they closed. [LB1087]

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ROBERT GEHRINGER: No (laugh). That's why it was staying open probably. [LB1087]

SENATOR HAAR: But those kids had such great needs... [LB1087]

ROBERT GEHRINGER: Yes. [LB1087]

SENATOR HAAR: ...and the sort of thing you're talking about here is...these are the kids that we don't need to fall through the cracks. [LB1087]

ROBERT GEHRINGER: And that's what's happening, just they're being shuffled, and they can't be seen, and well, we don't have time to take care of them yet. We'll get to it, and our length of stay is getting shorter and shorter, so they're moving from placement to placement and back home, and so they do fall through the cracks sometimes. [LB1087]

SENATOR HAAR: Now, why is their length of...why is the length of stay getting shorter? [LB1087]

ROBERT GEHRINGER: Well, at Boys Town we've got our hospital downtown which is a lot psych facility, and then we have our treatment group home which is a lower level of care, and then we have our home campus which is our Rule 10 school. It is residential and it's not a 24-hour shift with the students, and then we're trying to get them home once they show improvement and are able to get back home. Our goal...the best place for a student is at home with parents and family until they're able to...we work with them and teach them skills so they can get home. [LB1087]

SENATOR HAAR: Do you work with kids when they get back home or not? [LB1087]

ROBERT GEHRINGER: Yes, we do. We have a program that follows them or a transition program that, you know, that helps them, and we'll go meet with them in the schools. So if they're going back to Benson High School, we'll have somebody go to Benson High School and check on these kids and see how they're doing and work with the families. [LB1087]

SENATOR HAAR: Well, it must be pretty expensive to send a student to your facility just because of all the care and so on. Do you find that...that the home district school...are they ever reluctant to send kids...I mean, do they look at cost first or are you pretty convinced they look at need first? [LB1087]

ROBERT GEHRINGER: I would say that the home school district isn't sending them. They are sent to our facility at Boys Town for reasons other than educational. [LB1087]

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SENATOR HAAR: Okay. [LB1087]

ROBERT GEHRINGER: And then we're providing the educational services while they're in the residential treatment. [LB1087]

SENATOR HAAR: Gotcha. Thank you. [LB1087]

ROBERT GEHRINGER: Okay. [LB1087]

SENATOR AVERY: Any more questions? Senator Giese. [LB1087]

SENATOR GIESE: Thank you. Mr. Gehringer, just a couple of things on funding or discrepancies, I guess. It's mentioned that if two school districts cannot agree on the amount of the contract, how would they not agree or why wouldn't they agree on the amount? [LB1087]

ROBERT GEHRINGER: And if they don't agree, then...if they wouldn't agree, they say, well, we don't believe...for example, if they came from this district and their daily average rate for education is this much. And in other districts, daily average education rate is this much...there may be a difference, and they would have to say, well, which rate are we going to pay? According to this, it's the state mandated rate. You know, we have applied for a rate. Here's what it costs for us to educate a student, and that's our daily rate. [LB1087]

SENATOR GIESE: So it's not on...it's just on the rate. It's not on what the...what they do or services provided? It's more just a rate. [LB1087]

ROBERT GEHRINGER: Without this rate here, you know, District 8 could have a...you know, if they...cost per student and divide it...their daily rate could be less than where they're sending the students. Say well, we're not going to pay your rate. We're going to pay what it costs us as an average rate. The state gives us a daily rate to educate these students, and that's the rate that we would go on now. And if there was a discrepancy because maybe we are providing some other services and say we're in Omaha Public Schools, they provided some of the services, we would negotiate the rates out. And if there was...if we couldn't come to an agreement, then the State Commissioner of Education would. [LB1087]

SENATOR GIESE: And then one follow-up on that. So what this would do...I'm assuming that these discrepancies are ironed out pretty quickly because...or they will be if the...because this...if the amount is...anyway, it's 200 percent is what this would deal with, the disputed amount until the dispute is resolved. So I'm assuming that they get resolved pretty quickly. [LB1087]

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ROBERT GEHRINGER: These two examples I gave you showed how it drags on for months and months as they... [LB1087]

SENATOR GIESE: So they don't now, but they will. [LB1087]

ROBERT GEHRINGER: ...but they will be more likely to get it resolved quicker. [LB1087]

SENATOR GIESE: Okay. Thank you. [LB1087]

SENATOR AVERY: Thank you, sir, for your testimony. Additional proponent testimony. [LB1087]

JOHN BONAIUTO: Members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director, Nebraska Association of School Boards. The previous testifiers have done an excellent job of laying the groundwork for this bill and as far as school boards, this has been a frustration, and I'm sure it is for parents and districts that would be considered the local district, not necessarily the resident district, but finding themselves in the middle of a situation where they would not necessarily have had any contact with the student, parents, but are now in a position where they are involved in this entire process. And so, I think it's human nature, if you could eliminate a step that will allow direct communication between a resident district and the residential placement, I just think it's going to be better for the student, the parents, and everyone involved. To answer Senator Giese's question that I think these issues will be resolved based on the fact that if you don't resolve them quickly, you're going to be paying double...whatever the rate is at 200 percent, so it would not take long to figure out that you need to come to some kind of a decision to move this along and not drag your feet. So I appreciate this refining a process that probably when it was created, had some purpose or made some sense, but as time has evolved, I think that it really is just an extra step and is not necessary. With that, I'll conclude my testimony. [LB1087]

SENATOR AVERY: Thank you, sir. Any questions from the committee? Seeing none, thank you very much. [LB1087]

JOHN BONAIUTO: Thank you. [LB1087]

SENATOR AVERY: Additional proponent testimony. [LB1087]

BRIAN HALSTEAD: (Exhibit 11) Good afternoon, Senator Avery and members of the Education Committee. For the record, my name is Brian, B-r-i-a-n Halstead, H-a-l-s-t-e-a-d. I'm with the Nebraska Department of Education. We're here in support of LB1087. I'm having distributed to you a letter from the State Board of Education who considered this bill and was supportive of attempts to make this clearer and try to bring

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more clarity to it. In response, I know one of the senators asked early on how many Rule 18 schools or programs are there right now in Nebraska? There are 18 of those. And I think the testimony from the representative from Boys Town may indicate some of the complexity that's going on here because Boys Town High School is an accredited high school which meets Rule 10 requirements. Some of their facilities and shelters are Rule 18 programs that meet those requirements, so in the sense of as kids are moving or transitioning, unfortunately, they are moving from various different settings and may end up in and out of accredited schools, public schools, and interim programs. So with that, I'll end my testimony. I'd be more than happy to try to answer any questions you might have on this whole subject. [LB1087]

SENATOR AVERY: Thank you, sir. Let me start by asking you, what is the concern of the Board of Education about the cost that this might...you might incur with this? [LB1087]

BRIAN HALSTEAD: I think if...if you look at the bill as it's set up, there's a new complaint process that's set into place, and I think the fiscal note indicated in there, there would be approximately, for any case that goes all the way through hearing, an additional \$5,000. So in the sense of, I think the state board is looking at its budget which they recognize this Legislature had to cut, and they were fine with that. We're trying to make that work. If we're going to add on a new complaint process, they just want everybody to understand there's not money sitting at the Department of Education at the moment to pay hearing officers up to \$5,000. That's going to have to come somewhere, so I think they're just being good public citizens by reminding you that we don't have the funds. So that would be, I think, their first concern just in that area itself. And that depends, though, and maybe we'll never have a complaint, so there is no cost. [LB1087]

SENATOR AVERY: It could be a warning that you'll ask for more money. [LB1087]

BRIAN HALSTEAD: Oh, I don't know if that's a warning. I suspect as time goes on, we all know everything gets more expensive, but I think they just wanted to let you know if you're going to put into statute a new complaint process, there's not people sitting at the department right now that aren't doing anything. We're all multitasking on various other things, so I think they felt prudent to raise the thing to remind you, this may have a cost to us. [LB1087]

SENATOR AVERY: Questions from the committee? Seeing none, thank you, Mr. Halstead. Any additional proponent testimony? We'll now move to opponent testimony. Anyone wish to testify in opposition to LB1087? [LB1087]

STEVE COLEMAN: Thank you, Senator Avery, members of the committee. My name is Steve, S-t-e-v-e Coleman, C-o-l-e-m-a-n. I represent Papillion-La Vista Public Schools. I

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want to thank the people before for not mentioning the names of school districts that would have been involved. I'll just come and speak on our behalf by myself. Let me give you some history and some of the areas that we're not really...the opposition is very limited, only to the extent that we think the clarification necessary needs to go further. We have a great deal of respect for the interim schools that serve a variety of students in the area. We have good working relationships with most, and if I can go back in time a bit, we first heard of a student that was placed in a Rule 18 school when we received the bill from the agency. And this would have occurred because the parents moved into our district after the student had already been enrolled in that interim school, and we had no knowledge of that student even existing and moving. And so then the procedures, as are pointed out in law, we are to...from a request from the parent, asked to enter into an agreement with the school district in which that agency is located. In the first setting that took place, we had a student that enrolled, and we were billed for that student's daily service at this Rule 18 center, and it was at a special ed approved rate that was approved by the Department of Ed. This student was not a special education student. The student had no IEP, had not had an MDT conducted that placed them in special education, so we questioned the special education cost that was \$124 or \$125 per day, and said, what's your regular education rate? And we kept receiving the billings for the special ed approved rate. After this student moved to another setting, the same thing occurred in terms of billings, so we did go to the state department and asked for a ruling on this matter. The state did rule that because it was a regular education student, not a special education student, you were to pay the daily rate of that resident school district where the Rule 18 center was located. And that was \$58 per day, so there was a substantial savings, and we moved ahead from there. But that was the basis of the question that was involved in trying to determine. So we have differences that we have to make sure we touch in this law that deal with special education students versus those students that are not special education. There is a different cost structure. The law, as it's written in LB1087 says there'll be a 200 percent withholding of special education payments to the district until it's paid. If it's not a special education student, we're not going to get special education payments for those students anyway. So why...that money, seems to me, could not be withheld in the question of a nonspecial education student. The question involving the parents and involving the different parties, the three-legged stool, if you will, in the process. I think it was testified earlier that the goal of many of these is to get them from their Rule 18 residential centers and enrolled even if it was going to be temporarily into that resident school district where that Rule 18 school is located. If that is true, I think it's imperative that the resident school district maintain contact and relationships with that school district that eventually could be serving that student. I think that was pointed out earlier that that was a goal to get those students moved into those centers as soon as they could. If there's a special education situation involved, there is an IEP that has to be monitored. Is the resident school district that's located close by...do they have the personnel necessary that we could make arrangements and serve that student's special needs? Without that knowledge, without that communication between the two districts, that can't occur. So these outline

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our concerns that I think do not indicate our lack of support for changes in this area. I think they are clearly necessary, but I think we have to involve it not only from the viewpoint of the Rule 18 school and that interim setting, but we also have to look at it from the resident school district's point of view in terms of making sure they have ample notice, that they're paying a rate that their taxpayers should be paying for the type of services the students are receiving, not paying a special education rate for a nonspecial education student, for example, and then have the communication necessary and the support with other public schools who are really, I believe, those that can enter into the IEP for the student and conduct the MDT teams. Some of those Rule 18 schools wouldn't have that capacity or that ability with certified staff to do that. So with that, the light is red, timed perfect. I'll stop and answer any questions. [LB1087]

SENATOR AVERY: Thank you, Mr. Coleman. Questions from the committee. Senator Sullivan. [LB1087]

SENATOR SULLIVAN: So, obviously, you're saying that the legislation as it's currently proposed does not go far enough. [LB1087]

STEVE COLEMAN: I do. [LB1087]

SENATOR SULLIVAN: And that to go further, you want more identification as to the role of the resident school district? [LB1087]

STEVE COLEMAN: I think we need to, number one, clarify distinctions between those students that are receiving special ed services and those that are not. Obviously, we're dealing with students that are not wards, so that's pretty clear as we deal with 79-215. I think we have to clarify and make sure that we're not eliminating a party in the discussion of what's going to transpire with that student as they are served that should not be excluded in the process. If it's special ed, I think it's very important and imperative that the school districts...both school districts where that center is located and the resident school district...have a relationship, at least have the opportunity to talk to each other to see if there are services available at that location through that public school. [LB1087]

SENATOR SULLIVAN: And is there provision enough to allow for that communication to continue if the parents move from one district to another? [LB1087]

STEVE COLEMAN: Again, there could be. Right now that's guaranteed because we make the payments. For example, I'll give you the example. We have students with Omaha Home for Boys in which Omaha Public Schools is the educational provider for students that attend the Omaha Home for Boys. And we have a relationship and contracts with Omaha Public Schools that we send them their funds for educating that student, and then we're both involved. We know if there's a special situation for when

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that student returns or not, that we have to be prepared for or that we don't. [LB1087]

SENATOR SULLIVAN: Okay, thank you. [LB1087]

SENATOR AVERY: Any other questions from the committee? Thank you for your testimony. [LB1087]

STEVE COLEMAN: Thank you. [LB1087]

SENATOR AVERY: We are still on opponent testimony. Anyone else wish to testify in opposition to LB1087? Seeing none, anyone wish to testify in a neutral position? Senator Adams, you are recognized to close. [LB1087]

SENATOR ADAMS: Thank you, Senator Avery. Well, clearly, I think you can see one of the values of having a hearing and being able to listen to testimony on both sides of this. And I think that the opposition testimony that you just heard, some points have been raised that are worthy of consideration, and we will continue to look at them to see if there's some remedy that we could bring to this. It also highlights part of the problem. We'll work throughout the entire interim trying to make current law better, and it's a little like kindergarten eligibility. You go one way to try to make it better, and you realized you just ran into 20 more roadblocks. And so this bill, and Mr. Bonaiuto pointed it out...the relationship between school districts and interim schools is already established in statute, but it's been there for awhile. And what this bill intends to do is to clarify that relationship based on problematic experiences that we've seen, and this is not a problem with all school districts. It's not all the time; it's not huge, but it continues to fester itself on occasion. And we think that there's potentially ways that we can change current statute to make it better and, hopefully, not create more encumbrances for this relationship. So with that, I'd take any final questions or try to answer any final questions. [LB1087]

SENATOR AVERY: I don't see any questions. [LB1087]

SENATOR ADAMS: All right. [LB1087]

SENATOR AVERY: (Exhibits 6, 9, 5) I...before closing the hearing on LB1087, I have three letters of support...one from Michael J. McTaggart of the Boys and Girls Home and Family Service of Nebraska; another from Alegent Health and Behavioral Services; and a third one from the Children and Family Coalition of Nebraska. They are so entered into the record. That ends the hearing on LB1087. We will now move to LB1071. Again, Senator Adams. [LB1087]

SENATOR ADAMS: Thank you, Senator Avery. Greg Adams, A-d-a-m-s, representing the 24th Legislative District. Committee, this is this year's Education Department

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technical bill (laugh). Senator Cornett. (Laughter) Unlike those Revenue Committee technical bills, this one, it slows...it's, yeah. It's not quite as in-depth as the one that we had last year, probably because last year we were playing catch-up on a lot of years. This one doesn't have quite as much to it, but nonetheless, let me very simply highlight the points. One of the sections in the bill would remove the requirement for the county assessor to certify taxable value for school districts to the Department of Education. There's really no point in that given the property tax administrator, by law, already will notify the Department of Education that that's going on, so we can eliminate a step here. One of the other provisions in the bill...it will allow students that may have a parent living in one district and a parent living in another district to decide which one of those districts will be their residential district. It also requires the school boards within the learning community that receive a student through open enrollment that is in compliance with the diversity plan would allow that student to enter into their school. Probably of greatest urgency, depending on who you want to listen to, is the next section. If you recall last session, we passed a bill attracting excellence to education where we expanded using lottery dollars for graduate programs, and it was well implemented, had a lot of use. In fact, the funds ran out early, but it was also brought to our attention that we had some problems. And one of the problems in there was that in current language we require that it be a graduate program in teacher education. And what we'd like for that to say is a graduate program, not necessarily a graduate program in teacher education. Someone could be getting a master's degree in mathematics, for instance, that isn't necessarily an MAE degree, and it would still have to go through the approval process that we've already outlined in current statute. Another provision in this would amend some of our prekindergarten programs that would be approved for TEEOSA funding, and that one is a bit problematic, and I want you to know right up front that we are still in ongoing discussions as to how that really ought to shake out because we're trying to clarify current statute and what's intended, and what we ought to do because we could really add a whole lot of things to TEEOSA funding that we didn't intend to. So I bring that up to you because it is part of the bill, but I want you to understand that my staff right now is still working with the Department of Ed to get that cleared up as to what we're really talking about. One of the other provisions in this technical bill will take all of the allowances that we have in TEEOSA, class size allowance, poverty allowance, ELL allowance, summer school allowance, focus school allowance, and say that the data in order to receive those allowances, needs to be reported on or before October 15 to the Department of Ed so that we can have it in preparation for aid going out in the year that would follow that. And then we also would put the emergency clause on so that this enhancing excellence in the teaching program could get into effect right away because we already have people who wish to reapply for those grant monies. That is the technical bill. [LB1071]

SENATOR AVERY: Well, let me ask you a technical question. This section 79-1003, that would add a prekindergarten program to the TEEOSA formula? [LB1071]

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SENATOR ADAMS: It could be interpreted that way. [LB1071]

SENATOR AVERY: So this could be seen as an expansion of TEEOSA. [LB1071]

SENATOR ADAMS: It could be interpreted that way, and that's why we've got to work some things out here, correct. [LB1071]

SENATOR AVERY: I was just thinking it might not be as technical as we think (laugh). [LB1071]

SENATOR ADAMS: (Laugh) Well, depends on where the comma is at and what words you use. [LB1071]

SENATOR AVERY: Yeah. Questions from the committee? Senator Sullivan. [LB1071]

SENATOR SULLIVAN: Right now with respect to the October 15 deadline for allowances, are there different deadlines for different allowances? [LB1071]

SENATOR ADAMS: I guess I don't have the answer to that right off the top of my head. [LB1071]

SENATOR SULLIVAN: I'm just dealing with a school district that missed a deadline and (laugh)... [LB1071]

SENATOR ADAMS: Ah, and missed the funding. That can be critical. [LB1071]

SENATOR AVERY: Any more questions? Seeing none, thank you, Senator Adams. Proponent testimony. [LB1071]

BRIAN HALSTEAD: Good afternoon, Senator Avery, members of the Education Committee. For the record, my name is Brian, B-r-i-a-n Halstead, H-a-l-s-t-e-a-d. I'm with the Nebraska Department of Education. We're here in support of LB1071. Senator Adams did a great job explaining what's all in the bill, so I'll stop and take any questions you might have. [LB1071]

SENATOR AVERY: Questions for Mr. Halstead? I guess not. Thank you. [LB1071]

BRIAN HALSTEAD: Good. Thank you. (Laugh) [LB1071]

SENATOR AVERY: Thank you for your testimony. More proponent testimony. [LB1071]

JAY SEARS: Do I get Brian's extra time? [LB1071]

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SENATOR AVERY: No. Welcome, Mr. Sears. [LB1071]

JAY SEARS: (Exhibit 12) Thank you. Senator Avery and members of the committee, I'm Jay Sears, J-a-y S-e-a-r-s. I represent the Nebraska State Education Association, and we come before you today to support the section that Senator Adams talked about is the enhancing excellence in teaching program. As you work on the other sections of the technical amendment, NSEA stands ready to work with you in that process too, but the thing I want to get across to you is this isn't a technical amendment bill for members out there. You passed LB547 last year that added \$600,000 to the Attracting Excellence to Teaching Act. That came to a total of a million dollars, in lottery fund dollars for loans for two separate programs. One is for students who are currently learning to become teachers, and you focused that \$400,000 of the million dollars on recruiting teachers to shortage areas which I think is a good recruiting tool. The other part, the \$600,000 was the new program, the Enhancing Excellence to Teaching Act which took the other part of the million dollars, the \$600,000 and focused it on retaining quality teachers in shortage areas, in curriculum and instruction, or in master's degrees in the endorsed content area in which teachers are currently teaching. That program had the emergency clause, LB547, and the department started taking applications from current teachers for the loan forgiveness piece on the credit hours that they were going to take this coming year. They ran out of dollars very quickly. Teachers are always looking for ways to fund their education and their advancement in the content areas that they teach. The thing that we have to remember is even though this may be a technical amendment bill, if it doesn't get passed in a hurry, the current teachers who took out loans have five years to accomplish their degree, and if there's any gap in their funding for their programs and they don't complete them in five years, they have to start paying back those loans. So we have a group of teachers who are affected if this bill doesn't pass very quickly, and the department is able to write Rule 25 which will regulate how those loans are given out. Then we also have a number of teachers who will be waiting this summer to enter their programs and know whether or not they have the funding to do that, and so I urge you as a committee to advance this to the floor as soon as possible. And we know that bills are going to start to pile up, and you'll have to deal with your priority bills and committee priority bills if this one doesn't get out fast and get passed. We could stand to hold onto \$60,000 that can't be used this year because we can't write the rules and regulations because of a technical piece whether the issue of graduate programs and what that definition is. So I urge your quick consideration of this and get it out there as fast, so we can get our thirty-some votes in and go on and distribute \$60,000 to current teachers. So I'll end my testimony, take any questions that you have. [LB1071]

SENATOR AVERY: Thank you. Any questions from the committee? Thank you for your testimony. [LB1071]

JAY SEARS: Thank you. [LB1071]

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SENATOR AVERY: Additional proponent testimony? All right. We'll move to opponent testimony. Anyone wish to testify in opposition? Anyone wish to testify in a neutral position? Does anybody want to hear from Senator Adams again? (Laughter) [LB1071]

SENATOR HAAR: I do. [LB1071]

SENATOR ADAMS: I'll waive closing. [LB1071]

SENATOR AVERY: Okay. That ends the hearing on LB1071 and the hearing for today. I think the Chair might want us to stay around for awhile. [LB1071]