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Education Committee
February 16, 2010

[LB957 LB966 LB1007 LB1096]

The Committee on Education met at 1:30 p.m. on Tuesday, February 16, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1096, LB966, LB1007, and LB957. 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. [LB1096]

SENATOR ADAMS: (Recorder malfunction) ...open this hearing of the Education Committee. We've got four bills that we're going to hear today. We're going to begin with Senator Haar and LB1096, then LB966, LB1007, and LB957 today. As we proceed into this hearing, I would ask all of you to first of all turn your cell phones off so as not to interrupt the audience's ability to hear or the testifiers' ability to testify. I'd also ask that if you choose to testify on any of the four bills--whether it be proponent, opponent, or in neutral--back by the doorway on each side of the room there is a registration form that needs to be filled out, and I would ask that you have it filled out before you come up to testify. Hand that form to the committee clerk, Becki Collins, before you begin your testimony. With that, Becki Collins is the committee clerk. Next to her will be Senator Ashford; Bob Giese from South Sioux City. Senator Cornett is introducing a couple of bills in another committee; she'll be here as soon as she can. Next to me is Kris Valentin, the research analyst for the committee. I'm Greg Adams, representing the 24th District; the Vice Chair, Senator Howard, to my left; next to her, Senator Sullivan from Cedar Rapids, Nebraska; Senator Avery is here; and Senator Haar is in the testifier's seat, ready to go. With that, I would also ask you, when you come up to testify, that you state your name and spell it for the record so that we can begin testimony. And Becki, why don't we go with a five-minute rule today. All right? Senator Haar. []

SENATOR HAAR: (Exhibits 1, 2, 3, 4, and 5) Thank you. Chairman Adams and members of the Education Committee, I'm starting...my voice is going, and so if I sound funny, that's why. There are three things the Legislature can do, according to Senator White: We can fund things; we can punish things; and we can educate. And LB1096 really is about educating. And so I've handed out some materials, and actually I'd like to go through those with you. The first is my introductory speech, "High Performance School Buildings Produce High Performance Kids." It's not about buildings; it's about students and teachers in high performance buildings, or "green," as some people sometimes say it. You see students performing better on test scores; there's less absence among students and teachers--happier and healthier students and teachers because of sunshine and clean air. High performance buildings also create jobs. You can't outsource new construction and retrofitting, at least to India. It creates local jobs, local supplies from local suppliers, and often loans from local banks. And high performance buildings save energy immediately, water immediately, and taxpayer money over time. And so the thought I want to leave with you is that high performance school buildings produce high performance kids. The bill, LB1096, has no fiscal note;

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you'll like to know that. Then I want to talk about three things, really: high performance schools, about LEED certification and how to finance it, and then about ESCOs. So if you start by taking this brochure...and, by the way, there are some at the door for anybody in the audience who'd like one. If you take the brochure that says "LEED for Your School"--we'll get to exactly what LEED is later--but this brochure shows some of the kinds of things that are being built into schools, and they all make schools happier and healthier places. I was able to visit the first LEED Platinum school, in Washington, D.C. It's called Sidwell Friends School, and the Obamas send their older daughter to that school. And I enclosed a brochure, which--I won't go over that, but they had many of these things. If you fold out your brochure...that you can see inside--all of these, again, making for happier and healthier schools--things like growing plants on the roof, putting solar panels up, bouncing sunlight into interior classrooms, low-flow toilets and low-flow water usage, composting. All those kinds of things are going into schools. And they even talk about it's not just the way the school is built and the way it uses energy, but it also is about what goes on in the school. And...for example, in a LEED certified school--in a green school--they don't serve junk food, that kind of thing. So...and if...the orange page here: Green schools on average save \$100,000 per year in energy--30 percent to 50 percent reductions in energy use and 30 percent to 45 percent reduction in water usage. It's very exciting. The reason, I guess, that I'm most excited about this--it's a way of saving energy, but it's also a way of building schools where kids perform better on tests, they miss less school, the air quality is better, and reports of kids who used to use their nebulizer three times a day--and if you really take care of air quality, they don't need that at all. Okay, the next thing I'd like to talk about is LEED certification. And then I handed out a sheet that says "Alphabet Soup" at the top, because we're coming across lots of alphabet things in this one. Start with "USGBC." The USGBC is United States Green Building Council. And I gave a description there; I won't read that. But the whole point is, as it says: "works to promote buildings that are environmentally responsible, profitable, and healthy places to live and work." And schools are one of those places that are really important. LEED certification--you may have heard of it; it can apply to new buildings, retrofitted buildings, existing buildings. And the sort of thing they look at...if you'll pull out the next sheet I handed--it looks like an Excel spreadsheet. These are the kinds of things that LEED certification looks at. And by the way, this wouldn't be much different for commercial buildings or other governmental buildings. But things like a suitable site--real obviously, you don't build a school where, you know--in an industrial zone where there's a lot of truck traffic and so on. "Water Efficiency"; "Energy and Atmosphere"--really important, again, to make sure that you have a good, healthy environment for kids to breathe in; "Materials and Resources"--there's a great encouragement to use and reuse materials and to buy local, that sort of thing. "Indoor Environmental Quality"--really important, again; "Innovation and Design" and "Regional." And so these are the kinds of things that LEED certification looks at in terms of schools and also commercial buildings. And then there are the various levels: you can just be LEED certified, or you can be a Silver or Platinum or Gold or Platinum. The brochure I handed you on the Sidwell Friends School is the

first Platinum LEED school in the United States. And if you look on, again, my "Alphabet Soup" page, on line 28 there, I show you what the objectives include: water efficiency, energy efficiency, building materials, indoor air quality and environment, and then using the building itself as a teaching tool. The Sidwell Friends School had a wetland connected to the school where they put the gray water from their usage. And these were native plants, and so the science classes would actually use native plants grown on the school site. The tour we got was from a student, and he knew just about everything that was going on in that school that made it energy efficient; it was really neat. Okay. The problem with LEED, of course: it costs money to be certified--0.5 percent to 1.5 percent of the cost of a new building would go into LEED certification. We're looking at ways to fund that, and we found out it's not covered by the stimulus funds; you can do all these other things to a school building, but you can't get the certification through the stimulus money. The third thing, then, is financing. How do you finance schools if you want to upgrade them--make them a green school or a high-performing school? And I gave you this today; it's a "Guide to Green Existing Buildings." And this is just the executive summary of a book. And you can see--they put a little insert in here; the total book is much bigger--"Paid-from-Savings Guide to Green Existing Buildings." And it tells--if you're interested, if a school board is interested--what they need to look at. And one thing in particular that we're going to look at today are called "ESCOs." I don't know if you've heard about ESCOs before; it's also on the "Alphabet Soup" list there what an ESCO is. But the whole idea of financing here is to leverage savings in energy to pay for the green updates. Now, ESCOs are "energy service companies," and we're going to hear from one later, right here from Nebraska, one of the bigger ones, Johnson Controls in Omaha. And the federal government, for example, has a goal now to reduce energy use by 30 percent and water use by 16 percent by 2015, and the mechanism they're going to use is ESCOs. ESCOs are energy service companies, as you can see on line 10 through 18 of my "Alphabet Soup" there. And the ESCO performs an in-depth analysis of the property: They'll come out and do an audit of your building, and then they design an energy-efficient solution based on that audit. Then they will install the required elements and maintain the system to ensure energy savings. And they do it at no additional cost up-front. And what they will arrange is for various financing mechanisms that allow schools or other governmental buildings or whatever--doesn't even have to be governmental buildings--but allows to use the savings that you get from energy to pay for those things that they will finance up-front. Nebraska currently allows public entities to use ESCOs. I think this is Senator Aguilar's bill a few years ago. And it allows payback for up to 30 years; this was another important part of his bill. So it's already possible. And I guess, really, the point of this bill, to a great extent, is to open that discussion up again and to let schools and other public entities see this great option for upgrading their schools and other public buildings to make them healthier, happier places and not put out any additional money up-front. And then, before I conclude, I'm also working on some other things. "PKI," which is also in this Alphabet Soup list here--PKI, the Peter Kiewit Institute in Omaha, is a great collaborative process between UNL, UNO, and private business. And I have a school in

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my district, Raymond Central, that just passed a \$10 million bond issue; and they're almost through the design process. But I hooked them up; we went up and talked to PKI the other day. And the best time would be to start planning these things way in advance. But PKI--they were talking about things, for example, that they could install right now--some of the research they're doing--that they could install on air-handling equipment in schools that will monitor the health of the air-handling equipment. And so they set up kind of a baseline, and then these sensors that they've developed...that PKI will constantly monitor the equipment, and if it starts to--something starts to go wrong, they notice that immediately. It'll e-mail the principal and tell him that there's something starting to go wrong with their air-handling equipment, that sort of thing. So I'm looking to establish--to work with PKI to see whether we can't get a working relationship with them and K-12 schools in Nebraska; because even for existing schools, there are some things they could do with energy monitoring and energy savings. So in conclusion, what I'm trying to do with LB1096 is to raise interest in healthy schools or, as we call them in the bill, high performance schools or green schools--whatever you'd like to talk about. I will continue to work on funding, although we've brought a source today that you'll hear from, called ESCOs, that's a great way to go. And then I'd like to set up kind of an e-mail network with schools, where we can start to keep anybody who's interested in the loop, in terms of what's going on, and we can save energy and make healthier buildings in the process. So with that, I'm going to stop my testimony, and there'll be some people following to tell you some more. [LB1096]

SENATOR ADAMS: All right. Thank you, Senator. Are there questions for Senator Haar? Senator Avery. [LB1096]

SENATOR AVERY: Thank you, Senator Adams. Senator Haar, how do you make the connection between a green building and happiness and performance of the students? [LB1096]

SENATOR HAAR: Well, I think... [LB1096]

SENATOR AVERY: I find it an interesting concept, and I'm not dismissing it; I just don't know how you make the empirical connection. [LB1096]

SENATOR HAAR: Right. That's a great question. And, actually, it's been documented; but I'll give you kind of the simple answer. When I taught at East High School in 1980, the school was almost new; and it was built without windows because the--so the kids wouldn't be distracted (laugh) by what's going on outside the school. And Anna, my A.A., pointed out that that's not what districts kids, it's what's going on inside the school. But the fact that there's no sunlight...and all of these schools and these designs--they work not only on saving energy but also on air quality. You know, if you get a whole room full of kids breathing out carbon dioxide, it can actually make people more tired in that room, you know. So you have better air quality. They've demonstrated kids who

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have asthma--if you really work with the air-handling equipment properly--will not be bothered at school or, instead of three whiffs off their nebulizer a day, will only, you know--don't need it. Sunshine is really an important thing about, I think, about human happiness. And if--again, when you get a chance, look at that brochure. I...one of the classrooms at the Sidwell Friends School--there was a hallway with windows, but yet, using reflectors, they bounce sunshine into interior classrooms so that, you know, the classrooms were actually illuminated by sunshine. And then they had controls, so that on a cloudy day the electric lights would make up for the difference. So I think it's good air and sunshine. [LB1096]

SENATOR AVERY: Something we could use upstairs. (Laughter) [LB1096]

SENATOR HAAR: We could. We could. And by the way, these results are documented, where they've actually shown the improvement in student performance: less absenteeism among students and teachers and better performance on test scores. Pretty amazing. [LB1096]

SENATOR ADAMS: Senator Sullivan. [LB1096]

SENATOR SULLIVAN: Thank you, Senator Adams. Thank you, Senator Haar. Is it fair to say that schools might potentially take some of these things into consideration when they are faced with remodeling or building new facilities? And I see Dr. Breed in the audience. I don't know if he's going to testify, but does the Department of Education, do you know, provide any assistance along these lines currently? [LB1096]

SENATOR HAAR: Well, and that's something I've talked to Dr. Breed about. But as far as I know, the Department of Education doesn't really have a list of who's building new schools. So what I would like to do for the future is somehow build this in so that up-front, while people are still planning their schools, that they could at least see some of this material. And they...last year, for example, the USGBC Flatwater Chapter, which is Nebraska, took a school bus of principals to a USGBC meeting in Denver. And on the way, they visited some green schools in Colorado. And the reports I heard back is some of the superintendents were saying: I wish I'd known about this, you know, before we took the trip. And they're going to be doing a similar thing this year, I believe. So part of the goal would be to raise an awareness not only to the sorts of things you can do with your school to make them healthier, happier places but also ways to finance that that aren't going to...the ideal--and this can't always be achieved--but if this is your energy cost and you save this much, that you use this to pay off those improvements, the retrofitting of your school, over 20 or 30 years. So using ESCOs, for example, you don't have to put out any up-front money; they will arrange for that. [LB1096]

SENATOR SULLIVAN: Now--if I understood correctly--that, with your bill, you're saying that to finance the assessment they would apply for a grant through the Nebraska

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Environmental Trust. Is that what you're suggesting? [LB1096]

SENATOR HAAR: That's a possibility. And obviously, since there's no money this year, we're not going to look for that kind of money. But in the future, I hope we can find a source of money, because LEED certification--it's kind of the difference between, you know, going to someone who says they can do the stuff that dentists do versus somebody who's a certified dentist. And part of the LEED certification process is, at the end of the project, to make sure that all those kinds of things happen that were supposed to happen. At Raymond Central, for example, the...their...in fact, I think they put out their bid now, so they can't make a lot of changes up-front anymore for their \$10 million addition, but he was telling me that--the principal there--Paul Hull was telling me that one of the primary schools in the Raymond Central consolidated district was having some trouble in some of the rooms with the air. And they went up and they found that one of the fans that was supposed to help move air had never been connected; the two wires were just sticking out. With LEED certification, that's part of it: you go through the whole building and you verify what is supposed to be done was done, and then you track it--and then you track it to make sure...one of the professors from PKI, who I think will be talking to you, Dr. Yuill, is an expert on these kinds of issues, and he's even saying that going into brand-new buildings you can often find energy savings, because things may not have been done the way they were supposed to be done, or with small changes you can save more money. And so I'd like to see us provide the best and happiest atmosphere for those we cherish most, which are our children and our grandchildren, at no additional cost to what we're doing now. [LB1096]

SENATOR SULLIVAN: Thank you. [LB1096]

SENATOR ADAMS: Senator Howard. [LB1096]

SENATOR HOWARD: Thank you, Mr. Chairman. Just...I just have to make this observation: I find it really interesting that the Peter Kiewit Institute is signed on to be a partner with this. The Peter Kiewit building down on 1313 Farnam Street, while it has a lot of windows... [LB1096]

SENATOR HAAR: Um-hum. [LB1096]

SENATOR HOWARD: ...and that's really pleasant--none of those windows can be opened, so it's kind of a detriment to having any fresh air in. And when they installed the ventilator system, it was installed in such a way that it sucked in the fumes from the street, which--13th and Farnam is a real...it's right at a corner where there's all kinds of traffic down there. And so there were a lot of problems with health issues and things. So I hope they've corrected that... [LB1096]

SENATOR HAAR: Oh... [LB1096]

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SENATOR HOWARD: ...because those things... [LB1096]

SENATOR HAAR: Yeah. [LB1096]

SENATOR HOWARD: I worked in that building for many years and was pretty familiar with the problems that they had. [LB1096]

SENATOR HAAR: And air quality can make a great difference. [LB1096]

SENATOR HOWARD: Absolutely. [LB1096]

SENATOR HAAR: Yeah. [LB1096]

SENATOR HOWARD: Absolutely. So... [LB1096]

SENATOR HAAR: Well... [LB1096]

SENATOR HOWARD: I'd encourage them to keep moving in the right direction. [LB1096]

SENATOR HAAR: They are. And if you look at their newer buildings on the campus, near 72nd and Martha, I believe it is, you'll see this sort of thing. They also have a net-zero house that they've built that university students are going to live in. Some of the walls are actually covered with plastic, so you can see what they've done in that house to make it a net-zero. Net-zero means that over...you know, at the end of the month, you've generated as much electricity as you've gotten off the grid. And so they have solar panels on the roof, and I think they're going to put up a turbine and so on and so forth. But... [LB1096]

SENATOR HOWARD: So it sounds like they've moved from that building down on 1313--probably unhealthy. [LB1096]

SENATOR HAAR: I don't know. I don't know if they have or not, but these are...they've really got top-notch people there that are working on this thing of how to make buildings healthy, how to monitor buildings. [LB1096]

SENATOR HOWARD: Good. Thank you. [LB1096]

SENATOR HAAR: Um-hum. [LB1096]

SENATOR ADAMS: Other questions for Senator Haar? Guess not. [LB1096]

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SENATOR HAAR: Sounds almost too good to be true, but I think it is. [LB1096]

SENATOR ADAMS: How many proponents do we have that wish to speak? Okay, let's begin with proponent testimony then. [LB1096]

CHAD JOHANSEN: (Exhibit 6) Good afternoon. My name is Chad Johansen, C-h-a-d J-o-h-a-n-s-e-n. And, as Senator Haar so politely already brought up my organization, I am here on behalf of the United States Green Building Council's Nebraska Flatwater Chapter. I am their volunteer chapter advocacy chair. And our committee and the USGBC would like to make a statement that I will also pass around to you guys and then enter into testimony. Senator Adams, committee, thank you for hearing this testimony on LB1096. The Nebraska Flatwater Chapter of the United States Green Building Council is in support of this proposed legislative bill. We represent local businesses and individual members from Omaha, Lincoln metropolitan areas as well as across the state of Nebraska. Our membership includes architects, engineers, students, and other professionals who support green building practices, technologies, and policies. As a group, we are concerned with the economic future of our schools and the environmental health of our beautiful state. In order to continue to thrive in the future, we must take a forward-looking position on building greener schools today. By proposing LB1096, Senator Haar has put forth a bill which provides the ability for school districts to enter into financial arrangements for school retrofits and construction. The state of Nebraska is recognizing the importance of offering high-performance schools for our state's youth. The Nebraska Flatwater Chapter, once again, strongly supports the state's effort to provide this important legislation to boost the quality of our schools in our state's school districts. By passing this LB1096, the green schools produced by this act will improve student performance and create healthier learning and workplace environments for students, teachers, and staff. Additionally, green renovation and construction generates positive economic activity and job creation, translating into benefits for the entire state. It is very important to our members that the Education Committee thoroughly consider the proposed LB1096 that will help our state prepare for the future. Having green schools promotes optimal learning conditions for students while saving taxpayer dollars and mitigating the negative environmental impacts caused by school renovation and construction. We encourage you to support LB1096 and improve the proposed legislation so it will improve our schools, protect our environment, and provide economic savings here in Nebraska. And with that, that's the statement I have. And any questions, I guess? [LB1096]

SENATOR ADAMS: All right. Are there questions for this testifier? Thank you, sir. [LB1096]

CHAD JOHANSEN: Thank you. [LB1096]

SENATOR ADAMS: Next proponent. [LB1096]

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CHRIS NELSON: Chris Nelson; it's C-h-r-i-s N-e-l-s-o-n. Senator Adams, other members of the Education Committee, my name is Chris Nelson. I'm the business director for the Beatrice Public Schools. I'm here to speak in support of LB1096. During the past 15 years, the Beatrice Public Schools has initiated a number of energy-related projects. We've used different methods to pay for those, such as no-interest loans through the Nebraska State Energy Office; we've used lease-purchases; and we've funded it strictly from our general operating fund. The results from our efforts have resulted in energy use that's below other comparisons that we used to help us gauge our success. The opportunities presented in LB1096 come at a critical time for school districts. During the last 19 months, we've seen three electric rate hikes in our district alone. Additionally, we're entering a period in which school finances will be severely tested and funds for any facility enhancements will be difficult to come by. In summary, the provisions of this bill afford schools with more options to consider when looking at construction projects designed to improve efficiencies. In providing this flexibility, we can better meet the objectives and needs of our communities and students. Thank you for your time. I'd be glad to answer any questions you have. [LB1096]

SENATOR ADAMS: Thank you. Are there questions for this testifier? Yes, Senator Sullivan. [LB1096]

SENATOR SULLIVAN: Thank you. Just have to ask the question, then: It sounds like you've been very proactive; not having this bill has not stopped you from doing that; is that correct? [LB1096]

CHRIS NELSON: That is correct. But keep in mind, we have done this over a 15-year period. Things have changed. We would have a difficult time going into the future, given the way finances are going, to even initiate any more projects. Some of the things that we've used to help finance these projects are no longer available, and so this just gives you another option out there that (inaudible) and some of the other things we've had in the past to utilize. And so that's where I'm coming from--is we're going to have a very difficult time these next few years with finances. And if there isn't outside resources, school districts aren't going to be able to really look at these types of initiatives. [LB1096]

SENATOR SULLIVAN: Thank you. [LB1096]

SENATOR ADAMS: Other questions? Thank you then. Next proponent. [LB1096]

MATTHEW LEAPER: (Exhibit 7) Senator Adams, members of the committee, my name is Matthew Leaper. I'm a product of the Peter Kiewit Institute and a Nebraska-born and -educated engineer. My education was funded in part by the regents and by Mr. Walter Scott. And in part, part of the reason why I work for Nebraska schools in the efficiency

business is to give back and to do a little bit of good for my community in the energy world based upon the opportunities I've had presented to me. I represent Johnson Controls. Johnson Controls, for a little background, is the world's largest energy service company. We invented the thermostat in 1886 and have been doing efficiency projects for the last 123 years, with 30 years of that in performance contracting expertise. Our dedicated teams of certified energy managers, LEED certified professionals, and professional engineers are able to help Nebraska schools design, build, service, implement energy projects from start to finish under a variety of standards. We're committed to doing our best work for Nebraska schools, and I thought that LB1096 represented, at least to our organization, an opportunity to really, you know, help to market our capabilities to Nebraska schools and, more so, to bring what I feel is a financial opportunity in support of the bill. Within the past few weeks, our organization has been approached by members of private equity or venture-capital-type firms that have an interest in investing in efficiency projects. With bills like LB1096 and the Nebraska High Performance Schools Initiative, we've been given access to \$100 million of funding potential that we can utilize to help school districts implement projects. Things these millions would help us to do would be to help districts evaluate the potential of various projects, using the audits and things that are outlined in LB1096. We believe we can create some financial incentives for districts that would like to bundle renewable energy with their building efficiency. And lastly, we feel that we can provide some unique financing opportunities to take full advantage of the 30-year term enabled by the current performance contracting legislation. I simply wanted to--I wanted to bring this to the attention of the committee, just in favor of the kinds of things that we think we can help to bring to the market in support of this bill, because we do feel it gives us a great opportunity to clearly market our capabilities to Nebraska schools and to help get some work done. Our ultimate goal...we're a contractor; we earn a profit from implementing projects and, you know, working with school districts and cities and state governments and things like that to actually get the work done: help to evaluate it, help to design it, to engineer it, and help to get it so that the program works, to the best of our ability. Sometimes there can be challenges in the state of Nebraska with the cost of electricity even, you know, at its current rates, even with escalations. You know, sometimes we come into hurdles where we have, you know, x amount of energy savings, x amount of operational savings; you know, occasionally there's a gap where we have to, you know, utilize other financing mechanisms or other things that are available to us. But part of what school districts hire us for is for the development of the complete financial and technical solution that performance contracting offers. And that includes help with the design, implementing it, and measurement and verification services to ensure that the projects we implement are effective. I have a few supporting materials; I apologize I did not bring copies for all; I will certainly leave with...but, again, the reason I'm here in support of this is we feel it's a great opportunity to market our capabilities. And the monies I've indicated--they can be made available to help us do projects between now and the end of the year, because there is some stimulus ties into them that help us to work. So we think that LB1096, this hearing, the luncheon prior to,

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and the e-mails that Senator Haar has suggested will give us a great opportunity to maximize that for Nebraska schools as well as Nebraska communities, including cities, you know, counties, and other governments that we work with along the way. [LB1096]

SENATOR ADAMS: All right. Are there questions for this testifier? Thank you, sir. [LB1096]

MATTHEW LEAPER: Thank you. [LB1096]

SENATOR ADAMS: Next proponent. [LB1096]

KEN WINSTON: (Exhibit 8) Good afternoon, Chairman Adams. Members of the Education Committee, my name is Ken Winston, first name K-e-n, last name Winston, W-i-n-s-t-o-n, appearing on behalf of the Nebraska Chapter of the Sierra Club in support of LB1096. Written testimony is being passed out. I'm not going to read that. I thought I'd just discuss a couple of things that I think are highlights for reasons for LB1096. One of the main reasons, as Senator Haar indicated and as Mr. Leaper indicated, for LB1096 is that it expands the current definition of the kinds of projects that are available for energy service companies. Currently, they're allowed to do energy-efficiency retrofits, but this would add air quality and lighting to...and those were a couple of the things that Senator Haar specifically indicated are very important in terms of improving student performance and the health and well-being of staff as well. So that's one of the significant changes. The other change is the thing that Senator Sullivan referred to, which is the funding--the opportunity to seek funding through other sources, specifically enumerating the Nebraska Environmental Trust as a possible...not saying they have to fund it, but it would make them eligible for funding through that source--particularly for assessment of the building and/or for if they wanted to seek LEED certification. And one of the reasons that that could be an issue is that LEED certification can...there's usually a fee associated with receiving LEED certification. So this would enable a school district to get the funding necessary to obtain the LEED certification. I just wanted to talk a little bit about some things in general--I guess just tell a little war story of my own. Back in the '90s I was on the school board here in Lincoln, and I've had some conversations over the...I've occasionally run into teachers and will talk to them about what things are like in the Lincoln Public Schools and having some pride of ownership from having been involved with that school district. Recently I had a conversation with a teacher who teaches at Lincoln Southeast High School, which recently underwent a major renovation. And she was talking about all the benefits of that renovation, because what they did was they went in, they redid the heating system and added a cooling system and improved the air quality and a whole bunch of things that made the place a lot better place for her as a teacher and a lot better place for the students. And one of the things that she talked about--she said in the fall they would literally have students fainting from the heat before they put in the air conditioning system. And she also talked about how stuffy the rooms would get in the wintertime. And she said it's really a lot

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better place to be a teacher and a lot better place for students to learn now that they've made those changes. And, of course, the Lincoln Public Schools did theirs under their own funding mechanism, and I'm sure if they want to talk about that, they can, but they didn't use a funding system like this. They went out and got bonding to do that. But one of the other things that I've also visited with some of the people from LPS about: what has happened as a result of the kinds of energy efficiency improvements that they've made on their older buildings. One of the things that's happened is it's often reduced their energy costs at the same time they're adding both heating and cooling for buildings that they formerly had just heated. And so you're doing both heating and cooling, you've got better air quality, and you're reducing your energy costs all at the same time. And so for those reasons, those are the kinds of things that result in what Senator Haar is referring to as high performance schools. [LB1096]

SENATOR ADAMS: Very good. Are there questions? Thank you then. [LB1096]

KEN WINSTON: Thank you. [LB1096]

SENATOR ADAMS: Next proponent. [LB1096]

KEN MASS: Senator Adams and members of the committee, my name is Ken Mass--that's M-a-s-s--representing Nebraska AFL-CIO and here today in support of LB1096. LB1096 will give the opportunity, because many of our affiliated organizations have already moved into training their membership on the blue-green situation that's coming down. And so they're getting ahead of the game by educating their membership; and when that work comes, they're ready to go. So in the economy we live in, with some unemployment in our organizations, this would be a great plus for them to get involved in the bidding process and also in creating the work in the schools. A comment on Senator Haar's comment, where he taught in a school that didn't have any windows--well, the school I had had windows, but it depends what level of the school you're on if you can see the street or not; so we had teachers that pulled blinds so we couldn't see out. So it makes a difference what you learn inside the school if you can see out, though, is also...that's all I have. We just ask the committee for support of LB1096. [LB1096]

SENATOR ADAMS: All right. Questions? Thank you, sir. Next proponent. [LB1096]

JESS WOLF: (Exhibit 9) Senator Adams and members of the committee, I'm Jess Wolf, J-e-s-s W-o-l-f; I'm the president of the Nebraska State Education Association. We're here speaking in favor, support of LB1096. I'm not going to add a lot of things that you haven't already heard. I will just tell you that I'm also a biology teacher, and I was interested in environmental education. And so this topic is near and dear to my heart. Much of what has been said here today I find to be very true. Most of you also know that the NSEA just recently went through a remodel of our building. We tried to make it as

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green as we could afford. And if some of you've been over there, you've noticed there's been some substantial changes, one of which might be the fact that if you'd been there before, you noticed that the staff was kind of downtrodden all the time; they were worrisome; they looked like they were in a poor working environment. But now they just nearly dance in the aisles because they are so happy with the additional light and the green measures we've taken in the building. So we think that there is actual evidence that green schools do, in fact, protect student and teacher and employee health, that there is a lowering of operating costs. At the NSEA we've already noticed it in the six months we've been back in our building, that there's an energy savings. And we do believe that it does provide a unique opportunity, as Senator Haar mentioned, about educating students about energy conservation and sustainability. So we would urge you to move LB1096 to the full Legislature for debate and passage. Thank you. If you have any questions... [LB1096]

SENATOR ADAMS: Thank you, Jess. Are there questions for Jess? Guess not. Thank you, Jess. [LB1096]

JESS WOLF: Okay, thank you. [LB1096]

SENATOR ADAMS: Next proponent. [LB1096]

JOHN BONAIUTO: Senator Adams, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director at Nebraska Association of School Boards. I won't repeat what the other testifiers have said as far as the importance of focusing on energy efficiency and the green schools, but having this stressed--and especially with the potential of some funding streams--is critical. Not all school districts across the state are able to pass bond issues; some districts struggle a lot with that. Many districts have done their own energy improvements through financing from the energy companies or through lease-purchase opportunities to allow the district to spread the cost over a number of years so they could afford to do some of the retrofitting and upgrading. And with lease-purchase, you could do a certain number of things as long as it meets bond counsel's approval that it is an actual construction. And so that's another avenue. But in difficult economic times, even lease-purchasing gets pretty tough for districts. So I think this is very critical to have on districts' radar screens to try to do things with the number of old buildings we have in our state. We need to pay attention to this and look at ways to make this happen. And some of this could be paid for through the efficiencies that the districts are looking at making. With that, I'll conclude my testimony. [LB1096]

SENATOR ADAMS: All right. Thank you, John. Questions? [LB1096]

JOHN BONAIUTO: Thank you very much. [LB1096]

SENATOR ADAMS: Thank you. Other proponents. [LB1096]

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MARY CAMPBELL: Mary Campbell, C-a-m-p-b-e-l-l, assistant superintendent for government relations for Lincoln Public Schools. Very briefly, I just want to support Senator Haar in this effort and state publicly that we have warmly and fully embraced these principles and design elements, both in our new construction and the retrofitting of our very oldest buildings, and we're very pleased with the results. [LB1096]

SENATOR ADAMS: All right. Thank you, Mary. Questions? Thank you then. Other proponents? [LB1096]

VIRGIL HARDEN: Good afternoon. Virgil Harden, V-i-r-g-i-l H-a-r-d-e-n, director of business for Grand Island Public Schools. Just wanted to share with you the fact that a number of years ago the Grand Island board had set a goal of trying to achieve 20 percent of our energy consumption from green energy. And we didn't know how we would do that, so we contracted with Johnson Controls, and we did a lot of work and effort in that area. And we basically came down to the conclusion that we would really gain the most by trying to do a wind turbine energy project. There was two different locations, two different turbines that we could actually try to do. But when we put the money to it...as you might imagine, it's a revenue stream: we pay so much money now for utilities, and if we're going to have a project like that work, obviously we have to have a reduced energy cost and convert that dollar expenditure stream to the new project. The way things are now in Nebraska...and it's one of those things that's kind of a double-edged sword in that our energy cost to produce it--because we're a coal-burning state and we're that close to the source, our energy costs are low. So we cannot develop the revenue stream with cost savings to go to green energy. So we need an additional tool in our toolbox to get this accomplished. And this bill, I think, would help Grand Island Public Schools towards that path of moving to green energy. So with that, I would conclude my comments. [LB1096]

SENATOR ADAMS: Thank you, Virgil. Are there questions? Guess not. Thank you. Any other proponents? [LB1096]

KRISTI WAMSTAD-EVANS: Senator Adams and the committee, my name is Kristi Wamstad-Evans; it's K-r-i-s-t-i; Wamstad-Evans is W-a-m-s-t-a-d-E-v-a-n-s. I'm the sustainability coordinator for the city of Omaha, and I'm coming on behalf of the mayor's office of the city of Omaha. I realize that the bill does not include anything particular to the municipalities, but it does affect our citizens and particularly the people that are an investment in our future as our community. And so we see this as a bill that will help create a nurturing learning environment for the students and then also as something of an educational element for parents and for our community as a whole. We also think that the use of less money for energy and water that will save taxpayers and that can redirect funds toward so many needed services that we have within the schools, including textbooks, teacher retention, and better education for our students. As a

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sustainability professional, I would say this bill represents a very systematic and structured approach to reducing energy and water consumption in our school buildings. From the auditing process to the retrofits themselves to having a measurement verification element I think are very important. And that is kind of, I would say--instead of just kind of haphazardly identifying a want for energy savings or just kind of trying to pick something up piecemeal--that this represents a very, again, systematic way of taking a look at first auditing what the building's current conditions are and how do we make improvements for the future. Finally, speaking as a parent of a child in a Nebraska public school, this is something that I want to see my daughter learn from but also thrive within a school that has considerations for that energy, for the indoor air quality elements. So with that, I guess I would voice my support for this bill. [LB1096]

SENATOR ADAMS: All right. Questions? Thank you. [LB1096]

KRISTI WAMSTAD-EVANS: Thank you. [LB1096]

SENATOR ADAMS: Any other proponents? Any other proponents? Is there any opposition testimony? Neutral testimony? [LB1096]

NEIL MOSEMAN: (Exhibit 10) Chairman Adams and members of the Education Committee, good afternoon. My name is Neil Moseman, N-e-i-l M-o-s-e-m-a-n, and I'm director of the Nebraska Energy Office. I'm here testifying for the Energy Office in a neutral capacity regarding LB1096, the Nebraska High Performance Schools Initiative. Very briefly, the American Recovery and Reinvestment Act--ARRA, if I may refer to it--State Energy Program funds, SEP, are restricted to energy efficiency activities. Energy audits are an authorized SEP revolving loan program activity; however, SEP revolving loan program funds are prohibited from LEED program activities. SEP grants are also ineligible for LEED program activities. I would also like to add that Nebraska public school districts are eligible for our SEP revolving loan fund opportunities. Energy audits and related building retrofit activities may be incorporated into a public school district revolving loan fund application. That's in the interest of time. I will...appreciate your time here today and happy to answer questions. [LB1096]

SENATOR ADAMS: Appreciate it. Are there questions? Guess not. Thank you. [LB1096]

NEIL MOSEMAN: Thank you. [LB1096]

SENATOR ADAMS: Any other neutral testimony? Senator Haar to close. [LB1096]

SENATOR HAAR: Thank you. Those of you who know me probably wondered why I didn't ask any questions. I'm supposed to sit quietly during my bill. (Laugh) Senator Price I saw at lunch today, and he wasn't sure this is true, but he read it somewhere that

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Webster, who did the Webster's dictionary and so on--I believe it was Webster--was an engineer by trade. And at the time, he was an engineer and the child labor laws were passed, and so children were no longer allowed to work. And so they were roaming the streets, and so the idea of public schools came up to get the kids off the street. And an interesting point that he pointed out to me: Have you noticed how many school buildings look like factories? And that could be the reason. Well, energy costs are going up. Everybody knows that, no matter what happens in the future; cap-and-trade is probably dead, but there...whatever happens, energy costs will be going up. There used to be a fund for interest-free loans for school renovations. And I guess back in the 1990s, the Legislature decided that that wasn't needed anymore and they put it into things like computers and stuff. But as Mr. Moseman pointed out, it's still--schools are still eligible to apply for loans through the Energy Office. And then again, we brought you the concept of ESCO if you hadn't heard about that before--Johnson Controls. And I gave you a list, by the way, of the national energy service companies, and on there is a list of the other kinds of suppliers that are out there that do ESCO work. But I would just like to get that word out, you know. It doesn't hurt to talk to Johnson Controls; it's a great funding...and they will arrange the funding and so on. And then if you're at the hearing today and I don't have your e-mail, I'd like to get that, because I'm going to start kind of an e-mail group where we can get more of this kind of information and make it available to schools and principals and that sort of thing. So with that, I'm going to close with where I opened. High performance school buildings produce high performance kids. [LB1096]

SENATOR ADAMS: Thank you, Senator. Are there any final questions for Senator Haar? All right, if not, that will close the hearing... [LB1096]

SENATOR HAAR: Thank you. [LB1096]

SENATOR ADAMS: ...on LB1096. And we'll move on to LB966. Senator McCoy to sit in for Senator Pahls. [LB1096]

SENATOR McCOY: Thank you, Chairman Adams and members of the committee. I am Beau McCoy, B-e-a-u M-c-C-o-y, and I represent the 39th District. I'm here to introduce LB966 to you on behalf of Senator Pahls, who I regret can't be with us today. I much regret that; I know he's introduced similar legislation in the past to the committee and has a wealth of knowledge on this issue with his lifetime of service to our state as an educator. And standing in for him today, I'll be happy to detail a little bit about the bill to you this afternoon. LB966 provides public accountability on how schools spend public funds. The bulk of education occurs in the classroom, and it's expensive. And taxpayers need the assurance that state and local tax dollars levied for school districts are being used to accomplish the mission of schools, educating children, which I know the committee, the Legislature, and the educators around the state care very deeply about. LB966 requires school districts to expend at least 65 percent of their budgets on direct

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classroom instruction. The remaining 35 percent may be used for operating and support expenses. The bill defines direct classroom education using the same definitions and parameters the Department of Education uses on its on-line State of the Schools report. The on-line report summarizes and reports a variety of information about each school district in the state, including financial receipts and expenditures by category. The bill does not create new categories or definitions. Calculations for state aid to school districts are based on the financial reports submitted to the department from school districts. The financial calculations in LB966 are based on the same financial reports. The bill does not require school districts to track or report any new financial information. Under the bill, the 65 percent requirement is based on a three-year period, which gives school districts the flexibility to make unexpected expenditures in other categories in a particular year without affecting its overall spending priorities. The first three-year period covered by the bill would begin on September 1, 2011, and end on August 31, 2014. Thank you for your time. I'd be happy to answer any questions if you have any. And, hopefully, this will provide some additional information in your discussions on this issue. Thank you. [LB966]

SENATOR ADAMS: Thank you, Senator McCoy. Are there questions? Senator Howard. [LB966]

SENATOR HOWARD: Thank you, Mr. Chairman. Well, welcome to our committee; you did a very good job. [LB966]

SENATOR McCOY: Thank you. [LB966]

SENATOR HOWARD: Thanks. And I'm not going to put you on the spot, so if you don't know the answer, just feel free to say that. You refer to the 65 percent. Do you know, on average, what percentage is being spent now in direct classroom instruction? [LB966]

SENATOR McCOY: Well, clearly, it varies from district to district. I don't know off the top of my head as, if you were to average all 254 school districts, what that exactly would be. I could certainly find out, and I'm sure Senator Pahls's staff and we could work to get you that information in short order. [LB966]

SENATOR HOWARD: That'd be great. Thank you. [LB966]

SENATOR ADAMS: Other questions? Senator Avery. [LB966]

SENATOR AVERY: Do you happen to know--thank you, Mr. Chair--do you happen to know how Senator Pahls came up with the 65 percent? Some kind of process, I mean, based upon his experience as a school administrator? I remember this bill coming to us last year, I think, and he had a table that showed what various districts do devote to instructional time. And I did not ask him this question then, and I should have. [LB966]

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SENATOR McCOY: Senator Avery, I don't know the answer to that question specifically, as to what exactly was the way that he came up with that exact number. As you indicated, I do recall in a conversation that I had with a staff member something about a table and, which, we certainly could get that information to you. [LB966]

SENATOR AVERY: I would feel better about a 65 percent number if I knew how it was calculated and that it wasn't arbitrary. Thanks. [LB966]

SENATOR ADAMS: Other questions for Senator McCoy? Thank you, Beau. Are you going to stay around for closing? [LB966]

SENATOR McCOY: I do need to get back to the Banking Committee, so I will waive a closing. Thank you, Chairman. [LB966]

SENATOR ADAMS: Proponents to this bill, first of all. Are there any proponents? I have to assume...opposition then. Are there opponents to the bill? [LB966]

JOHN BONAIUTO: Senator Adams, 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. And Senator Pahls and I have had many discussions about this bill, as we did about the last time it was introduced. And to just start off by answering Senator Avery's question, this had been a national movement a few years ago; they called it the 65 percent solution. And the belief was if you concentrated money in a particular area, that somehow it would make students achieve better; and there were all kinds of, I think, thoughts that were attributed to focusing funds. And it really...the whole movement kind of fell apart and fell by the wayside. And that would get into the heart of my testimony, that as far as school districts across Nebraska, I have to go back to the old adage that I hear this body use on the floor of the Legislature on a regular basis: Rarely does one size fit all. And this is one of those situations where...when you look at the state aid formula, when you look at TEEOSA--the reason TEEOSA is as complicated and complex and hard to understand as it is, is because we can't say: Let's just give everyone x number of dollars, divide it by 240 or whatever the number is, and we'll call it good. And it's...I think the same principle applies to this, is that trying to tell a school board--every school board in the state--you're going to spend 65 percent of your resources in this way--it just doesn't work. Now, the good news--I think that possibly from more hands-on individuals than I am, as far as school finance in a school district or even from the department, I really don't think that when we report how money is being spent that school districts are that far off. There's some variance, but even Senator Pahls would say the majority of school districts across the state meet this. So I think that, really, the discussion is good, you know, how are resources being spent; and I think that boards, school boards, are targeting their resources where they need to be targeted. The majority of the money that districts spend is for personnel, and it is for classroom instruction. And then we get into

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the heated arguments about, you know, is it transportation? That contributes to it. How about the school principal? How, you know, does central office administration contribute to it? So there are certain things that are being excluded that, I think, that would be important in student achievement. I think the principal does play a vital role. I would hope that the superintendent would be seen as a leader for the entire district, that plays a vital role. So, you know, we have those debates, as far as what should be and shouldn't be included. But I think if you ask for information from the annual financial reports from the department, you will find that districts, by and large, are not that far off. So...and there's no group that is more accountable for funds than school districts. And I would say that earlier this year--over the interim, we were trying to work with Senator Wightman to figure out how we could put more information on school district Web sites. And that isn't, you know, ready yet to be put in bill form, but, again, if there is an opportunity to educate the public and get people to take a look at what's happening locally in their school district and use their own Web site for information, that's always very positive. With that, I'll conclude my testimony. [LB966]

SENATOR ADAMS: All right. Thank you, John. Questions for John? Senator Avery. [LB966]

SENATOR AVERY: Thank you, Mr. Chair. Working my way back through this bill to the fiscal note, I see that on average in '06-07 instruction as a percentage of operating expenses was under 65 percent in the state. Same thing in '07-08. But in '08-09 we were slightly over 65 percent. Then I look farther down, I find that it tends to be middle-size to large schools that do have about 65 percent or greater of their operating expenses committed to direct instruction. And the very large and the smaller schools don't. Why do you think that is? Is there some explanation for that? [LB966]

JOHN BONAIUTO: You know--and, again, Senator, I would say, from my discussions, I think that in some districts if federal funds play a role, that that could have an impact on how money is counted. But again, a lot of this goes back to what is included in that calculation, what is not included in the calculation. But by and large, I think that we're not that far off, as far as how the money is being spent. [LB966]

SENATOR AVERY: Well, yeah, I think these numbers show that we're pretty close to... [LB966]

JOHN BONAIUTO: Yeah, and that's why I say I think this... [LB966]

SENATOR AVERY: ...65, on average, across the whole state. [LB966]

JOHN BONAIUTO: We really are. And there are...again, I'm back to my original "one size not fitting all" comment--is that because of the variances in size and demographics of our schools, the calculations in a particular district, if you ask them: Why does it show

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this way? They would be able to explain it to you, because of their uniqueness; there would be something in that district that...and again, that goes back to our state aid formula. It could be a lot simpler if our state was a lot simpler. [LB966]

SENATOR AVERY: Well, I like the concept, but your explanation for how we got to 65 is not satisfactory. And somebody somewhere picked 65... [LB966]

JOHN BONAIUTO: Again, it was--yeah... [LB966]

SENATOR AVERY: ...and it was still part...it being part of a national movement doesn't tell me why 65. [LB966]

JOHN BONAIUTO: No. And again, that 65 percent solution was a number that was picked to target resources. And I had...I think, last time this bill came up in committee...and I still have information. I could go back and get some of that 65 percent solution information from the national movement. [LB966]

SENATOR AVERY: Well, I can see people sitting around a table and saying: Well, what do you think it ought to be?... [LB966]

JOHN BONAIUTO: Yeah. [LB966]

SENATOR AVERY: ...well, how about 60? No, that's a little bit too much. [LB966]

JOHN BONAIUTO: Yeah, it...and even Senator Pahls and I, when we would visit about this--I think originally he started at a lower rate. I think that his percentage may have even been 62, or it was a little different than 65. And then, I think, to make me nervous, at one point he says: Well, I think that I can move that up to, like, 70. You know, and so... [LB966]

SENATOR AVERY: Well, if you do not comply--if this were to become law and a school district did not comply or a school did not comply, they could actually lose their accreditation. [LB966]

JOHN BONAIUTO: Yes. [LB966]

SENATOR AVERY: And that would be a pretty serious matter. [LB966]

JOHN BONAIUTO: Very. And that is why it's...you know, I think that the last time we talked about this it was, you know, we would spend a lot of our time arguing about what should be included in that calculation. It's a matter of...the 1100 series, or whatever series of reporting that the district does; we would be talking a lot about--these are the exact things that every district would have to report in a similar fashion. I think, right

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now, there are certain things that districts report, and there is some judgment at the district level of how an expense can be reported in the annual financial report. And I think if we got to something like this, every district would have to have a definition of every single thing that they spent money on so that they could report it uniformly. [LB966]

SENATOR HOWARD: Thank you, Mr. Chairman. [LB966]

SENATOR ADAMS: Yes, go ahead, Senator Howard. [LB966]

SENATOR HOWARD: Thank you, Mr. Chairman. I...just briefly, I'm glad--I appreciate that you reflected on where this came from, because I remember the first year I was down here I went to a national conference, and this was really being touted at that time, and it was kind of associated--or maybe it was a spin-off of No Child Left Behind, because that was really the push right then too. You know, it was a simple solution to a much bigger issue. And I didn't know what finally came of it--you know, where it evolved to, but I haven't heard anything about it for the last three years. [LB966]

JOHN BONAIUTO: It has really fallen by the wayside. And again, it...because, as there are no simple solutions or simple answers... [LB966]

SENATOR HOWARD: True enough. [LB966]

JOHN BONAIUTO: ...but it's always good to talk about how we look at things, and because we're as close as we are to...yeah, I think that, again, because the state board is doing a good job in helping districts focus their attention in the right places and school boards are paying attention to that and districts are paying attention to it, I think schools are spending their money where they need to be spending it. [LB966]

SENATOR ADAMS: Other questions? Thank you, John. [LB966]

JOHN BONAIUTO: Thank you. [LB966]

SENATOR ADAMS: Other opposition. [LB966]

VIRGIL HARDEN: (Exhibit 11) Good afternoon. Virgil Harden, Grand Island Public Schools, V-i-r-g-i-l H-a-r-d-e-n. And I'm also representing the Nebraska Council of School Administrators as a member of their legislative committee. I guess I don't normally title or give a label to my testimony, but if I had to label this, I'd tell you I'm going to talk about "Back to the Future." And the spreadsheet that you see or that's being handed out will maybe make more sense when you see it. What I've done is I went ahead and pulled all the information for Grand Island Public Schools off our annual financial report going back to the 1980-81--so basically 30 years ago--and, really, to do

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it in the context of the changes that a community faces over a period of time and where these decisions should be made about spending. It's, I think, a longstanding tradition in Nebraska that local decision-making is where we want things to happen. So think about Grand Island in 1980 and the makeup of our community and the schools and what that reflects in the spending. You'll notice there that 54.6 percent of our spending back in the 1980-81 school year was spent on instruction. So that's on the far left-hand side. If you look, then--let's go forward 30 years and look at the far right-hand side and see that in the 2008-09 school year \$42 million-plus was spent, but it was 54.34 percent of the entire budget. So a few hundredths of a percent difference, as compared to--in the 30-year span. And so there's not much difference there, but what I will tell you that is a huge difference is in the makeup of our student body. Nineteen eighty in Grand Island I think we had maybe 2 percent or 3 percent minority makeup; 2008-09 we have 60 percent minority makeup--it's the minority majority. And so the spending is controlled by the local school board making those individual decisions, month by month, on the different things--programs that they're going to do. And it's reflected in our financial statements. If you look at the federal programs and you look at the wildly different changes in there from \$433,000 in 1980 to almost \$7 million in 2008-09, there's a large amount of money that, just in the way the bill is written, is just ignored, as if it doesn't have a direct impact on student learning. The majority of that money is going to be funneled into the classroom instruction, but yet the way the bill is written it's totally ignored. Some districts, like Grand Island, because of our makeup, have a large amount of federal dollars coming to us, because it's designed to help minorities. Other districts don't have those. And so there's a wild fluctuation. So the comment earlier about one size doesn't fit all I think is very appropriate. And the argument I would make is that that 65 percent is arbitrary; it's pulled out of the air; it's not based on, you know, decisions that are supported by the facts. And I think what we need to do is ask ourselves: What are the real numbers? And why are they the way they are? And why are they different from one district to the next? So with that, I would conclude my testimony. [LB966]

SENATOR ADAMS: All right. Are there questions for Virgil? Thank you then. [LB966]

VIRGIL HARDEN: Thank you. [LB966]

SENATOR ADAMS: Other opposition testimony? [LB966]

JOHN LINDSAY: Thank you, Senator Adams, members of the committee. For the record my name is John Lindsay, L-i-n-d-s-a-y, appearing on behalf of Omaha Public Schools. I did...first, I would echo quite a bit of what the prior testifiers have said but wanted to point out one thing in particular. And I talked to Senator Pahls's office about this, and it may just be a drafting issue, and if so, I just wanted to call that to your attention. And that is that, as drafted, it appears that the direct classroom instruction includes federal programs--federal grants, federal funds. But on the total operating expenditures, under the act, it excludes those funds. If that's the case, then you're

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counting them as a receipt but not allowing to be counted the use of those funds. In talking to Senator Pahls's office, the indication was that that may just be a drafting issue. And if...it does have an impact, we think, from an OPS perspective. If you include those federal funds on both sides or you exclude them from both sides, we're well above the 65 percent--even though I would concur it's probably an arbitrary number--but we are well above that. But when you exclude it, when you only count one side, then it starts to pose problems. With that, I'd be happy to answer any questions. [LB966]

SENATOR ADAMS: Okay. Questions for John? Thank you. Other opposition testimony? Is there any neutral testimony? And Senator McCoy has waived closing, so that will end the hearing on LB966. Senator Howard... [LB966]

SENATOR HOWARD: All right. [LB1007]

SENATOR ADAMS: ...if you'd take over. [LB1007]

SENATOR HOWARD: Absolutely. Welcome, Senator Adams. [LB1007]

SENATOR ADAMS: (Exhibit 12) Thank you, Senator Howard. For the record, Greg Adams, A-d-a-m-s, representing the 24th Legislative District, here to introduce LB1007. In its simplest form, let me come at it in this way. If I said to everyone on this committee, your task is to make sure that everyone behind me can high-jump six foot, and you look at what's behind me, (laughter) and you ask yourself: How difficult a task is that going to be? And as you look behind me at all the differences that you have, you say to yourself: Despite how hard we may try, there are some of those folks we'll never get anywhere near six foot. In the year 2014, under No Child Left Behind, that, in effect, is where we're at: everybody needs to be at 100 percent proficiency. But I'd ask you to apply that analogy to the classroom, where you have so many different learning styles and so many different situations--can everybody be at 100 percent proficiency? What this bill attempts to do is for Nebraska to create, in effect, its own measure of success, its own accountability system that we set beside the federal. It would be our way of saying we understand--the schools need to be accountable, and the schools that can't perform need our help. But what we're trying to do in LB1007 is to create a mechanism that is done in a Nebraska way, that is, it's fair; and rather than call schools persistently low performing, we're going to call them high priority, because they need our attention to try to make corrections. What the bill would ask is this--that the State Board of Education prepare multiple measuring devices that we could measure schools by. Now, I stress multiple because therein lies what's missing right now with some of our federal: We get a single snapshot of how students did on a test, and we're going to weigh fourth grade this year to fourth grade the next year to see what's going on. What this bill would do is say to the Department of Ed: Let's look at more than just one thing. And what is particularly unique is not only the fact that there will be multiple measurements, but one of those measurements needs to be a growth model; and that's going to take us awhile

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to put together. Now what does that mean? It means that if we have folks out here that can't jump six foot, what we might do is start by first of all finding out how far they can jump. And then at the end of the school year, we measure again and see if they've made progress, see if they've grown. And if they have...and maybe we've been a whole lot more successful than what we think when we told them they have to jump six foot or else. So the bill would require that the department develop a growth model as well, to be included in those measuring devices. Now if you'll notice that--in the current language of the bill, it says that they shall develop a performance index. I have an amendment that we'll pass out, where we will replace the word "shall" with "may," because I think that what we need to do is to let the State Board of Education look at this and decide exactly how they want to develop the measurements. The measurements will need to be in place by the '12-13 school year. And then the bill also deals with the second phase, and that is: What if? What if we have high-priority schools, schools that need our attention--because of the various measuring indexes, they're not where they ought to be? What would then happen is that the State Board of Education would be given the authority to, in effect, intervene and to partner with those school districts to try to help them overcome the deficiencies that they have. That's the essence of LB1007. And I'd entertain questions, and I believe there are some people here from the state Department of Ed that could probably answer more technical questions. [LB1007]

SENATOR HOWARD: Okay. Committee, do we have questions? Yes, Senator Sullivan. [LB1007]

SENATOR SULLIVAN: Thank you, Senator Howard. Senator Adams, okay, so we're doing this so that we can have an assessment in place to identify underperforming schools, and this needs to be in place by when? [LB1007]

SENATOR ADAMS: Well, I don't know that it needs to be in place by any particular time. The No Child Left Behind--2014, I believe, is when we're supposed to be at 100 percent AYP. In this particular bill we ask the Department of Education to have developed the multiple measurement by the year '12-13, that school year, to begin to assess school districts. [LB1007]

SENATOR SULLIVAN: So...but the bottom line is we have to have something in place by 2014 or else we lose...? [LB1007]

SENATOR ADAMS: We don't have to. We just believe that this is a smart thing to do... [LB1007]

SENATOR SULLIVAN: Okay. [LB1007]

SENATOR ADAMS: ...to have our own companion measurement that we think is a

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more accurate measurement. []

SENATOR SULLIVAN: Okay. All right. Thank you. [LB1007]

SENATOR HOWARD: Any other questions? Well, I have...wait, wait, wait. [LB1007]

SENATOR ADAMS: Oh. [LB1007]

SENATOR HOWARD: (Laughter) High jumper. I do have a question. I remember when we discussed this issue before, and there was a lot of concern, especially regarding special ed students and trying to measure them against others. And could you just reflect on that a little bit, how this would work with these students. [LB1007]

SENATOR ADAMS: Well, special ed students...and I'm sure that Commissioner Breed or those who come up from the department can better explain it. But for No Child Left Behind, special education students are factored in. And what I see this doing is really giving us a better picture of the differences that we have in classrooms and the different cultures that we have that surround school buildings from one end of the state to the other. [LB1007]

SENATOR HOWARD: So the student would really be measured by their own progress rather than against a larger mass. [LB1007]

SENATOR ADAMS: Or the building would be measured by their own progress, correct. [LB1007]

SENATOR HOWARD: Okay. [LB1007]

SENATOR SULLIVAN: I just thought of one other question. [LB1007]

SENATOR HOWARD: Oh, Senator Sullivan has a question. [LB1007]

SENATOR SULLIVAN: Thank you. How does this compare with the process now for school improvement? [LB1007]

SENATOR ADAMS: I'm going to let one of the... [LB1007]

SENATOR SULLIVAN: Okay. Fine. [LB1007]

SENATOR ADAMS: ...department people... [LB1007]

SENATOR SULLIVAN: All right. [LB1007]

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SENATOR ADAMS: ...answer that question. [LB1007]

SENATOR SULLIVAN: Thank you. [LB1007]

SENATOR HOWARD: Thank you. First proponent. Welcome to the Education Committee. [LB1007]

BOB EVNEN: (Exhibit 13) Thank you, Madam Chair. [LB1007]

SENATOR HOWARD: Have you been practicing your high jump? [LB1007]

BOB EVNEN: I may be the contrast example. Madam Chair, members of the committee, my name is Bob Evnen, E-v-n-e-n; I'm a member of the Nebraska State Board of Education; I am appearing here before you this afternoon on behalf of the state board. I'd like to acknowledge and recognize the president of our state board, Kandy Imes, who is here, and Commissioner Roger Breed. Bob Beecham from the department is here as well, I think, on another bill. And it's a pleasure to be here before you this afternoon in support of LB1007. A couple of years ago, the Unicameral through legislation established a process under which we have now set statewide assessments; we have improved statewide standards that go with those assessments. These are the next pieces in this puzzle, which is to provide some measure of accountability to schools for the performance of the students in achieving the standards as reflected in the assessments. And this is a process, as Senator Adams described, that is across several criteria; it doesn't just depend on one item. And what's called out in the bill are graduation rates, student growth--which Senator Adams discussed--performance on the assessments, and other school performance indicators. So there are several criteria that the state board is directed to consider in measuring the performance of individual public schools. The amendment that Senator Adams described, which would permit but not require the state board to assign a single score to a school, is something that we on the state board strongly endorse; we strongly endorse that amendment. We'd like the opportunity to try to figure out what the best mix of assessments and reporting would be. Maybe we'll come to the conclusion that a single score would be appropriate and useful, but we really appreciate the opportunity to be given that discretion and flexibility as we consider how to approach the task of measuring performance of schools and reporting that performance. In addition, then, what happens if--where we have high-priority schools, what sort of accountability is there for them? And the answer, in this bill, is to establish intervention teams within the Nebraska Department of Education to partner with these schools to assist them in improving their performance. All in all, then, this is really--sort of closes the circle on the question of improving educational achievement in our state, from the standpoint of standards, assessment, and accountability, and then consequences, if you will, related to the accountability. I appreciate the opportunity to address the committee this afternoon. I'd be happy to answer any questions. [LB1007]

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SENATOR HOWARD: Thank you. Committee, do we have questions? Yes, Senator Avery. [LB1007]

SENATOR AVERY: I have one. Thank you, Madam Vice Chair. Mr. Evnen, why is it again now you don't want a single score? [LB1007]

BOB EVNEN: Single scores are deceptive. I suppose that if any one of us had the performance of our year reduced to a single score, we might object that that's not sufficiently communicative of what we experienced in the course of the year. One of the reasons why single scores pose potential difficulties is that if the performance of my school in my district is going to be reduced to a single score, then this encourages and really allows me to game the system. I may be weak in one area, but I can beef things up in another area in order to boost my score. So scores which imply weightings and then gamesmanship is something we like to avoid. The question is whether or not, then, you can have multiple measures that are not so massive that you drown people in data such that they can't get anything out of the information that you're providing to them, versus the other end of the spectrum, which is compacting it to one single number, which just isn't sufficiently communicative and permits people to game systems. So is there something in between those two poles where we can provide good, solid information to schools, to taxpayers, to citizens, students, parents, teachers, and administrators that's somewhere between those two poles of data, where we have a few data points that are very helpful and that people can see, so that when you--again, when you shine the light of day on several data points, it makes it more difficult to game the system? And that's my view of it, and... [LB1007]

SENATOR AVERY: But you would still want to have a single point of reference--if you don't want to call it a score, that's fine with me--a single point of reference so you would know where you are on a continuum. I mean, you can't have...well, let's say we're talking about student performance in math. You can't say: Well, this is somewhere between a 2 and an 8. That doesn't tell you much. You need a score. [LB1007]

BOB EVNEN: Well, what you'll have are scores across several criteria. That's, I think, the point--as opposed to a single score combining all these. Let's say you have four different sets of data that reduce themselves down to a score. So maybe you're assigning four scores across four different data sets instead of one score that combines it all. What you wind up with in terms of these schools that are priority schools is that--sort of a tier, if you will, that's a group as opposed to a single score. But what I'd like to know is--for example, if I have a school that on the achievement score is very high, that's helpful to know. Then you get the question of growth. Well, you may have a school that has achievement scores that are low, relatively speaking, compared to other schools but that is showing over time growth in achievement; that's the student growth component. That's a productive way of looking at things, too, and it's something that's a

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little more motivating, if you will. If you say to a school: Look, your score is down here, and these other guys are up here; we want you to be up here next year. Then that's demoralizing, really--when the question that you might be asking the school that's scoring down here is: How can we get you from here to here next year? And then here the year after that? [LB1007]

SENATOR AVERY: But you have to know what "here" is. [LB1007]

BOB EVNEN: You can assign scores across these criteria. The question is whether you have to combine them into one single score. So if I have four categories of data and I assign scores within those, maybe I...in other words, I wind up giving four scores to a school instead of just one. [LB1007]

SENATOR AVERY: I think that's going to be extremely difficult to do. In fact, I think any kind of scoring of this sort we're talking about is going to be difficult. But if you start--if you get away from a single score for math, a single score for English or whatever--reading--it seems to me that it's going to be useless; you can't use it. [LB1007]

BOB EVNEN: Well, in order to have a single score--you know, what's that based on? How do you generate a single score? [LB1007]

SENATOR AVERY: Measurement criteria. That's where your multiple indicators come in. [LB1007]

BOB EVNEN: So I think that what we're asking for here--what we'd like--is the opportunity to see whether we can report on the multiple indicators rather than apply weighting to those indicators and come up with a score. So it isn't...what we're really talking about here is doing one step less than we might have to do if we were going to try to come up with some sort of scoring mechanism that would imply weighting of those criteria. [LB1007]

SENATOR AVERY: But you want to be able to say: Here is where you are... [LB1007]

BOB EVNEN: Right. [LB1007]

SENATOR AVERY: ...this is your score; this is where we want you to be, and the goal is to get there; we're not going to expect you to get there next year, but we expect that eventually you're going to be up here rather than down here. And we know what this is, and we know what this is. [LB1007]

BOB EVNEN: So what...? [LB1007]

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SENATOR AVERY: If you're saying that we've got all this mushy stuff down here that counted--finds you as low performing and we've got this mushy stuff up here that defines high performance, and we want you to go from here to there...but everything's so mushy at both ends, you don't know what you're aiming for and how to get there. [LB1007]

BOB EVNEN: Well... [LB1007]

SENATOR AVERY: That's why you need scores. [LB1007]

BOB EVNEN: ...Senator, I would consider that it's my duty to eliminate the mush, as a member of the state board, and try to operationalize in clear ways both those ideas. [LB1007]

SENATOR AVERY: Good luck. [LB1007]

BOB EVNEN: Thank you, sir. [LB1007]

SENATOR HOWARD: Do we have any other questions? [LB1007]

SENATOR AVERY: No. [LB1007]

SENATOR HOWARD: Well, thank you. [LB1007]

BOB EVNEN: Thank you. [LB1007]

SENATOR HOWARD: Other proponents. [LB1007]

ROGER BREED: I'm Roger Breed, Commissioner of Education; that's R-o-g-e-r B-r-e-e-d. [LB1007]

SENATOR HOWARD: Welcome to the Education Committee. [LB1007]

ROGER BREED: Thank you. Since my name has been mentioned twice, I thought I'd better at least sit here and give you a shot. I don't really have testimony prepared other than to offer my support for LB1007 and support for the amendment as was added to the package today by Senator Adams. I think this is a step forward for Nebraska. It allows us to have something in place in addition to or different from the federal-mandated AYP process, which is all we have at this point--so we default to that position at this time even though we would have personal and professional opinions that it may not be the best way to measure or rank schools. You asked, Senator Sullivan, about the school improvement process and how would this link to that. All schools, under Rule 10, are to have a school improvement process and a continuing school

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improvement process; that will not change. If you are found to be a priority school--a high-priority school--you would be asked to create a progress plan, and that would be much more intensive and focused than a overall school improvement process and would also be monitored, then, by an intervention team from the department. Other questions? [LB1007]

SENATOR HOWARD: I just have a quick one. Is this a reflection or a return in some way to the STARS assessment that we had? [LB1007]

ROGER BREED: Well, in the STARS assessment--it also had an accountability component, in that your students were to achieve at a certain level, according to STARS, and that your assessments were to be of a certain quality; and those were measured by a peer-review process. Again, with the advent of statewide accountability or statewide assessments, STARS is being phased out and with it the accountability system that was based on STARS. So this is, in LB1007, an attempt, I think, to replace that accountability system. [LB1007]

SENATOR HOWARD: Okay. Thank you. Do we have any other questions? Senator Sullivan. [LB1007]

SENATOR SULLIVAN: Thank you, Senator Howard. Dr. Breed, I know you're aware of the budget challenges that we have, so I'm wondering that--with this fiscal note attached to it--if we weren't successful with this legislation, I'm assuming that efforts will continue to help schools improve. [LB1007]

ROGER BREED: Yes; oh, yes. [LB1007]

SENATOR SULLIVAN: In what way? [LB1007]

ROGER BREED: To the extent that we can, we will continue to concentrate on rigorous standards and supporting school districts to align their instruction to those standards, and we'll continue to try to form a competent assessment to measure student progress within those standards. [LB1007]

SENATOR SULLIVAN: Okay. Thank you. [LB1007]

SENATOR HOWARD: All right. Any other questions? All right, thank you so much. [LB1007]

ROGER BREED: Thank you. [LB1007]

SENATOR HOWARD: That was a good high jump. (Laughter) [LB1007]

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JAY SEARS: He's got longer legs. [LB1007]

SENATOR HOWARD: He's got longer legs. That's good. Welcome to the Education Committee. [LB1007]

JAY SEARS: (Exhibit 14) Thank you, Senator Howard, members of the Education Committee. I'm Jay Sears, J-a-y S-e-a-r-s; I'm one of the happy and contented employees from NSEA. [LB1007]

SENATOR HOWARD: All right. (Laughter) [LB1007]

JAY SEARS: And I tried high jumping once and decided I was a long-distance runner. Members of the committee, the Nebraska State Education Association appears before you today in support of LB1007, and we thank Senator Adams for the amendment that takes care of the second paragraph of my written testimony. But I'd just like to share with you a couple of things from that written testimony. And then if you have questions, I'd be glad to answer them. LB1007 amends the current Quality Education Accountability Act, ushering in a new era of accountability for Nebraska's public schools. The bill requires the State Board of Education to develop this new accountability system using multiple measures of student achievement, which may include graduation rates, student growth, performance on assessments as provided in Section 79-760.03, and other school performance indicators as determined by the State Board of Education. All of these measures of student achievement must then be combined into one index--but if you pass the amendment, then it wouldn't be--that will represent a school performance score and a district performance score. Schools that do not meet the determined performance score are then identified as priority schools--I think a good term, because they are priority; we need to work with schools that aren't making the grade for our students. And they are provided school-improvement help through an intervention team. And then the second paragraph of my written testimony talks about the fact that we support all these actions, but we were concerned that one index, then, represents the whole picture of a school. And I enjoyed and was listening very closely to Senator Avery's questions about the one index. And the way I looked at it, and as state board member Evnen talked about, is you look at a picture of...if you have all those multiple measures and then you boil them down into all the math multiple measures and all the reading multiple measures and all the science multiple measures and you distill that some way mathematically to one index and that's the picture of your school, that's not something we can accept, because it doesn't really give a true picture. But I think where Senator Avery was going is probably where we're at also. It's...we need to know how third-graders are doing in math, and we need to know how third-graders are doing in reading, and that may be the index that we're talking about in this particular school, because we don't want to miss any students at the third-grade level, and we need to know that. But to take, then, all the third-graders and all the fourth-graders and all the way up and down the list of where we assess students at whatever level and coming up

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with one score, it's kind of like looking at: Did you win or lose? Was the score higher than the person below you? And so NSEA would support looking at how do you put that together to give a good picture to our public, to give a good picture to schools, to give a good picture to districts so that we can supply the support that schools need to make sure that every child is achieving at their ability. And so I know the State Board of Education is working hard on that issue. There's lots of smart people in the department, and I'm sure that they will bring back what we need in the state of Nebraska to show whether or not schools are making the grade for our students and then improve instruction for all students. So I'll conclude my testimony there. Thank you very much. [LB1007]

SENATOR HOWARD: Thank you. Committee, do we have questions? No. Good job, you... [LB1007]

JAY SEARS: Okay, Senators. [LB1007]

SENATOR HOWARD: Welcome, Mr. Bonaiuto. [LB1007]

JOHN BONAIUTO: Hey, thank you, Senator Howard, members of the committee. Still John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director, Nebraska Association of School Boards. You'll get tired of me; I have something to say, I think, on every bill today. We do, as an organization, have a position that supports multiple measures when we're looking at accountability. And it was a stretch for our organization when we supported moving away from STARS and looking at where the state might be headed--it might be heading to develop a new accountability system--because we weren't sure what it might look like. Well, I think LB1007 is a move in the right direction. The testimony of state board member Evnen was, I think, right on target where we hope to see this going. And we have confidence in the state board as they move forward with this accountability system, and we'll look forward to working with them. I think this fits very nicely with the P-16 initiative that the Governor is chairing. And if you look at the Race to the Top grant, another area that talks a lot about school improvement and accountability...now, different than the Race to the Top, which, we did not like any of the measures that were working with schools that were not succeeding--I hate to use the term failing schools. The...I think having schools designated as priority schools that need help is not a bad thing. If we have a system where everyone is somehow succeeding, the system probably isn't telling the whole picture or the whole story. And I think that was one of the criticisms of the STARS program, is that if everyone is looking like they're doing adequate, then is it telling us the information we need? So the priority schools designation is...it could be a positive thing, and we'll work with the department and the state board on how that might move forward. It does indicate that after five years there would be some things that would need to be done if a school could not turn itself around. And those things are yet to be discussed and determined. And that's one of the things in the Race to the Top grant that we disliked immensely, is that every one

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of the areas that we're looking at working with schools that were not succeeding were very punitive--everything from getting rid of half the staff and the administration to other punitive measures. So we would hope that we would take a different route in working with schools that needed help. The last thing I would say is the fiscal note is very important. When we move down this path, moving away from our previous accountability system, we knew it was not going to be cheap; there was going to be a cost. And so I think that there will need to be resources allocated to support the department and the direction that the state board takes in meeting the intent of this. With that, I will conclude my testimony. [LB1007]

SENATOR HOWARD: Thank you. Yes, Senator Avery. [LB1007]

SENATOR AVERY: Thank you. [LB1007]

SENATOR HOWARD: Question. [LB1007]

SENATOR AVERY: Thank you, Senator Howard. Echoes of 2008 (laughter). Remember that? [LB1007]

JOHN BONAIUTO: Yes, I do. [LB1007]

SENATOR AVERY: Sounds very similar to what we heard in 2008. You know, we heard concern about comparing schools, we heard concerns about single indexes, we heard concerns about whether we were testing what we say we're testing or couldn't we do this better. And as I recall, it was very painful, dragging you guys--and I'm not just saying your organization, but the large majority of organizations representing education--we had to drag you kicking and screaming into supporting LB988. [LB1007]

JOHN BONAIUTO: Yes, that is true. [LB1007]

SENATOR AVERY: Now... [LB1007]

JOHN BONAIUTO: And change is difficult; it is. I...that...it's... [LB1007]

SENATOR AVERY: Yeah: We've always done it this way; we've never done it that way. [LB1007]

JOHN BONAIUTO: Well, it...change is always hard, and...but I think this is a way to work with the change. This is a...LB1007 is now the next step. And I think that it moves us in the direction of having the type of accountability that will--for Nebraska--that will work with our schools. And it will take a lot of work on the part of the state board, the department, and schools to continue to move in the right direction. The single score...and I think it was being described here. When we look at AYP, one of the things

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that really is disappointing is there are schools that are considered to be failing or not making the annual yearly progress. But if you look at where the students started and how much growth has occurred, it really is demoralizing to say: Well, you're not cutting it. Because there has been growth and there has been positive movement but not based on what the feds would indicate. So I think having a Nebraska measure makes a lot of sense, that we can work with that and have it work for us. [LB1007]

SENATOR AVERY: I like the idea of designating priority schools and providing intervention teams. [LB1007]

JOHN BONAIUTO: Um-hum. [LB1007]

SENATOR AVERY: But I'm afraid that we might be creating something here that allows some backsliding from the testing requirement we came up with in 2008. [LB1007]

JOHN BONAIUTO: See, and I see this as, really, a way to deal with that, Senator, that it still is straightforward in saying, you know, to a district: You're not where you need to be--and not make it so punitive that it, you know, that the district can't see that they're... [LB1007]

SENATOR AVERY: That's the part I like. [LB1007]

JOHN BONAIUTO: The punitive part? No. [LB1007]

SENATOR AVERY: That's the part I like. [LB1007]

JOHN BONAIUTO: But...it...that...I think that it helps the district get to where they need to be in a way that it's not totally demoralizing and punishing, and which is, I think, very positive. It gives them a help--the department will be helping; there'll be things that will be set where that district can work its way to a point where they're not a priority school. And so, again, I think this is what we had envisioned, and Senator Adams and his staff have drafted it into a very nice package. [LB1007]

SENATOR AVERY: Well, pardon me for saying this, but when everybody lines up from the education community in support of a testing bill, I get nervous. [LB1007]

JOHN BONAIUTO: (Laugh) We can appreciate that. [LB1007]

SENATOR AVERY: I am going to look very carefully at this, word by word. Thank you. [LB1007]

JOHN BONAIUTO: You bet. [LB1007]

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SENATOR HOWARD: Senator Haar, you had a question. [LB1007]

SENATOR HAAR: Yes. Is there any relationship--or how will this dance with No Child Left Behind? [LB1007]

JOHN BONAIUTO: Well...and I think that there would still be two separate tracks, as far as...No Child Left Behind is headed a different direction, and parts of it may be rewritten as we look at where Race to the Top is headed and where a reauthorization may occur. But the federal government has only so much to work with, and they're trying to make sense out of the standards that states are looking at. And we're going to be using those common core standards. So I, you know, I think we're getting closer, and maybe the feds are going to try to get a little closer to reality with where states are and...but it still is a different measure as far as AYP. And that's one of the biggest--the annual yearly progress piece is one of the biggest flaws in the No Child Left Behind. [LB1007]

SENATOR HAAR: Um-hum. [LB1007]

SENATOR HOWARD: Any other questions? All right. Well, I appreciate your testimony. I think sometimes it's important to call it the way it tests out to be. And I can think of schools in my district--Jackson School being one that has a very high-needs population, special needs, special immigration issues. And it's just--it is as it is. And I think a school like that could certainly benefit from this concept. So thank you. [LB1007]

JOHN BONAIUTO: Thank you, Senator. [LB1007]

SENATOR HOWARD: Other proponents. Opponents. Do we have anyone that would like to testify neutral? Back to you. [LB1007]

SENATOR ADAMS: Let me begin, Senator Howard, by going to Senator Avery. I remember the battles. And I assure you, we don't want to step backwards. And I would not feel comfortable either if we were backtracking. And I think, Senator, that what this does, in my opinion, is actually move us yet another step. I think that what we had, in part, in STARS was...well, you understand why we needed to move to where we did. And I look at this as yet another step in us saying: Hey, look, we cannot bury our head in the sand anymore. We now have an assessment system that's summative in nature, and, yes, there will be comparisons made. It's based on common core standards, and that was a huge move. This, to me, is yet another move that says we know we're going to have schools that aren't going to cut it, and what are we going to do about it? Now how do we decide if it's a school that's not measuring up? Do we want to just use that math score; do we want to just use that reading score? Those are going to have to be part of the mix. All we're saying in this is let's add some other reasonable measurements as well. And once we have determined that we have schools that are not meeting up to our standard, there's going to be an intervention process to do something

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about it. I see this as an extension of what we accomplished in moving from STARS to summative assessment. [LB1007]

SENATOR HOWARD: Senator Avery. Or--I'm sorry--Senator Haar. [LB1007]

SENATOR HAAR: We look a lot similar. [LB1007]

SENATOR HOWARD: You do. Interchangeable. [LB1007]

SENATOR HAAR: There's been a lot of talk lately about children's health in schools, especially obesity and so on. Do you see that there might be some kind of accountability system developing for--I know the Nebraska Medical Association is doing some talk about this--of some kind of physical accountability around schools and how that might work? [LB1007]

SENATOR ADAMS: I don't see that, not as part of this. I really don't. And maybe I'm missing something, but I think we have our work cut out for us right here. [LB1007]

SENATOR HAAR: Okay. [LB1007]

SENATOR HOWARD: Senator Sullivan. [LB1007]

SENATOR SULLIVAN: Thank you, Senator Howard. Senator Adams, I would assume, then, that if this takes place, that there will be additional monies needed to work with the priority schools down the road. [LB1007]

SENATOR ADAMS: You know, this is a conversation that we've had in our P-16 group and our Race to the Top--that as we do these things, as we step up the rigor, as we measure that rigor and we identify schools that have problems and we're going to do something about it, it's going to require resources. [LB1007]

SENATOR SULLIVAN: And then would it also, the next step or in lockstep, mean a revisiting of the state aid formula? [LB1007]

SENATOR ADAMS: Gosh. [LB1007]

SENATOR HOWARD: (Laugh) There's that can of worms. [LB1007]

SENATOR ADAMS: Let me answer the question in this way: I can't think of a year when we don't revisit the state aid formula. [LB1007]

SENATOR SULLIVAN: (Laugh) Thank you. [LB1007]

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SENATOR HOWARD: All right. Any other questions? Thank you. [LB1007]

SENATOR ADAMS: Um-hum. [LB1007]

SENATOR HOWARD: And you're going to open on LB957. [LB1007]

SENATOR ADAMS: Yes, LB957. LB957 is really simple. But let me give you, first of all, the background on it. We have in Nebraska a student data system for our K-12 public schools. Does it have all the data in it it ought to? Probably not. In fact, I think we've had discussions in exec session related to data and the lack of it. We know that. And we know that we need to improve our data system. The department knows that we need to improve our data system. What this bill does is to take our data system yet another step. You know, if we looked at it this way, our data system about our students in Nebraska--in my opinion, two things need to happen. It needs--within the K-12 world, it needs to widen; we need to have more columns, if you will, of information about our students and about our schools. We also need to lengthen our data system. And by that I mean it needs to include postsecondary. It needs to include postsecondary. If you think about--if we ask ourselves: What's the next educational generational goal that we have? You know, there was the day when we said getting an eighth-grade education; then there was the day, high school education. If we try to articulate where we're going today, I would guess that in each one of your minds, you would in some form or fashion say: Education beyond high school--doesn't have to be four-year college--but education beyond high school. If we're going to articulate that as a goal and if we're going to devote resources and time and energy to making sure that our K-12 students are ready, ready for education beyond K-12, then I think that we are kidding ourselves in saying that our K-12--or that our data system should stop at grade 12. We need to find out more when they take the next step: Where are they going? Do they need remediated classes? What kind of classes are they having to be remediated in? And once they get into that first year of college, how are they doing? What this bill simply asks is that the state Department of Education along with the university system, the state college system, and the community college system enter into a memorandum of understanding to develop a sharing of data. And it has to be done in a sensitive way, because of student privacy, and needs to be done in a reasonable way--we need to have data that we can use, not just data for the sake of data. But it asks higher ed to sit down with K-12, specifically the Department of Ed, have a memorandum of understanding that we're going to get together on this and we're going to decide what information we're going to share and start collecting that information. It extends our data system. I'd entertain questions. [LB957]

SENATOR HOWARD: Thank you. Do we have questions? Senator Sullivan. [LB957]

SENATOR SULLIVAN: Well, this concept begs the question of where does this fit in with P-16, and are you actually getting ahead of the game here, because I assume this

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whole idea is among your conversation in the P-16 initiative? [LB957]

SENATOR ADAMS: It really is, and you've brought up a good point. It has been part of our conversation in P-16, and, in fact, it's one of our goals to expand our data system. By most measures done nationally--and they look at Nebraska's data system--we don't score real high, because of the amount of data that we have and what we're asking for. And in our P-16 goal setting, we've said, you know, we want to get more students into education beyond high school, and we want them to do well. And think about it, it's a P-16; that means that postsecondary, to some degree, needs to be part of that data system. They also need to be held responsible for the success of our students in this state, not just K-12. I hope that answers your question. [LB957]

SENATOR HOWARD: Any other questions? I don't think so. Thank you. Proponents. Welcome to the Education Committee. [LB957]

BOB BEECHAM: (Exhibits 16 and 17) Thank you, Senator Howard. My name is Bob Beecham--Bob, B-o-b; Beecham, B-e-e-c-h-a-m. I am an administrator with the Nebraska Department of Education. Just briefly, the state board has written you a letter in support of this bill; I'm here to just talk about that a little bit. As Senator Adams mentioned, the Department of Education is required to develop a P-20--P-16/P-20--data system with the assurances we wrote for the state fiscal stabilization fund. It's also a P-16 goal, as the senator mentioned. We have already begun the process, actually, of developing a memorandum of understanding between the postsecondary institutions and the Department of Education. As a matter of fact, our first meeting is going to be on the 22nd of February, and Commissioner Breed has asked Brenda Decker, who's the Chief Information Officer for the state of Nebraska, to head up that process. We've also applied, hopefully, to get some funding for this process for extending our data system--for a state longitudinal data system grant. We won one of those grants in 2007, and we're hoping that we'll get enough money to support this activity over the next four years. Specifically on LB957, we've listed a couple of things that...asked the committee to consider removing some of the language about sharing data with researchers. And really we feel that it's--the focus needs to be to develop our P-16, our P-20 data system. And then I think we can even fold that requirement for how we share data with researchers into that memorandum of understanding. I'd be happy to answer any questions. [LB957]

SENATOR HOWARD: All right. Committee, do we have questions? I think you did a good job. [LB957]

BOB BEECHAM: Thank you very much. [LB957]

SENATOR HOWARD: Thank you. Mr. Bonaiuto. [LB957]

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JOHN BONAIUTO: I know. You just... [LB957]

SENATOR HOWARD: What a pleasure to see you again. [LB957]

JOHN BONAIUTO: You just get so tired of seeing me up here. [LB957]

SENATOR HOWARD: You always do a good job. [LB957]

JOHN BONAIUTO: Thank you. John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director of Nebraska School Boards Association. It wasn't that many years ago that the state prided itself, I think, in being decentralized, in having no real depository of data at the department level. And organizations like ours used to collect--we used to do surveys and collect information. And when individuals would call the department, folks would direct them to us on certain issues. And so a group of us--it wasn't that many years ago--got together with Bob Beecham, who was just up here, and started to look at how do we consolidate asking for the same information over and over again. And I remember going up to the department, and there was a wall that was just covered with surveys that would go out to schools where they would be asked for just mountains of information at different times. And so by getting a handle on what we were asking schools to report on and how they would report and making the data that was collected more uniform and more reliable has been a huge step. We have a long way to go, based on where we started, but we've come a long way. This is that growth model, if you will--that we're growing and we're moving in the right direction. I sit on the P-16 leadership council, and so this is very important. And we supported the NDE application in 2007 for continuing to move with their data system, and we have supported their grant this time around. I think that sharing and working together--that's one of the real, I think, pluses of our P-16 initiative here. When I look around the table and see Senator Adams, the Governor, J.B. Milliken, the private colleges and universities, the community colleges, state colleges--we have all the right players that are having the right types of discussions, and so I think that it really speaks well of where we're headed, where we need to head if we're going to make the kind of progress that we hope to make in closing--or eliminating the achievement gap. We're having discussions about: Should we close the achievement gap or should we eliminate it? We're to eliminating the achievement gap, setting graduation--the bar for graduates and the going rate for higher education. All the things that are exciting about the whole initiative of P-16 is happening. This will be, again, a move in the right direction, a step toward helping us complete and achieve our goals. With that, I'll conclude my testimony. [LB957]

SENATOR HOWARD: Thank you. Well, now it could be done so much easier on-line and no more walls of information. (Laugh) Do we have any questions for this testifier? I don't think so. Thank you. [LB957]

JOHN BONAIUTO: Thank you. [LB957]

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SENATOR HOWARD: Next proponent. [LB957]

STAN CARPENTER: Senator Howard, members of the Education Committee, my name is Stan Carpenter, S-t-a-n C-a-r-p-e-n-t-e-r. I'm the chancellor of the Nebraska State College System, and we're here today to speak in support of LB957. Obviously, the Nebraska State College System is a strong supporter of the P-16 initiative, and I'm pleased to be able to sit on the steering committee and the larger committee for that organization. And this bill is one step further, if you will, in furthering the objectives of P-16, as Senator Howard asked before and Senator Adams spoke to. And we look forward to working with Commissioner Breed and the Department of Education in establishing a memorandum of understanding to share this kind of data back and forth, which we think will not only benefit the state but will benefit us as well, as we learn more about the students who come to us and those who are successful and those who are less successful. Obviously, the bill as it's written now talks about sharing data between P-12 and those of us in higher education. It also talks about sharing data with qualified researchers. And I appreciated Mr. Beecham's testimony about considering taking that portion out of the bill at this point. There are some concerns that we have about that--until we know what the policy says and what the regulations would say. But I think it's important to note that we support this bill. We think it's time to move it forward; we think it would be a good thing to have. Our fiscal note indicates that there would be little fiscal impact on us at this point. We don't know what would happen if, in fact, we have to share this data with researchers--depending upon the number of requests that might come in and how much staff time we would have to use to deal with those requests. And so with that, I'd be happy to answer any questions. [LB957]

SENATOR HOWARD: Thank you. Do we have any questions for this testifier? [LB957]

STAN CARPENTER: Thank you, Senator. [LB957]

SENATOR HOWARD: Thank you, sir. Mr. Ron Withem. [LB957]

RON WITHEM: Yes. [LB957]

SENATOR HOWARD: A new guest. [LB957]

RON WITHEM: Senator Howard, members of the Education Committee, I am, in fact, Ron Withem, R-o-n W-i-t-h-e-m, representing the University of Nebraska in support of LB957. When Mr. Bonaiuto was up here talking a little bit about the history of this, I decided I'd go ahead and share a little personal anecdote related to this. It was in the 1989 legislative session that I sponsored LB744, which was to create an education data center at the State Department of Education. And I was looking up the legislative history of that today, reminding myself what happened. It actually passed on Final Reading, on

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a 25-22 vote, after a little bit of arm twisting--you know how that goes when you try to get the last vote. And then it was vetoed by the Governor at the--in a pocket veto after we all went home. So this idea of data sharing regarding student achievement is relatively new, I think, and is something that Nebraska was a little slow coming to. As the university and partners in the P-16 initiative, the university sees the availability of student data to be an important component of school improvement. Without a broad-based reservoir of information on how our students are achieving and in what areas they need improvement, it's impossible to know what policies need changing. So we're very supportive of LB957. We're pleased to see the reference to FERPA in the bill; we are concerned about maintaining the integrity and the privacy of individual students to the extent that we can. The final point I think I'll make is that negotiating a memorandum of understanding should not be the end of the collaborative efforts; there should be an ongoing dialogue concerning the gathering of the data and the sharing of the data, other data concerns relative to this information. I'm sure that that will continue, given the ongoing nature of the P-16 initiative. We are supportive of LB957, and we look forward to working with Senator Adams, the Governor, other members of the P-16 initiative. [LB957]

SENATOR HOWARD: Thank you. Of course, I have to ask, you apparently didn't see that veto coming. [LB957]

RON WITHEM: Probably I did. [LB957]

SENATOR HOWARD: Oh! [LB957]

RON WITHEM: Yeah, I think--it was probably not a huge surprise to me when it occurred. [LB957]

SENATOR HOWARD: What was the justification for the veto? [LB957]

RON WITHEM: I don't even remember. I think it was--we were doing a number of things for education improvement at that time, and there was a little bit of an ongoing dispute between the Governor's office and the Education Committee. [LB957]

SENATOR HOWARD: Hmm. It happens. [LB957]

RON WITHEM: I've heard rumors that that wasn't the last time that it did happen. [LB957]

SENATOR HOWARD: (Laugh) Committee, do we have any questions? Looks like not. [LB957]

RON WITHEM: Thank you very much. [LB957]

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SENATOR HOWARD: Thank you. Other proponents. Welcome. [LB957]

MARSHALL HILL: (Exhibit 18) Thank you, Senator Howard. Good afternoon, members of the committee. My name is Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l, executive director of the Coordinating Commission for Postsecondary Education. I'm here to testify as a proponent for LB957. You've heard the P-16 initiative mentioned several times today. I had the both privilege and challenge to chair the P-16 data committee for about a year of its focused activities. What is proposed here is consistent with our discussions within that group. And in my judgment, it's necessary in order to move us forward. One of the things I do outside the state is work with my colleagues, my counterparts, in other states through an organization called the State Higher Education Executive Officers. That group has the contract from the federal government to oversee higher education data in the United States. And so from that perspective, I can say we in Nebraska are considerably behind the capabilities of many other states, especially in our postsecondary education data. We really don't have a system. All of the nice information you see coming from us in reporting to you, as you've directed us to do, comes from the federal government and really only captures the progress of a small percentage--increasingly smaller percentage--of postsecondary education students: first-time, full-time students who eventually graduate from the institution that they first attended. This system, when developed, would allow us to answer a lot of questions that are important. We have about a third of our enrollment in Nebraska higher education that are part-time students. We at this point don't know really anything at all about how well they progress on to degrees, what their graduation rates are, and so forth. We ought to be able to answer a lot of other questions. Senator Adams mentioned a number of them: How many of our students need remediation? How successful are they at that? And so forth. So we at the Coordinating Commission are quite strongly supportive of this effort. We do have one request. Much of the data that we provide to the P-16 initiative actually comes from the Department of Education, whether that's about postsecondary education or about K-12 education--high school graduation rates and so forth. I just this afternoon came from a meeting with the Governor on focused efforts to increase our college-going rate, for example. To make some sense about that, we use information from the Nebraska Department of Education and analyze that. So if the language that refers to qualified researchers is retained in the bill, we request that we specifically--we meaning the Coordinating Commission--specifically be named as a qualified researcher. If that language is not retained in the bill, we ask that you strongly consider including the Coordinating Commission as a reasonable consumer of data so that we can continue to provide you the information you require. I'd be pleased to respond to any questions you may have. [LB957]

SENATOR HOWARD: Thank you. Committee, do we have any questions? I don't see any. [LB957]

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MARSHALL HILL: Okay. [LB957]

SENATOR HOWARD: Thank you. Any other proponents? Come on down. [LB957]

JAY SEARS: (Exhibit 19) Good afternoon, Senator Howard, members of the Education Committee. I'm Jay Sears, J-a-y S-e-a-r-s, and I represent the Nebraska State Education Association. The written testimony that is being passed out to you is very brief. NSEA appears before you today in support of LB957. I'd be glad to answer any questions. [LB957]

SENATOR HOWARD: That was brief. Do we have any questions for this testifier? Good job. [LB957]

JAY SEARS: Thank you. [LB957]

SENATOR HOWARD: Thank you. Any other proponents? Okay. Any opponents? Any neutral? [LB957]

TIP O'NEILL: Members of the Education Committee, Senator Howard, I'm Tip O'Neill; that's O-'N-e-i-l-I. I am the president of the Association of Independent Colleges and Universities of Nebraska. We have had many discussions over the years in terms of whether or not we would like to participate in the student unit record data system. Obviously, we award 41 percent of the bachelor's degrees in Nebraska, so if you are going to extend this sort of thing to all of postsecondary education, we would have to be included. I appreciate the fact that the bill calls for participation by the public institutions; it doesn't say anything about independent institutions or for-profit institutions. I would say that we probably in the future...I do have some institutions that would like to voluntarily participate in SURDS, because I think we can--we have a lot of K-12 students in Nebraska who ultimately attend independent colleges and universities in Nebraska. A couple issues. First, I think that probably any institution I represent that will want to participate in this program would ask that they receive the same sort of protection from liability, in terms of their participation, that public institutions would also have. Sometimes government entities have more protections than entities which are private or nonprofit, and I think that certainly we could clarify the law at some point in the future to provide that same protection. Second, anytime you would do something like this, it would take some resources--institutional resources--that we don't necessarily have. It would be nice if we are able to get money through the grant process--from the federal government or whatever--to do this sort of a system at some point. It would be nice in the future to ask for some assistance be provided to institutions through state assistance to allow us to be able to create a system that will allow us to participate. I actually look forward to being a qualified researcher to be able to look at this data. But I'm not sure that some of my colleagues would prefer that I would be named as such. So I'd be happy to answer any questions you might have. [LB957]

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SENATOR HOWARD: Thank you. Do we have any questions for this testifier? No? All right. Good. [LB957]

TIP O'NEILL: Thank you, Senators. [LB957]

SENATOR HOWARD: Thank you. Any other neutral testifiers? All right. Chairman Adams waives closing; it's a good thing. We're done. (See also Exhibit 15) [LB957]