

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

Education Committee  
March 15, 2011

---

[LB58 LB635]

The Committee on Education met at 1:30 p.m. on Tuesday, March 15, 2011, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB58 and LB635. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Bill Avery; Abbie Cornett; Brenda Council; Ken Haar; Ken Schilz; and Kate Sullivan. Senators absent: None.

SENATOR ADAMS: Good afternoon, everyone, and though we are short a couple of committee members, for purposes of time and recognition of the fact that you're all here on time, we're going to begin this hearing of the Education Committee. We only have two bills on the agenda today, LB58 and LB635 that we will hear and then this committee is going to be in Exec Session the rest of the afternoon. So with that let me introduce the members of the committee. First of all to my far right is Becki Collins, the committee clerk. And what I would ask you to do today, if you wish to testify on a bill that you, back by the door, fill out the registration form and you bring that registration form completed up here to the testifier's table before you testify and hand it to Becki. At which time when you get ready to testify if you would state your name and spell it for the record. We will use the lights today and we will go on the three minute rule in order to keep things moving along. Next to Becki is Senator Schilz from Ogallala; Brenda Council; I was just in a meeting with her, so she will be here in just a moment; Senator Cornett from Bellevue will be here. Next to me is Kris Valentin, the research analyst for the committee. I'm Greg Adams representing the 24th District, York and Seward Counties. Next to me will be the Vice Chair of the committee, Gwen Howard. Next to her, from Cedar Rapids, Kate Sullivan; Senator Avery from here in Lincoln; and finally, Senator Haar. And eventually we will have Tammy Barry, the legal counsel for the committee joining us. The rules of the hearing are pretty simple. It is that, it's a hearing and I want to be able to hear, as do the committee members, as do all of you want to be able to hear what the testifiers have to say. So I would ask you, unless you are credentialed press that if you have your computers on that you shut them off; if you have your phones on that you shut them off; and that includes text messaging, take it outside if you want to do that. This is a hearing. So with that, Senator Sullivan, I'll turn the reins of the committee over to you and we'll begin.

SENATOR SULLIVAN: Okay, thank you. Welcome, Senator Adams, we're ready for your introduction to LB58. [LB58]

SENATOR ADAMS: Thank you, Senator Sullivan. My name is Greg Adams, A-d-a-m-s, representing the 24th Legislative District. The bills that I'm introducing today, the first one is LB58. And LB58 comes to the committee actually from the Coordinating Commission. And I note that there are members of the Coordinating Commission present and hopefully and assuredly they will testify on this and answer any more definitive questions that you may have about it. But as a matter of introduction let me

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

Education Committee  
March 15, 2011

---

say this; the purpose of the bill is to do a study of dual enrollment courses. We have, and I think properly so, more and more students at the high school level that are taking college courses at the same time that they're taking their high school courses. And there are more and more opportunities for them to do that, and that's all a good thing. Career academies, getting to be more and more of them; advance placement courses, we are encouraging our kids to go to college and we're finding that there's great success in doing that if we have kids take dual-credit courses. They're successful; they build confidence levels, and then they move onto the next level and research indicates that they're high probability of being successful in that first year of higher ed. I think that what you'll find out that one of the issues is wherever you find a growing demand for these kinds of courses, then the next question becomes, what about the credibility of the courses being offered and the transfer ability and is there need for some kind of regulation or oversight so that whether it's an institution accepting credit or a high school saying that we're going to allow dual credit, or here the course is being offered, how valid is it? That we have some level of assuredly that what's being offered is worthy of being offered. The Coordinating Commission is asking us to give them the authority to do the study. Now quite honestly, as you know as well as I, they could choose to do the study without our authority. However, if it is mandated by statute, obviously it gives them a little extra authority when they go to various institutions to conduct their study. But that is the essence of what we're about today. And obviously in my introduction if I have missed something, I'm sure that Marshall Hill or his staff people can better enlighten us. But that would conclude my introduction. [LB58]

SENATOR SULLIVAN: Thank you, Senator Adams. Any questions for Senator Adams? Senator, can I ask just a quick? [LB58]

SENATOR ADAMS: Yes. [LB58]

SENATOR SULLIVAN: What are your expectations as far as an outcome for this? [LB58]

SENATOR ADAMS: My expectations, and I hope they coincide with the Coordinating Commission, is to encourage more dual credit courses, but with some quality assurance and some credibility that what's being offered is worthy of being offered. [LB58]

SENATOR SULLIVAN: Okay. All right. Thank you. We will now hear proponent testimony on LB58. [LB58]

MARSHALL HILL: (Exhibit 1) Good afternoon, Senators. My name is Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l, I'm the executive director for the Coordinating Commission for Postsecondary Education. Senator Adams in his introductory remarks has it exactly right. We propose to do a study. We have for you in the materials I'm handing out a proposed amendment which does two things to the text that you now see. One, it adds

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

Education Committee  
March 15, 2011

---

the word "private" so in addition to working with the Nebraska Department of Education and public postsecondary institutions, we would work with private postsecondary institutions, as well, and school districts. And it has some cryptic language which is really statutory language intended to mean advance placement courses. The Legislature by tradition doesn't put a corporate name or a proper name into statutes and so that is what that language is intended to do. Just a quick reminder of the benefits of dual enrollment. Students who take dual enrollment courses have higher high school graduation rates. They have higher college-going rates. And they have higher freshman to sophomore retention rates. Even when we correct for things like poverty level and so forth. In Nebraska's Access College Early Scholarship Program, which is a program to help pay the tuition for low-income high school students who take dual enrollment courses, those students are going on to college at an 80 percent rate which is even higher than the total college-going rate for Nebraska. So we fully intend to work with all of the identified parties. Our goal for the study would be to do several things. First, capture and report to you on what is the status of dual-enrollment programs in Nebraska at present; look at dual-enrollment programs statewide regulations or rules about them in other states; and identify best practices. Ultimately, we may, if it appears appropriate, recommend to you possible legislative steps you might take in the future. [LB58]

SENATOR SULLIVAN: Thank you, Mr. Hill. Are there questions for Doctor Hill? Doctor Hill, how do you...can you give me some idea on how this...you said you will bring all the interested parties together, but some thoughts about how this study will actually be conducted. [LB58]

MARSHALL HILL: We will convene an advisory committee which will be composed of people who know a good deal about dual-enrollment programs, career academies, and so forth. It will contain representatives of both the K-12 world and the postsecondary world. Frankly, we will bring in people who are supporters of dual enrollment, but I'll also bring in people who are skeptics. I think that will result in a better product for us. I would envision that the committee would meet two or three times over the course of this study here in Lincoln. We're not asking for any funds to do this, so the people who participate will have to pay their own transportation costs and so forth. [LB58]

SENATOR SULLIVAN: Is there a time line, as far as, when you'll have the report back to us? [LB58]

MARSHALL HILL: The bill calls for us to have it to you by December. [LB58]

SENATOR SULLIVAN: Okay. What sort of oversight in monitoring right now is done on dual-enrollment activity? [LB58]

MARSHALL HILL: Right now there are some guidelines in the Coordinating Commission's rules and regulations, but they are guidelines. They are guidelines about

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

Education Committee  
March 15, 2011

---

expected faculty credentials and so forth. And the prominence given to high schools and colleges jointly determining that a student is capable and ready to benefit from dual enrollment. But there are, to my knowledge, there are four states that don't have some sort of unified statewide policies on dual enrollment; those are Alaska, Delaware, Missouri, and Nebraska. It is a growing thing. It is a good thing if there are good aspects of dual enrollment that are happening in one place that are more effective than what is going on in another. We want to be able to identify that and hopefully spread good practice. [LB58]

SENATOR SULLIVAN: Thank you. [LB58]

MARSHALL HILL: You're welcome. [LB58]

SENATOR SULLIVAN: Any other questions? Senator Haar. [LB58]

SENATOR HAAR: I'm trying to remember my...okay, in the case of dual enrollment generally, who pays the college enrollment part? [LB58]

MARSHALL HILL: It varies and we will be able to give you a better answer to that after we complete the study. Right now students...the parents can pay the tuition for the student. Many colleges and universities have lowered the rates that they charge, tuition rates, for dual-enrollment courses in order to encourage more students to take them. Some school districts support dual-enrollment courses for at least some of their students. But it's a wide variety of approaches. In some states the state pays for virtually all dual-enrollment courses that students takes. That's the case, I believe, in our neighbor to the east. [LB58]

SENATOR HAAR: Good. Thank you. [LB58]

SENATOR SULLIVAN: Any other questions? Thank you. [LB58]

MARSHALL HILL: Thank you. [LB58]

JON HABBEN: Good afternoon, Senator Sullivan and members of the committee. [LB58]

SENATOR SULLIVAN: Good afternoon. [LB58]

JON HABBEN: Jon, J-o-n, Habben, H-a-b-b-e-n, Nebraska Rural Community Schools. This issue having just recently left a school where we struggled a bit. How do we count the credits? Is there rigor in the course? Is it appropriate to the level? How do we fund it? Do we ask for parents to pay the whole bill? Do we rebate some money back upon successful completion? Do we encourage it in all areas or just certain areas? I can tell

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

Education Committee  
March 15, 2011

---

you schools go through that whole list of questions. And this is an important study. NRCSA schools, by their nature, rural geographically distant in many cases, need to avail themselves of technology to be able to, whether it be dealing with a shortage of teachers; whether it be dealing with trying to help their students in a rural setting; get a leg up on heading into that college experience whether it's a four-year school or a two-year school; all of those same issues, even more so in rural areas. This is an important bill and encouraging this study is, in my opinion, this is a big deal because it's going to provide information to hopefully allow the Legislature and the Department of Education and schools in general to have a better view of what this issue is about. Keep in mind, career academies and dual enrollment courses, two different things; career academies in rural areas are difficult because of distance. Keep that in mind. So answering that question is...does have to be based in technology in rural areas. I'll stop at that point. [LB58]

SENATOR SULLIVAN: Thank you. Are there questions for Mr. Habben? Explain to me, if you will please, the career academy and the difficulties of handling them out in rural Nebraska. [LB58]

JON HABBEN: There are several different kinds of career academies. You have the...probably one of the best examples of career academies that incorporates a lot of variety of courses and fields over at ESU 6. You have a different type of career academy which is a more narrowed focus, allows a school to step by step rather than buy into a whole thing in northeast Nebraska and in operation in ESU 4. The career academy intent is how do we help kids make the transition from high school into that job circumstance? It's not necessarily designed to help the student go to a four-year college. It can. It would if you took those courses, I'm sure; but the real intent is to help students get to that next step which is either a job training circumstance, a vocational circumstance, or right into the job market. The career academy, the dilemma in rural areas is distance. You cannot go to the nearest community college and avail yourself of those connective pieces in a career academy because you're just too far away. You can set up pods and in those pods you can say this hospital, for example, will be the location of the career academy that is anything from medical terminology to CNA to a variety of other pieces of the medical framework. The problem is, in the rural setting, even when you create a pod, you still got distance to deal with. And when you make that trip, you may be using up a half a day to deal with one course. And so you do need to look at technology as helping you overcome that issue. I would suggest, however, that even in more of our urban areas in the state you're still dealing with time, because in order to go to point A you've got to have the time to get there and get back and that takes time away from other curriculum. So it's...I think it's an issue for everybody. But I think it's more of an issue in our more geographically sparse areas. [LB58]

SENATOR SULLIVAN: Thank you. Any other questions? Thank you. [LB58]

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

Education Committee  
March 15, 2011

---

JON HABBEN: You're welcome. [LB58]

SENATOR SULLIVAN: Good afternoon. [LB58]

RICHARD KATT: (Exhibits 2 and 3) Good afternoon, Senator. My name is Richard Katt, last name is K-a-t-t. I'm the state director for Career Education with the Nebraska Department of Education here to testify on behalf of LB58 in support from the Department of Education. I've also brought with me a letter of support signed by Jim Scheer, president of the Nebraska State Board of Education. In order to not reiterate what's already been said, I'll share a few thoughts. We certainly support this study for all of the reasons that have already been mentioned, both from the dual credit and the career academy perspective. One of the things that's unique about Nebraska Career Academy, several years...about four years ago we used some of the federal leadership dollars that we have available through the Carl Perkins Act to help fund the initial startup of the career academy movement. It's very young in Nebraska and it's unique because of trying to serve the rural population. We have some outstanding career academies that are found in the Lincoln and Omaha metropolitan areas. We have things developing in Grand Island. We have some great examples, but when it comes to rural, you've heard some of the issues that are involved. What makes this unique is we've really tried to look at how we utilize on-line courses, Web-based courses, and how we emphasize dual credit through that process so that all students, no matter their geography, have the opportunity to experience dual credit both from a college and a career preparatory perspective. So we're certainly supportive. I'd like to shift my hat for a moment too and talk to you as a parent or a consumer. I have a son who is a senior in high school; he has over 20 hours of dual credit. As my wife and I have traveled with him and visited college campuses, talked to college admissions officers and recruiters, it has been probably best described somewhat as painful to try to interpret everybody's different policies regarding dual-credit acceptance, transfer ability of credit, even terminology is different from campus to campus. We're in the education profession and we found this to be awkward. I have great empathy for parents or students who do not have that background because we do not have a state standard of terminology or policies around that, as many of the other states do, as Doctor Hill testified four states that have no state policies. So from our perspective, it was actually easier to talk to a few out-of-state institutions who had some standard policies. My son has decided to stay in state, but I'm sure his final decision will be based on how those dual-credit courses transfer and how they're accepted and utilized at the institutions in Nebraska. So we certainly, from the department's perspective, are supportive of the study and a willing participant to do what we need to do to get a great snapshot of what's going on, and then be able to put forth some policy recommendations as we move to the future. I think the dual credit and career academy movement is an essential component of making certain that all Nebraska students have the opportunity to be college and career ready. Thank you. [LB58]

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

Education Committee  
March 15, 2011

---

SENATOR SULLIVAN: Thank you very much. Questions? Senator Council. [LB58]

SENATOR COUNCIL: Yes, thank you, Senator Sullivan. And thank you, Mr. Katt, for appearing today. And I'm curious, can you give me an example of a policy that exists in other states around dual-credit courses that are absent in Nebraska and would have had an impact. Let's use your son's example, I mean, what kind of policy would be in place? [LB58]

RICHARD KATT: Very good question, Senator. As we talked with a couple of institutions in Iowa, I'll give you an example. Iowa has a fairly well-developed system. There was common terminology, first of all, so when we brought in and we started looking at the transcript, it was kind of automatic that these were "gen ed" courses, they were courses that would be supportive, but would not be in his major course of study and there was no question those would transfer in. In Nebraska it really depended upon the institution we talked to whether or not they would accept those as elective credit; whether they would be accepted as a math credit or as an English language credit. So it just depended from institution to institution all the way to some that were like, well, it will really depend when you get here, we'll help make that "discrimination." Well, when you have a bank of dual-credit hours, it's awkward to say, well just hold until we get on the campus and then we'll figure it out at that point. So it was a languaging issue, but it was also a predetermined transferability of credit that other states have worked through that when you get to the "gen eds," those general education courses, if you took a literature course, or if you took a basic course, it was transferable within institutions and they respected that. Now that requires some monitoring and that requires some level of rigor and assurance, as we've heard, but those courses are of quality. And I think that's another piece that this study needs to take a look at, is how do we ensure that the courses students have available to them meet the rigor and meet the quality so that those students are truly prepared when they enter that college campus. [LB58]

SENATOR COUNCIL: Okay, but...and how much difference is there between what we're talking about in terms of the dual enrollment in the career academies and just the regular issues around...I think the correct term is articulation agreements between two years and four years. I mean, don't you run into the same kind of issues when you're talking about transferability of credits from a two-year institution and what would be accepted at a four-year institution? [LB58]

RICHARD KATT: To a certain degree. Nebraska does have the Nebraska transfer initiative that does identify courses, but it's not because of a lack of some resources it has not been worked on recently and I think there's some interest in revisiting that. We've been working with that in terms of the career academies to make certain that the courses that we offer, we can try to get a statewide perspective of an introduction to health sciences or a medical terminology or whatever that course is so that it would be a transferable and acceptable in multiple places. So we've been doing some of that work.

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

Education Committee  
March 15, 2011

---

But again, it would be helpful to have a framework in which to place that so that when students take those kinds of courses, they know these are the schools that will accept them; almost a grid that says here's what we will accept where and how we will accept it. [LB58]

SENATOR COUNCIL: Thank you. [LB58]

RICHARD KATT: Um-hum. [LB58]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. [LB58]

RICHARD KATT: Thank you for the opportunity. [LB58]

SENATOR SULLIVAN: Any further proponent testimony? Opponent testimony? Anyone wishing to speak in a neutral capacity? Welcome. [LB58]

JIM CUNNINGHAM: Thank you, Senator. Senator Sullivan and members of the committee, good afternoon. My name is Jim Cunningham, C-u-n-n-i-n-g-h-a-m. I'm the executive director of the Nebraska Catholic Conference and I'm representing the elementary and secondary school systems operated by the Archdiocese of Omaha and the dioceses of Lincoln and Grand Island. I did not have any intention of testifying today on this bill. I'm sure that we could have had an indirect intervention with the commission on its study from the private elementary and secondary perspective. However, I understand that an amendment has been offered or requested and part of that amendment is to add the private colleges into the list of collaborators. I would just ask that you expand that amendment a little bit to add private elementary and secondary schools as collaborators as well to make sure that there is inclusion of the private sector of what Doctor Hill referred to as the K-12 world. Thank you. [LB58]

SENATOR SULLIVAN: Any questions for Mr. Cunningham? Thank you very much. Any further neutral testimony? Senator Adams, for your closing. [LB58]

SENATOR ADAMS: Senator, the only closing, I would just avail myself to any questions, otherwise I'm prepared to move on to the next bill. [LB58]

SENATOR SULLIVAN: Seeing no questions, that closes the hearing on LB58. We'll go right into LB635 and, Senator Adams, for your opening. [LB58]

SENATOR ADAMS: Thank you, Senator Sullivan. Greg Adams, A-d-a-m-s, District 24. LB635, in some ways it is a rendition of a bill that I brought a year ago and I bring this one to you this year, there is some replication in the bill, and then there is some new language. And it may not be a great way to start out an introduction, but I will tell you I bring it to you primarily as a matter of discussion, not any anticipation that we would

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

Education Committee  
March 15, 2011

---

necessarily move forward with any of this. Let me give you the background. As you know, earlier this year we had several schools across the state, by the way, that were identified as low-performing schools; elementary, middle school, as well as some secondary schools. They were identified predominantly by federal standard, AYP; as identified within our math, reading, and writing assessments; as well as graduation rates on the secondary level. And when we identify those, what has always bothered me, particularly as a former classroom teacher was that we were taking one snapshot and saying because your graduation rate was too low or because on whole as we look at your student population, based on federal AYP under No Child Left Behind, you're not cutting it. And to me it seems unfair. Now what I'd like to be able to turn back where the feds are going with it, to some extent yes. But in the meantime, what I'm offering in this bill is an opportunity for the state of Nebraska to do something that is complimentary, not to supplant the federal government, as long as No Child Left Behind is there, it is what it is. But to take the work that we have done in the area of assessment in Nebraska and take it to the next level and come up with our own methodologies for identifying schools that, I'm not going to use the word, nor does the bill, persistently low performing, but instead what ought to be our high priority schools in terms of doing something about the situation. So half of the bill, in effect, replicates a bill that I brought last year that would, in essence, say that we would charge the State Board of Education with developing multiple measurements, multiple measurements, not just graduation rates. But possibly graduation rates along with others, other measurements. And along with those measurements, or included in those measurements would be a growth model. And to me that is really critical, really critical. When I speak to superintendents, and let's say from our Native American reservations, and they look at me and say, Adams, under the P-16 Initiative we've set the graduation rate at 90 percent. You know that within our environments, given our culture, we're probably not going to get to that 90 percent. That's probably right. So does that mean we're failing? I don't know that it ought to. But if we could look at them and say what's your graduation rate now? What are your scores in reading and math and writing? And disaggregate that data and look at it; rather than lump it all together, but to disaggregate it and look at it. And then also say, all right, if your graduation rate is 58 percent and you've gotten it to 61 percent, that's growth, that's movement and you ought to be credited for that because you maybe will never hit 90 percent. But the fact that you are improving, that ought to be there. It's like telling a kid, look, I want everybody to be able to high jump 6 foot; the reality is, and we all know it, not every kid is going to be able to high jump 6 foot. But on the opening day of the school year, if you ask them all to go out and jump and one of them jumps 4' 6" and you know they're never going to get to 6 foot, maybe you set a goal at 4' 8". And by the time the school year is over they've reached that; you've accomplished something. I think what we need to do, we need to look at a mixture of measures rather than just one or two things and say, this is a snapshot of your school; we think you're low performing and you're in trouble. Now this particular bill this year takes it a step further. The thought process I had, all right, so we work on these multiple measurements, but then what do we do under our Nebraska system, if we were to some

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

Education Committee  
March 15, 2011

---

day adopt it, if we have schools that are identified by us as high priority schools, what do we do? And I don't know that I have the answer here. But in putting this together, what I, essentially, said was this, if a school under our system has been identified as a high priority school, if they are a school within the learning community, then the learning community superintendents along with the school district wherein that school building is at that's a high priority, and the commissioner of education would form a team. A team to develop a plan to turn that school around. Now in addition to that, that team would be given the authority over that building's personnel; authority over that building's budget to see if they can't get that school turned around over time. Or the end result is losing accreditation in that particular building. If we look over on the federal side, if you are a persistently low achieving school on the federal side and you take school improvement money, in order to get it, you have to identify and adopt a federal model, four choices. One choice--close the school; don't open it back up, you're done, that's one. I'm not advocating that. Another one of those is that you eliminate the principal and all the staff and you start over hiring back no more than 50 percent of the former staff. The other model, get rid of the principal and make some other changes. Under the federal plan you accept the money, you have to accept one of those proposals and go with it. The federal plan, though I think I understand the motivation behind it, we don't want to just slug along in the mud and know that we have a low performing school and not do anything about it, but on the one hand, I don't approve of the measurement that's used. I think it's an unfair measurement. And on the other hand, I'm not sure those transformation models give us an opportunity to go about the business of trying to make a school better in a way that, in my opinion, we ought to do that. So hence, I bring you this today and I don't imagine that it comes with a great deal of popularity or, yeah, this is the way to go. But more as a matter of discussion than anything else because we have those persistently low performing schools and I think we can develop a Nebraska model that deals with it better than the federal model. Thank you, Senator. [LB635]

SENATOR SULLIVAN: Thank you, Senator Adams. Are there questions? Senator Haar. [LB635]

SENATOR HAAR: I think I couldn't even go over 3 feet high jump. [LB635]

SENATOR ADAMS: We could get you over. [LB635]

SENATOR HAAR: When you said that there would be a team between the school, principal, and the people from the Department of Education, where would the school board play in this? [LB635]

SENATOR ADAMS: Well the school board...it is still their school. [LB635]

SENATOR HAAR: Okay. [LB635]

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

Education Committee  
March 15, 2011

---

SENATOR ADAMS: It is still their school. So they, in part, would have to be part of the plan as well along with those superintendents and the state board. Now if it's a school outside the learning community, then of course you're dealing primarily with State Board of Education and the school board of that particular school district. [LB635]

SENATOR SULLIVAN: Senator Avery, did you have a question? [LB635]

SENATOR AVERY: I do. I was looking at the...thank you, Madam Chair. I was looking at the fiscal note from last year...not from last year, this year, it refers to last year's bill, LB1007, and I find it very curious that last year an almost identical bill had a fiscal note of \$650,000; this year no fiscal note. How do you explain that? [LB635]

SENATOR ADAMS: You know, I'm going to take a shot. I waived a magic wand. There are folks here from the department that may choose to respond to that. However, last year, if you recall, Senator, I pulled the bill because of the fiscal note, frankly. The only...last year the bill, the only thing the bill had in it was the multiple measurements that...and to have the department develop them; had a fiscal note, we all know the world of fiscal notes. We realized that, so I pulled it. I believe, and I don't know the level of progress given what we've done to the department's budget, but they felt serious enough about some of the components in that bill that I think they made some efforts to begin to slowly move forward to develop some of those measurements within their own budget, what they could do. Now does that mean that they have no further to go, it's done, or that they can do it for nothing? That I doubt. But I think there's some progress been made. [LB635]

SENATOR AVERY: Well, the note now says it is assumed that the department can handle these increased expenses with existing staff and resources. If they could do it this year, I don't know why they couldn't have done it last year. It doesn't make sense to me. [LB635]

SENATOR ADAMS: Well maybe partly because we moved some money around too. And they get started last year. But if they were looking at it from completing the whole thing last year rather than whittling away at it as they had resources, that might have been a difference maker too. [LB635]

SENATOR AVERY: I'm a little bit cynical about fiscal notes. (Laughter) [LB635]

SENATOR ADAMS: I've noticed that. [LB635]

SENATOR COUNCIL: Really? No. [LB635]

SENATOR AVERY: I think you should be too, Senator Council, [LB635]

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

Education Committee  
March 15, 2011

---

SENATOR ADAMS: Senator Council is probably cynical of fiscal notes too, aren't you, Senator? [LB635]

SENATOR COUNCIL: Oh yeah. [LB635]

SENATOR SULLIVAN: Senator Council. [LB635]

SENATOR COUNCIL: Thank you, Senator Sullivan. Again, I say really. Thank you, Senator Adams. I mean I don't...anybody disputes the necessity at looking at multiple measurements. In fact, I was most concerned about how many of the schools were identified as persistently low performing met that definition on the basis of one aspect of range, of measurements that could have been applied. And then even that measurement was a measurement that the state decided to require compliance with a higher percentage than the feds. And that concerns me. I mean, we talk about the state measurements, like the graduation rate percentage. None of us can disagree with we want to see all of our young people graduate, but when the graduation rate is based upon almost an arbitrary percentage and doesn't take into account what is actually going on in the lives of young people, that we don't have a mechanism to really track. I mean, you can correct me if I'm wrong, if a youngster is enrolled in school A at the beginning of their sophomore year, leaves the state and attends their junior year at another state, comes back and finishes their senior year, the fact that they finished their senior year, they've already been counted potentially as a failure to graduate once they left the state and didn't come back, potentially. And I just think that we need to...and I don't know if you accomplish it through this bill, but there has to be some consistency in terms of the measurements and how we arrive at determinations with respect to those measurements. I just have some concerns about that. And I don't want to substitute one inaccurate system for another. [LB635]

SENATOR ADAMS: Right. And if I may respond to that, you're right on the mark. We have adopted in Nebraska, because of consistency nationwide, a definition of graduation that, in effect, says that we're going to count from the day you start to the day you finish four years. So if 100 begin and 100 end, we did fantastic on our graduation rate. But what is hidden inside of that number is the fact that we may have a student that...well, let's say at the end of their junior year because of pregnancy or troubles at home or whatever it may be, drop out for a semester and then they come back and they get their high school diploma from the very institution where they begin, but it took them one more semester or one more year. But the national definition and the one we have adopted in Nebraska does not disaggregate that and does not take that into account. It's a cohort. You came in with this group, you finish with this group. And at the higher ed level, I may stand corrected today, but I think we do exactly the same thing. And I think you guys, whether you were in the classroom or not, whether you were on the school board or you've been around it enough to know, we live in a world where what we want to see is kids cross the finish line and do well when they

cross the finish line. When they get there, to me, is not as important as did they get there and with some quality behind it. But the reality is, the national standard is this cohort method; we've adopted that. So what I'm thinking is that if we look at our own measurements then we still have this, but we allow ourselves to dig in deeper and get a fuller picture of what's happening within a school, within a curriculum, within a kid's life before we identify them as high priority. And it's like, well, you should have been able to jump 6 foot, yeah, but I had a sprained ankle for six months, then I came back and did it. Yeah, but we don't count you; you were supposed to have done that right when we told you, you were supposed to. Bad analogy. [LB635]

SENATOR COUNCIL: No, I think it's a good analogy, because that is, in fact, what the issue is. Our concern should be whether we're getting kids across the graduation finish line. [LB635]

SENATOR ADAMS: Yep. [LB635]

SENATOR COUNCIL: And we have maintained an educational philosophy that it takes every kid the same amount of time to complete a K-12 education. We take nothing into account about the differences in kids. Everyone who enters kindergarten in 2011 should finish high school in 2023 regardless of their condition, regardless of their situation, and we must, I think, employ measurements to take into account that students arrive at different points at different times. And as long as we're providing them with the programs and services they need to complete and doing all we can to enable them to complete; it's just like you talking about postsecondary education, I mean the norm used to be four years. Ask the average parent of a college student, you know, they're happy if it is five. [LB635]

SENATOR ADAMS: Unless they're paying for it. [LB635]

SENATOR COUNCIL: Unless they're paying for it, right. So, I mean, those factors all, I believe, need to be taken into consideration. [LB635]

SENATOR ADAMS: Yeah. I agree. [LB635]

SENATOR SULLIVAN: Any further questions for Senator Adams? Thank you. We will now hear proponent testimony. Good afternoon. [LB635]

MARK QUANDAHL: Good afternoon. Senator Sullivan, members of the Education Committee, Mark Quandahl, Q-u-a-n-d-a-h-l. I'm here in my capacity as being a representative from District 2 on the State Board of Education. And thank you, Senator Adams, for introducing this bill. He said at the outset that there might not...it might not be the most popular bill, however it is a popular bill with the State Board of Education. As part of my duties as the chairman of the legislative committee of the State Board, we

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

Education Committee  
March 15, 2011

---

decided to come in not only to testify in support of this, but then also tell you that it has the full support of the board and the Department of Education. And so in that vein, I just wanted to make sure that you knew that the State Board of Education was in support of not only LB635, but also LB58 that you heard today too. And then also I wanted to personally congratulate everyone here for making it to the end of the public hearing section because I know how that goes. I know you have a lot of hard work ahead of you, but just getting through the public hearings on this is a great event. But together we can work together to improve the educational environment for our students in the state of Nebraska and LB635 is another one of those steps that we can take that will improve the lot of Nebraska students. And so...also testifying on behalf of the State Board is Bob Evnen, he'll follow me up here. He happens to be chair of our accountability committee. And he can probably tell you a little bit about how some of the steps we're taking right now, because as we are right now and we're just left with the federal requirements and the federal standards, we believe that it is in the best interests of all Nebraska to come up with our own set of standards and accountability to move forward. So thank you very much and I would answer any questions if I could. [LB635]

SENATOR SULLIVAN: Any questions? I do have a couple, thank you. So what are your, I guess, hopes and expectations, because as Senator Adams said, this is a discussion process we're in right now. [LB635]

MARK QUANDAHL: Right, right. I can tell you too, and I may defer some of those questions to Commissioner Breed, he's here, and I think he maybe was going to come up and he might talk to the fiscal note also. But my hope is, just as Senator Adams said too, is when we're left with the federal standards, I mean they're fairly inflexible and they don't necessarily reflect what we have here in the state of Nebraska. You talk about graduation requirements, when we're stuck in that four years; well, we've already had discussions at the State Board about perhaps under certain circumstances that could be five years or that could be six years, depending on the student's circumstance. And so that's something we want to look at because not every student is going to make it through in four years and we recognize that. And so a Nebraska accountability system could take that into consideration. So my hope is fairer, a fairer system, a fairer system of assessing how our schools, how our school districts are doing. [LB635]

SENATOR SULLIVAN: And I presume that the board also has some ideas and expectations on the process once a school is identified as nonperforming and how we deal with them. [LB635]

MARK QUANDAHL: That's correct. And I guess I would probably defer some of that discussion too. But under the federal system, they're denoted, persistently, low achieving schools. Under what we have here, is we call them priority schools. It's like, if they need help, we want to make sure that they get the help, they get the assistance, not only from their local school district, but from the state of Nebraska to help them

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

Education Committee  
March 15, 2011

---

succeed. [LB635]

SENATOR SULLIVAN: Thank you. Anyone else? Thank you for your testimony. [LB635]

MARK QUANDAHL: Thank you. [LB635]

SENATOR SULLIVAN: Hello, Mr. Evnen. [LB635]

BOB EVNEN: (Exhibit 4) Senator Sullivan, thank you. Members of the committee, I'm Bob Evnen, E-v-n-e-n. I'm here before you today as a member of the State Board of Education and the vice president of the board in support of LB635 and also in particular to offer on the board's behalf an amendment to LB635. This is an amendment under which the board would monitor, coordinate, and evaluate a pilot program, a three-year pilot program under which some of the districts in the state would administer a standard college admissions test, in this case the ACT, to all of the 11th graders in the spring of the 11th grade year. This is a program that ACT has. And it would enable us over this three-year pilot to do two things. First of all, have a look at how ACT test results compare with our NeSA test. We're going to be giving three different NeSA tests to 11th graders. These are our statewide tests for reading and math and science. So the question is, after running this pilot program and evaluating the results, can we administer...would it be useful to us to administer the ACT to all 11th graders rather than these NeSA tests. This would reduce the testing footprint. Obviously, the ACT has some other aspects to it; other qualities to it that could be helpful for students. The second aspect of it is administering the ACT to all students means that for the students who are not taking it today, we will be able to identify students of promise. Students who could go on into the postsecondary world and who don't think of themselves as being able to do so at this time. And so we believe this could be a beneficial aspect of it as well. The state board has adopted a resolution endorsing this. We've offered it as an amendment to LB635. If LB635 doesn't go forward, we are hopeful that this could become an amendment to some other bill from this committee. Thank you. [LB635]

SENATOR SULLIVAN: Thank you. Any questions for Mr. Evnen? Senator Council. [LB635]

SENATOR COUNCIL: And thank you, and thank you, Bob. I'm looking at the amendment and the last, costs shall not exceed \$160,000 in any school year of the pilot project. Is that per school or the entire project? [LB635]

BOB EVNEN: That's statewide for the whole project. That's for the districts that would be involved in this pilot. So there will be several districts involved in the pilot; it would be approximately...well, no more than 5,000 children and that's the estimated cost in order to administer the test to those 5,000 children. [LB635]

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

Education Committee  
March 15, 2011

---

SENATOR COUNCIL: Okay, so that's what I'm looking at. You're looking at 5,000 youngsters statewide. [LB635]

BOB EVNEN: Correct. [LB635]

SENATOR COUNCIL: And that would be a cost absorbed by the Department of Education, the \$160,000? [LB635]

BOB EVNEN: Right, we would be...the cost of this would be absorbed by the department through Education Innovation Funds. You have some room in the Education Innovation Funds even after the adoption of LB333 with the amendment that added some additional cost to the Education Innovation Funds. There is still money remaining that could be used for this purpose even after utilizing the Education Innovation Fund money for this purpose. At the end of the biennium you would have several hundred thousand dollars remaining in that fund by our calculation. [LB635]

SENATOR COUNCIL: And yet any...or has the State Board given any thought to how the participating school districts would be selected? Will it be...say 50 school districts applied to participate in the pilot, how are you going to narrow it down to 5,000 students? [LB635]

BOB EVNEN: As this, Senator, as this process has unfolded over time, it's actually well down the road and there are eight school districts who have expressed interest in participating in this. That's how we get to this 5,000 number and that have been provided to ACT and that ACT is now under consideration. It's now considering for participation. [LB635]

SENATOR COUNCIL: And are those students...is the identify of those school districts available to us at this time? [LB635]

BOB EVNEN: Lincoln, South Sioux, Columbus, Hastings, Gering, Scottsbluff, Sidney, and Alliance. [LB635]

SENATOR COUNCIL: Thank you. [LB635]

SENATOR SULLIVAN: Any other questions? Senator Avery. [LB635]

SENATOR AVERY: Thank you, Senator Sullivan. Can you shed some light on this fiscal note issue because you're obviously have \$160,000 you can find to fund this amendment that you're proposing. The department last year thought they needed \$650,000 to administer a bill, but this year they don't need any money. I don't get it. [LB635]

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

Education Committee  
March 15, 2011

---

BOB EVNEN: Senator, I don't either. So I'm hopeful that the speaker following me will be able to address it. [LB635]

SENATOR AVERY: Well, we'd really like to have some clarity on this because bills live and die in this body by fiscal note. And you'd like to be able to have some confidence in last year's numbers or this year's numbers that if you have confidence in one how can you have confidence in both because they're so different? [LB635]

BOB EVNEN: Senator, I acknowledge your point and I'm hopeful that there is someone in this room who can answer the question. If not, I can assure you that an answer will be provided to you rapidly. [LB635]

SENATOR AVERY: Thank you. [LB635]

SENATOR SULLIVAN: Thank you. Any other questions? Thank you for your testimony. [LB635]

BOB EVNEN: Thank you. [LB635]

SENATOR SULLIVAN: Any other proponent testimony? Hello, Doctor Breed. [LB635]

ROGER BREED: Hi. Senator Sullivan, members of the Education Committee, I'm Roger Breed, commissioner of Education, R-o-g-e-r B-r-e-e-d. I'm here to clean up after the last two guys you just talked to. (Laughter) I wasn't planning on testifying, but apparently there are some questions. A couple things: one, with regard to the fiscal note; comparing fiscal notes across budget years is dangerous business anyway because all things change. The fiscal note that was written this last time with the \$400,000 and the \$100,000 follow-up was written as if we would do the entire development implementation in one year. Since that time we have spread it out. It looks like the implementation actually will be, if it is allowed, over a three-year period of time. And we have also had some change in resources available for assessment and accountability. One of the things that you look at in shifting sands in the budget in the department is federal money allowed for both standards development and revision, as well as reporting accountability measures. And as you understand, we've been in the development of the state accountability system, the NeSA System which we will be finishing up with the implementation of science next year which then frees up some money which we could apply towards an ongoing measurement accountability system. So that's one of the issues. The other issue, as Senator Adams, I think, spoke eloquently to, is if we identify high priority schools, the primary purpose, I feel in doing that, is to help inform where we direct state resources to help the students in the schools of greatest need. There is a cost to that and that is the second factor on the fiscal note, the cost of intervention teams so that you not only, as Senator Adams described, appoint a group of people to develop a plan for a school district, but you

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

Education Committee  
March 15, 2011

---

actually afford them both expertise and resources to carry out the plan. That has a cost. We have 1,200 school buildings, approximately, across the state. The accountability system would be a per school accountability system. And therefore you could have a considerable number of high priority schools that would require resources to affect. So with that, questions? [LB635]

SENATOR SULLIVAN: Questions? Senator Avery. [LB635]

SENATOR AVERY: Thank you, Senator Sullivan. Doctor Breed, in the bill last year you said you would need \$100,000 to do a validation study. [LB635]

ROGER BREED: Right. [LB635]

SENATOR AVERY: Do you plan, under this current bill, to do a validation study, LB635? [LB635]

ROGER BREED: When it is fully implemented and actually commensurate with the implementation, you have to do a validation study if you're dealing with statistical measures that will, in effect, grade schools. In other words, you're going to have to justify those because my experience has been is that once you do that, once you attach a label or a term there will be disagreements. So you're going to have to have some validation as to how your statistics were used and how your psychometrics were applied. And so, and, you know, it's a shot in the dark as to what the cost of that would be, because we have not determined what the measures would be. So Pat Roschewski, who wrote this fiscal note or contributed to this fiscal note over a year ago, that is a shot in the dark amount, also one of the tricky parts of a fiscal note. [LB635]

SENATOR AVERY: Shot in the dark, that is exactly what I would...how I would describe fiscal notes. Let me ask you this, do you remember how your department testified on LB1007 last year? [LB635]

ROGER BREED: I believe I was sitting in this chair and testified in favor of LB1007 with a change in that instead of a...there was a statement in LB1007 requiring an index that we wanted a change in the language to make it a "may" rather than a "shall" to give flexibility because we weren't at that time of one mind with regard to the accountability measure or measures that would be applied. [LB635]

SENATOR AVERY: So this year you're not concerned about "may" and "shall"? [LB635]

ROGER BREED: Well I think the language is "may." So we have been persuasive with Senator Adams. It only took us nine months of beating him up to get him to that point. [LB635]

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

Education Committee  
March 15, 2011

---

SENATOR AVERY: What I'm really looking for here is some insight into the relationship between a fiscal note and the particular enthusiasm of the department for the bill being proposed. I think there's a relationship. I'm not accusing you of that, but I've been here four years now and I've seen a lot of fiscal notes and it seems to me there's a very strong "R" factor there, correlation. [LB635]

ROGER BREED: Right. And believe me, I'm sympathetic to your concerns, because when we look at this also, but the situation a year ago was significantly different than today for two significant reasons. One is, this was assuming we were going to do everything in a year. And at that time we had no other district resources being freed up...no other state department resources being freed up or released to do this. You move it forward a year; you spread it out over two to three years, which if we're going to do a growth measure, requires two to three years worth of data to determine the growth; then you complete your standards and your NeSA development and you have that money available. Then it changes everything with regard to the fiscal note. And that's the situation we're in now that we were not in a year ago. [LB635]

SENATOR AVERY: Thank you. [LB635]

ROGER BREED: Okay. Other questions? [LB635]

SENATOR SULLIVAN: Dr. Breed, if I understood Mr. Evnen correctly, he said that the board had passed a resolution approving this...or supporting the amendment that he presented? [LB635]

ROGER BREED: Approved the ACT pilot that is proposed and is captured in the amendment that he has proposed, yes. [LB635]

SENATOR SULLIVAN: Right. And so how do you see that interplaying with this longer range plan for assessment? [LB635]

ROGER BREED: Well, if we are in deed, as a state, serious about the transition from high school to postsecondary education, then we have to, throughout high school, and perhaps even before, be concerned about college readiness to some degree. Our test in NeSA, to some degree, informs that, that process, from a contents perspective. But it is limited in that regard. If you were to look at it, at least this is part of the thinking in terms of the ACT pilot, if you are to look at a test that is solely written and solely has the purpose of determining college readiness and predicting college performance, one could argue and come back to the Legislature and say, can we then release schools from the responsibility of administering four 11th grade tests in place of one ACT test? That's one aspect. So it could diminish the footprint of testing over time. The second aspect is, kids would have a buy-in to an ACT test if they presently do not have to NeSA. Most Nebraska kids will try their best on NeSA. Most Nebraska teachers will

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

Education Committee  
March 15, 2011

---

encourage kids to try their best on NeSA. But at the end of the day, if a kid asks you very honestly, what's in this for me? Well, you know, we'd like you to live up to your parent's expectations. You know, that's the best we can do. And depending on their relationship with their parents at that time, it might work, it might not. But that's the only thing they have in it. As opposed to an ACT, which can qualify you for a level of scholarships or colleges entrances, there is a buy-in for kids with an ACT that does not exist with NeSA. So if we can do a correlation study with ACT results and NeSA results and find that they're basically measuring most of the same realm, then we could make the assertion that maybe we could substitute NeSA 11, reading, math, science, writing, with the ACT; exchange the cost for the test and the scoring of the test for the cost of the ACT and make that available to all Nebraska 11th graders. [LB635]

SENATOR SULLIVAN: Okay. Thank you. [LB635]

ROGER BREED: Okay. And that may never work. But I mean, that's the hypothesis that the pilot is based on, okay? [LB635]

SENATOR SULLIVAN: Okay. Thanks. Any other questions? Thank you for your testimony. [LB635]

ROGER BREED: Thank you. [LB635]

SENATOR SULLIVAN: Welcome. [LB635]

JAY SEARS: (Exhibit 5) Good afternoon. Good afternoon, Senator Sullivan, members of the Education Committee. For the record I am Jay Sears, J-a-y S-e-a-r-s and I represent the 28,000 educators of the state of Nebraska to the Nebraska State Education Association. And we're here today in support of LB635. I know it seems kind of unusual for the union that represents the educators of Nebraska to appear before you to support a legislative bill that provides a system of accountability for school districts. In fact, given the failure of No Child Left Behind and the union bashing of public employees that's going on in many states right now, it's hard to imagine that...why educators would want to come before anybody and talk about accountability. Nebraska educators know the value of quality of accountability systems and what they can bring to the improvement of instruction and the growth of student learning. Unlike the federal system of one-shot testing, we believe Nebraska can develop an accountability system that supports educator's instruction, students learning, principals' leadership, enclose achievement gaps for all. The development of a Nebraska accountability system won't be easy, but we believe that LB635 provides that framework, the right framework for us. In his book Value-added Measures in Education Douglas N. Harris states: "the cardinal rule of accountability is to hold people accountable for what they can control." Nebraska educators can control what they do to prepare for instruction. They control their lesson plans and the feedback they provide to the students. They lead, they prod, nudge,

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

Education Committee  
March 15, 2011

---

encourage, and, yes, occasionally punish, all in the hopes that students will respond and learn. Sometimes it works and sometimes it doesn't. Teaching is complicated. Educators don't control students' responsiveness to learning. They don't control home and community influences. Educators don't control class size, assistance from their colleagues, school and district leadership, funding, or community support. Educators only ask for the opportunity to have an accountability system that holds them accountable for the things they can control. We hope LB635 is that vehicle. Thank you for the opportunity to testify before you today and I'd be glad to answer any questions. [LB635]

SENATOR SULLIVAN: Thank you very much. Any questions? I guess you're getting off easy. Any further proponent testimony? Any testimony in opposition for LB635? Anyone in a neutral capacity? Senator Adams waives closing. So that closes the hearing on LB635. Thank you. [LB635]