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Education Committee  
January 17, 2012

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[LB763 LB800 LB870]

The Committee on Education met at 1:30 p.m. on Tuesday, January 17, 2012, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB870, LB763, and LB800. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Bill Avery; Brenda Council; Ken Haar; Kate Sullivan; and Ken Schilz. Senators absent: Abbie Cornett.

SENATOR ADAMS: Well, it is after 1:30, and in order to start our hearing on time today and set a pattern for the rest of the legislative session, we're going to start. And let me also...let me begin by introducing members of the committee and lay out the ground rules for our hearing. To my far right is Becki Collins. She is the committee clerk and any of you who wish to testify, whether it's today or next week or down the road of this committee, make sure that you have filled out the testifier's registration form. They are sitting in the back corners of the room. Please have those filled out before you testify and bring them up. Sitting next to her is Senator Schilz from Ogallala. Senator Council--I just met her in the hallway, she's on her way--from the Omaha area. Senator Cornett can't be here today; she's been called away. The research analyst for the Education Committee, Kris Valentin, sitting to my right. I'm Greg Adams, Chair of the committee, from York, Nebraska. The Vice Chair of the committee, Senator Howard, from Omaha. Next to her, Kate Sullivan from Cedar Rapids and Senator Avery, we assume, will be here. And Senator Haar is with us from Malcolm. Thank you all for being here. We have three bills that we're going to hear today: LB870, LB763, and LB800. The first thing I would ask, as per legislative rules, is that besides these folks with their electronic devices and any other credentialed press with their electronic devices, the rest of you can't use them--and that means texting as well in here. So if you need to do that, if you need to e-mail or text, please excuse yourself from the hearing room. And we would also ask, of course, that you recognize, turn your phones off and any other noise so that everyone can hear, so that the transcribers can articulate everything that is said and get it into the record properly as we move through this. Normally, we will operate with the light in here, as we almost always do. For this first bill, we might try something different. May I see how many proponent testimonies to LB870 there are? All right, and opponent testimony? Andy, you raised your hand twice. I'm assuming no. (Laughter) All right, you've got to make up your mind. (Laughter) All right. In light of that, then here's what we're going to do. Because the Department of Education has quite a little bit that they would like to discuss regarding this whole business of assessment, for this bill we won't use the light system today. A little out of the ordinary, I realize, but this is somewhat unique. We won't use the light system, which will allow the State Board to talk about assessment and this bill and any other things that will reach beyond that five-minute period. And in fairness to the rest of you then, we won't use the light system for you unless you just get too carried away, and then we might have to use some kind of a system. So with that, we'll introduce the bill. [LB870]

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SENATOR HOWARD: Remind them to give their names and have them spell it. [LB870]

SENATOR ADAMS: Oh yes, thank you, Senator Howard. When you do come up to testify, would you be sure that you state your name and spell your last name for the record so that we can get that very clear, okay? Then we will begin and I'll turn over LB870 to you. [LB870]

SENATOR HOWARD: Okay, thank you. Welcome, Senator Adams, to the Education Committee. [LB870]

SENATOR ADAMS: I've heard this can be a tough committee, is that right? [LB870]

SENATOR HOWARD: Could be. (Laugh) [LB870]

SENATOR ADAMS: Thank you, Senator Howard. My name is Greg Adams, representing the 24th Legislative District, A-d-a-m-s, introducing LB870. LB870 is really a considerably modified version of a bill that I have introduced twice before in two other legislative sessions, and I think it fell under...LB635 might have been the previous number. The intention of the bill this time really is not a whole lot different. But I would tell you, compared to LB635 that's been introduced twice before, this bill has been significantly amended; literally, some parts were removed. This bill focuses on really one thing: accountability. What it does not do, which prior bills have done, is to reach in and begin to answer the question from a policy standpoint of what do we do if. What do we do if we have schools that are not making the grade as we have determined what the grade is going to be and what the measuring device is going to be? In talking with superintendents this summer and during the interim period, it became clearer to me than what it already was, that we need to work on that some more and we have time to do that. However, this bill focuses on what I believe to be the most important component and that very simply is: How are we going to measure? We--three years ago, four years ago, I don't recall how many years ago it was--that we moved from the STARS assessment methodology to the statewide methodology that we have today, and we've made a lot of progress with that. Schools are using it in the areas of writing, reading, mathematics; science is next on board. However, maybe it's the classroom teacher in me or maybe it was as a result of what I heard when we were moving away from local assessment to statewide assessment, but it seems to me that when we are looking at a school district and we're saying, are you getting the job done, well, first of all, we have to determine the benchmark, the standards by which we're going to grade that school. And then secondly, we've got to determine the measuring device that we're going to use to determine whether or not the school is meeting those standards; and we've done that and I don't want to change that. We have our statewide reading, writing, and mathematics, but it's not the whole picture. It's not the whole picture. When we look at a school district and we see once a year that this is how many of their students reach proficiency in math or how many reach proficiency in reading, there's a lot of things

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behind that number. And that number simply does not tell the whole story behind a school district in any given year, any different class of students that happens to be taking the reading, the writing, the math. So what I'm suggesting in LB870, similar to what I've suggested in the past, is that we expand--not completely throw out what we've done, that's not what this bill does--but rather, to expand upon our existing assessment system and add some other measurements, realizing that in the end, whatever we do will never give us the perfect picture, the whole picture. But this, I believe, gives us more to look at. When we see a school district that isn't making the mark, we need to have a better comfort level that they're really not making the mark. And to do that, I think you need to look at more than just the 11th grade math assessment--boom, snapshot, one time, one group of people, any size school, I don't care which one you're talking about. So what this bill does, it authorizes the State Board of Education to begin to develop multiple measurements. Specifically, in addition to the math, the science, the reading, the writing that we currently use, to add to that other measurements, particularly a growth measurement that looks at how much improvement a school has made or a class has made. Many school districts use those already internally to measure how well a student did. You know, the simple thing would be--and I've used this analogy many times before--is if the student is 10 points below proficiency in math when they start the fifth grade year, we know that and we look somewhere in the midway of the fifth grade year and at the end to see if they've grown. And at the end of the year, they still may not be at the proficiency level that we want them as a state, but the question becomes: Has there been improvement? Has there been improvement? If that be the case, there isn't a school district out there from east to west, large or small, that ought not get some credit for the improvements that they have made with students or a class of students in a given area, and that ought to be part of the assessment system. Graduation rates--Nebraska as a state, nationally we do very well on graduation. We recently in June went over to the cohort methodology and we had anticipated something of a drop and it occurred; but in my opinion, not as much as I expected. We still do very well. And when we look at individual school districts, maybe one of the things that we ought to look at in addition to the math test or in addition to how much growth there's been, is at the high-school level, the graduation rate, and see what it looks like. But the essence of this is that we're giving to the State Board of Education, the folks with the staff, the psychometricians--the people that understand assessment far deeper than I certainly do--the latitude to say let's not just use one thing to measure a school as we continue to look. Let's put together several different things and put them into a matrix, possibly. And I believe that the language allows the use of one index number or multiple--that would be up to the State Board. That's really is the essence of the bill. A couple of other things that the bill does, it repeals once and for all the STARS methodology that we moved away from several years ago and it also repeals that section of Learning Community legislation, where the Learning Community, the ESU, was required to put together a K-3 assessment. There are those that are here that can better talk to that than I can, but the standards have been done by the state, so there's really little point in having schools within the Learning Community developing their own standards. The state standards are

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there, and when you're assessing that kindergarten through 3, it's a bit of a different world than the kind of assessment you and I typically think about for students, and I think we're a ways down the road. A lot of that work...some of that work has already been done. And then there's some areas where it's been done by the state or it's been done by the ESU and I'm not sure that the language that was put in the Learning Community statute several years ago really fits anymore. That's the essence of the bill, so I would entertain some questions and I know that the pros are behind me here. [LB870]

SENATOR HOWARD: Thank you. Thank you, Senator Adams. I want to recognize Senator Avery who has come in, thank you. Do we have questions for Senator Adams? Yes, Senator Sullivan. [LB870]

SENATOR SULLIVAN: Thank you, Senator Howard, and thank you, Senator Adams. I certainly appreciate the teacher lectures you always give us in your testimony. (Laughter) [LB870]

SENATOR ADAMS: I'm sorry if it sounded like a lecture. [LB870]

SENATOR SULLIVAN: No, really, I mean that sincerely. But even so, there are a few questions. When you talk about the multiple measures that this bill will allow, you specify some in your testimony, but I assume you're talking about the fact that the department will come up with...or the board will come up with many different measures, or... [LB870]

SENATOR ADAMS: You know, that's... [LB870]

SENATOR SULLIVAN: ...or do you know at this point? [LB870]

SENATOR ADAMS: I don't want to steal their fire. The bill does give them the latitude... [LB870]

SENATOR SULLIVAN: Um-hum. [LB870]

SENATOR ADAMS: ...to decide within the parameters that I've set. But I think that one of the things that they will outline for you today is what they have developed... [LB870]

SENATOR SULLIVAN: Um-hum. [LB870]

SENATOR ADAMS: ...and why they have chosen those measuring devices. And something else that I think might stand out is that the more measuring devices that we add, (A) the more expensive it becomes in terms of General Fund appropriation to develop them. And it is far more complicated than I ever imagined--from a

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psychometrician standpoint--to develop these measurements, to make sure that they really have some validity and reliability. So the State Board is given the latitude to decide what those measurements will be. [LB870]

SENATOR SULLIVAN: Is it fair to say also, if I understood you correctly, that this is another step toward helping schools improve? So, we're not there yet; I mean, it's a multistep process, right? [LB870]

SENATOR ADAMS: Yes. [LB870]

SENATOR SULLIVAN: And so do you anticipate future legislation that will move us farther along the process? [LB870]

SENATOR ADAMS: Yes, I do, and exactly what shape that would take, Senator, I don't know yet. But if...and there's no reason for any of you to recall, but in the prior legislation that I introduced that was similar to this, there was a part two. And the part two was if after a certain period of time under this new matrix of evaluation you have been deemed what I called a high-priority school, using federal language--a school that needed improvement--that here would be the intervention steps that would occur. I would tell you that I didn't think those out very well and I have heard from a lot of folks who are probably more in the know than I that there may be a different way to approach this. And it just seemed to me that if we accept the idea of multiple measurements, first of all, and we get that in place, then we are two, three--who knows--maybe four years down the road under this new measuring system before we have, within our new structure, defined what a high-priority school is. And then what are we going to do about it? Point being, we have some time, I think, as a committee and as educators in this state and policymakers, to really determine how we want to handle this, because it's a big step... [LB870]

SENATOR SULLIVAN: Um-hum. [LB870]

SENATOR ADAMS: ...once we've identified those schools. [LB870]

SENATOR SULLIVAN: Thank you. [LB870]

SENATOR HOWARD: Senator Haar. [LB870]

SENATOR HAAR: Yes, thank you. Will there be sort of a phase-in period for this? I mean, one of the things I've heard from talking to principals in my area that, you know, sort of give us a break and let us get into...onto sort of a level place. [LB870]

SENATOR ADAMS: Well, I'm not sure. [LB870]

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SENATOR HAAR: Um-hum. [LB870]

SENATOR ADAMS: In terms of phase-in, the bill actually has language in it--I think it's '12-13, something to that effect... [LB870]

SENATOR HAAR: Okay. [LB870]

SENATOR ADAMS: ...when the State Board would have this ready to go. You know on the one hand that I'm merely trying to put myself in the heads of those principals. On the one hand, I understand why they want to say just leave us alone for a while. [LB870]

SENATOR HAAR: Um-hum. [LB870]

SENATOR ADAMS: On the other hand, this should give them a degree of comfort because what we have heard for many years is, well, if you're just going to use a science test or just a math test in the 11th grade or the 4th grade or the 8th grade, that's not a fair picture. There's more to our school district than that. This takes us in that direction. Finally? Not necessarily. Completely? Not necessarily. [LB870]

SENATOR HAAR: Um-hum. [LB870]

SENATOR ADAMS: It should remove some of their angst, I would think. [LB870]

SENATOR HAAR: Okay, thank you. [LB870]

SENATOR HOWARD: Other questions? Senator Council. [LB870]

SENATOR COUNCIL: Thank you, and thank you, Senator Adams. And I guess just for the record, you and I have had a few conversations about LB870 and its relationship to previous legislation, particularly LB635. And there's no disagreement or dispute about the need to develop an accountability system and you, you very accurately described how LB870 differs from LB635. I guess I find myself in the ranks of those who say let's develop the accountability system and let's put into place the means to address any issues that this accountability system would bring to light. I agree with you about it needs to be a growth model. You and I have had discussions about, you know, how do you gauge that growth? And if we just use the state assessments without somehow disaggregating to ensure that...for example, we may have a school with an overall great percentage of their students meeting proficiency, let's say, on reading. Yet we don't know how that school district is doing with regard to moving higher achievers up or students in the lower quartile, moving them. All we see is what's the aggregate. So in terms of the growth model, I discussed with you my desire to see something in the accountability system that shows how districts are faring in terms of moving all of its students up, dependent upon where they are, as a result of the benchmarks that we've

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established. I think the intervention team model is a great concept and have discussed with you the fact that I've been working with some other senators on developing a bill comparable to LB635 and we're ready to drop that. In fact, we discussed the fact that this bill was...LB870 was scheduled before... [LB870]

SENATOR ADAMS: Yeah. [LB870]

SENATOR COUNCIL: ...this bill could be finally drafted, but to...I don't disagree with you. We need to have the accountability system in, but if that accountability system shows that there's need for various levels of intervention, my perspective is we can't wait down the road to begin to implement those interventions. So the bill that will be coming to the committee is essentially your LB635 with a reworked intervention team approach and with different levels of growth. I mean, we've been toying with, and we've talked to some Department of Education officials, we've talked to some ESU officials and others. For example, I wish there were an efficient way to measure kindergarten readiness. Now we know that, you know, after studying it and researching, it would be a multimillion dollar measurement that would fit...that would be needed to determine how...whether kids are ready to enter kindergarten. But I think at some point we need to be looking at those types of things because this committee has discussed in the past, measuring our effectiveness in our early childhood education programs and the dollars that are being expended in early childhood education. So if there was some way to measure that through some kind of kindergarten readiness assessment, that would be the ideal way to go. But we have to figure out a way to do it in a cost-effective and cost-efficient manner. So basically, I'm here to hear what the department has to say and put the committee on notice, because the Chairman's been on notice of the intent to introduce a bill similar to LB635 so we can consider, you know, the additional kinds of measurements, different ways to determine growth, and what types of interventions can be made available. And I appreciate that there's a price tag associated with that, but have been exploring opportunities to provide those intervention teams at a very efficient and economical cost. So I didn't want to surprise anyone and would appreciate the Chairman's acknowledgement of the fact that these discussions have been occurring. [LB870]

SENATOR ADAMS: Yeah, and that's absolutely right. And had the timing been better on it, had they been prepared--Senator Council and others--been prepared to drop their bill earlier, this hearing on this bill had already been scheduled. It'd have been better to have them at the same time so we could have had all the testimony, but we both understood that wasn't going to happen. I'm not...at one point, I know I'm not too sure that that bill was even going to get in, but it did, so we will be having this same discussion again at a later point in the hearing session. And it is something that we've got to talk about. And, Senator Sullivan, you mentioned a moment ago, will this be continual? Absolutely, it will. The measurements, having the State Board report to us about what we're finding under these measurements, and the reality is that we cannot,

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in my opinion, bury our head in the sand when we have schools in need of help just to say, oh yeah, you're...got to improve. That's what we have been doing all along, and...but we also have to be careful by what means we intervene, constructively, in a way that we hope will benefit. [LB870]

SENATOR HOWARD: Senator Avery. [LB870]

SENATOR AVERY: Thank you, Senator Howard. Senator Adams, I'm reading the bill here, and it's unclear to me how this information would be used. Would you like to discuss that? Maybe you had discussed that before I got here, I apologize for being late. [LB870]

SENATOR ADAMS: We covered a lot... [LB870]

SENATOR AVERY: Scold me... [LB870]

SENATOR ADAMS: ...before you got here, Senator. [LB870]

SENATOR AVERY: (Laughter) Scold me if you will, but... [LB870]

SENATOR ADAMS: Well, I suspect, and I know that Commissioner Breed is here and maybe he'd like to also answer that, because in the State of the Schools Report that is distributed annually and made public, that certainly would be one of the means whereby this data would be reported and the State Board may be way ahead of me--probably are--about other methodologies and means of reporting. [LB870]

SENATOR AVERY: Would it be too wild of a guess to suspect that perhaps we would be able to use this data to assist underperforming schools? I would hope we wouldn't use it to punish, but... [LB870]

SENATOR ADAMS: It was never intended to punish, no... [LB870]

SENATOR AVERY: Yeah. [LB870]

SENATOR ADAMS: ...but to more fairly identify the underachieving schools. And then the next step, as we were just describing, is as a committee... [LB870]

SENATOR AVERY: Um-hum. [LB870]

SENATOR ADAMS: ...we will need to develop legislation policy to determine what we're going to do once we've identified them under a broader measurement system. [LB870]

SENATOR AVERY: But this just sets in place the measurement. [LB870]

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SENATOR ADAMS: The measurement, yes. [LB870]

SENATOR AVERY: Okay. [LB870]

SENATOR ADAMS: Yes. [LB870]

SENATOR AVERY: Thank you. [LB870]

SENATOR HOWARD: Senator Haar. [LB870]

SENATOR HAAR: Yes, thanks. Are we pioneers in this or are other places doing this as well? [LB870]

SENATOR ADAMS: You're going to have to ask the experts behind me. [LB870]

SENATOR HAAR: Okay. [LB870]

SENATOR ADAMS: I have not looked at other states. I've rather just focused on what we've been doing and what I thought we needed to do more of. [LB870]

SENATOR HAAR: Um-hum. [LB870]

SENATOR HOWARD: Okay, any other questions? You took care of them, thank you. All right, our first expert, I mean testifier. (Laughter) Welcome to the Education Committee. [LB870]

MARK QUANDAHL: (Exhibit 1) Thank you, Vice Chair Howard, members of the Education Committee, and Senator Adams. I don't know if I qualify as the first expert. I think they will also be following me. My name is Mark Quandahl, it's Q-u-a-n-d-a-h-l, and I am here in my capacity as vice president of the State Board of Education and also as the chairman of the legislative committee of the State Board of Education. I'm here in support of LB870. The State Board of Education, on January 10, 2012, voted unanimously to support LB870. There's a letter from our board president, Jim Scheer, that has been included or it's at the top of the packet of information that was just passed around. LB870, as introduced, would enhance and support State Board goals such as improving the educational outcomes for all students, improving and supporting state and local accountability, and improving communication and collaboration with policy partners. One of the things that I wanted to make sure that everybody was aware of, not only here but also outside, is as to the communication and collaboration goal of the State Board. Commissioner Roger Breed, legal counsel Brian Halstead, and our legislative committee had the opportunity to meet with Senator Adams on November 29 of last year to discuss our common goals. And at that meeting, Senator Adams

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indicated he would be introducing or reintroducing a bill dealing with accountability and that bill is LB870. And so the reason why I bring that up is, is that it's the goal, and one of the things that the State Board of Education wants to make clear is, is that we want to work with you, we want to work with our education policy partners across the state to improve educational outcomes for our students in the state of Nebraska, and we believe that LB870 is a start, or at least a part of that solution. Commissioner Breed and Brian Halstead from the Nebraska Department of Education will follow my testimony with an explanation of how the State Board and the Department of Education has been progressing in implementing previous legislative directives, and I would welcome any questions that you would have at this time of me regarding the State Board of Education's support of LB870. [LB870]

SENATOR HOWARD: Do we have any questions for Mr. Quandahl? Well, thank you for your... [LB870]

SENATOR AVERY: I do. [LB870]

SENATOR HOWARD: Oh, Senator Avery. [LB870]

SENATOR AVERY: Thank you. Mr. Quandahl, what...I'll ask you the question I asked Senator Adams. How do you see this, these data being used? [LB870]

MARK QUANDAHL: It's just...actually, we've begun some discussion of that, but we really haven't come to the point of making any sort of determination of how that's going to be. Tell you who'd be better at answering that question than I. I've been on the State Board since 2009. Prior to that time, Bob Evnen, who is the chairman of the accountability subcommittee of the State Board of Education, he's been working on the accountability index and the questions surrounding that for years. But right now, it's just setting the measure. We talked about implementing some sort of teams. Once we identify the schools that need help, figuring out how to help them is really what this is all about, so. [LB870]

SENATOR AVERY: Thank you. [LB870]

SENATOR HOWARD: Any other questions? Thank you for coming in. [LB870]

MARK QUANDAHL: Thank you. [LB870]

SENATOR HOWARD: Welcome to the Education Committee. It's a good way to start the year with you. [LB870]

ROGER BREED: (Exhibit 2) Well, it's always good to be here in front of my favorite committee. I'm Roger Breed. I'm the Commissioner of Education, B-r-e-e-d. Senator

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Howard, Senator Adams, members of the committee, I'm here to testify in support of LB870--it is clear, it is concise, and it is on target--and then also to spend some time with you, at least as long as you'll have me, to respond or to describe how the department has responded to initiatives, education initiatives, over the last few years. There have been three significant learning initiatives--one federal, two state--over the past decade. The first and the, obviously the biggest, was No Child Left Behind--the authorization of the Elementary and Secondary Education Act by the federal government in 2002. That set us upon the path of assessments for learning, for disaggregation of data per subgroup, and for adequate yearly progress--to bring all students to a certain level by a certain time. The second initiative was LB653, which required a revision of Nebraska's state standards and an implementation of those standards in all school districts, and that occurred in 2007. And then the third piece of legislation was again a state initiative, LB1157, which required Nebraska to embark on a statewide assessment system, moving away from what had previously been in place to respond to No Child Left Behind, which was a district-based assessment system known as STARS. The State Board and NDE have established the initial parameters of a statewide accountability system called NePAS--and I'll go over that with you in just a minute--and it is that system that is supported and clarified under the language of LB870. Here are the details, and I would speak from the second sheet, the stapled sheet that you have that looks like this. And I'll try to go through this fairly quickly because I think it's fairly clear and this committee of all committees of the Legislature is pretty knowledgeable about this, these particular matters. But No Child Left Behind, in 2002, required each state to form and have approved at the federal government level, assessments of reading, math, and at least one other area. It required a disaggregation and a reporting of results by subgroups, and it required a calculation of adequate yearly progress for each school building in each state. And an adequate yearly progress was a measure of improvement to scale up student achievement to 100 percent by 2014-15. LB653 from this Legislature required Nebraska to revise its standards--reading, language arts, and writing--in 2009. Mathematics was also completed in 2009. Science was completed in 2010. The social studies standards review and revision is underway and is anticipated to be completed in December of 2012. LB1157 basically said to the department, stop doing STARS, stop doing a district-wide or a district-based assessment system and start doing a statewide assessment system, whereby the same measure or the same assessment is given to all students similarly situated across the state in public schools. That has been accomplished, to date, efficiently and effectively, complete with item development, pilot testing, security measures, validation studies, and modality comparisons. A statewide assessment and any assessment and any collection of data that you want to use to compare schools is a complicated process. It has many, many pitfalls within it to do it right and to do it fairly. Reading and math assessments are given to all Nebraska school students--public school students--in grades 3, 8, and 11. NeSA science will be given in the spring of 2012 and it will go to all students in grades 3, 5, and 11. We're looking at grade bands with regard to that. I'm sorry, it's 5, 8, and 11, not 3, 5, and 11; 5, 8, and 11. NeSA writing has been updated

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and we have given the NeSA writing test for the past ten years. And it's given to grades 4 in a paper and pencil format and grades 8 and 11 in an on-line format. And scoring of the writing assessment will be on a trait system this year as opposed to a holistic one. Other actions that were required under the legislation in LB653 and LB1157 included identifying norm-reference testing and the collection and reporting on a district basis and a school building basis of performance on tests and subscores of those norm-reference tests. And those are like your Iowa Test of Basic Skills or the Stanford Test. We also began a state data system and the initial step was a statewide data warehouse called NSSRS, the Nebraska Student and Staff Reporting System, and this allows for the statewide tracking for individual student achievement and this was started in 2007 and 2008. We have since that time expanded NSSRS to include demographics of students and additional students' characteristics, including gender, race, ethnicity, free or reduced-priced lunch qualifying, limited English proficient students, special education students, elementary childhood, mobility, enrollment, attendance, dropout, graduation rate, and in 9-12, courses completed and grades earned. It is a huge warehouse of data. For federal programs, we also collect and use this data for special education reporting, Title I reporting, homeless student reporting, LEP eligibility, and educator experience. Individual student records are now available by number and by district since 2008-09, and we added then to that ACT scores that can be tracked by student, scores and subscores on the NRT, the norm-reference test, state reading scores, math scores, and next year, science scores. LB870 as proposed addresses a state accountability system that supports the beliefs and values of an accountability system that has been adopted by the State Board of Education. The belief statements adopted at that time include the following: using multiple indicators of growth and achievement, which LB870 requires; being based on the results or outcomes of student learning; promoting high achievement; and shedding a light on actual performance. And that might get to your question, Senator Avery, about the use of results. It is to shed a public light on the performance that we all agree to, at least as a starting point, and then other uses can flow from that. It emphasizes growth and improvement in achievement over time, rather than just the one snapshot picture in time. It uses public reporting as a source of accountability and transparency. And most importantly, it must be easily understood and as straightforward as possible so that schools can communicate to their stakeholders exactly what their status is, what they're working on, what's working, what's not working, and to have that discussion within their communities as to what actions they should take. It is not a finished system. As Senator Adams indicated and as certainly as the board knows, it's been working on this for two years. The process continues and there are many implementation decisions that remain. The first of those is exactly what Senator Avery asked: How exactly will these scores be used? Just to be publicly reported or for consequences? To be designated as a high-performing school or to be designated as a priority school that requires additional intervention? How to handle schools with less than 95 percent participation--one of the things that No Child Left Behind did well was to make sure that all students are included in the measures for accountability. And so what happens when schools get less than 95 percent? And

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sometimes that happens not by any devious intent of the school district, but we have small schools. And if one or two students is not included, it can drop your percentage participation below an acceptable level. And then also, what exactly is a school? We presently have nine school building configurations in the state. This is a little lesson on the complexity of data. When you say, let's just measure elementary schools against each other in the state of Nebraska, what does that mean? Because we have K-3 schools, we have K-4 schools, we have K-5 schools, we have K-6 schools, we have 4-6 schools, we have 6-8 schools, we have 9-12 schools, we have 6-12 schools, and we have K-12 schools. So which elementaries do you want to compare? Or how do we define it? Do we define a school simply by grade levels served or do we define it by grade levels tested? And if you do that, then it's not really a building assessment, it is something different than that, but these are the intricacies you get into when you look at and begin to accumulate data for comparison purposes. Last point, beware of complexity in increasing the numbers of measures. There is both a cost to that and there is also, I think, a break-even point at which point how much can the state itself concentrate on? I think all of you are aware that you have very full agendas as legislators. Educators have very full agendas in their schools. How much are we going to hold them responsible for? We've tended to focus at the State Board and the department level on measures of learning and things that complement and attend to learning and tried to limit those to things that we can do a statewide assessment on. We've also tried to create an accountability system that meets the requirements of the federal government so our school districts are burdened with just one accountability system, not two. So with that, I'll address any concerns or questions that the committee might have. [LB870]

SENATOR HOWARD: Are there questions? Senator Council. [LB870]

SENATOR BREED: Senator Council. [LB870]

SENATOR COUNCIL: Thank you. Thank you, Commissioner Breed, and I appreciate the information you've shared. On the assessments and the data collection, you mentioned...you referenced subgroups... [LB870]

ROGER BREED: Um-hum. [LB870]

SENATOR COUNCIL: ...and I guess I want to be assured that the department has a data collection system that collects that data and...on a subgroup basis... [LB870]

ROGER BREED: Right. [LB870]

SENATOR COUNCIL: ...and they can compare that data on a subgroup basis from school to school or from district to district. [LB870]

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ROGER BREED: Right, and not only compare but report, yes. [LB870]

SENATOR COUNCIL: Okay, because that's, you know, one of the concerns about...and you made the statement that more measurements, potentially the more cost. [LB870]

ROGER BREED: Right. [LB870]

SENATOR COUNCIL: And when you're talking about the cost, it's generally associated with the ability to collect the data and then assess the data. [LB870]

ROGER BREED: Right. [LB870]

SENATOR COUNCIL: But if we have a data collection system... [LB870]

ROGER BREED: Um-hum. [LB870]

SENATOR COUNCIL: ...that will enable us to disaggregate and report out... [LB870]

ROGER BREED: Right. [LB870]

SENATOR COUNCIL: ...on the basis of subgroups, if we have subgroup measurements, then it shouldn't unnecessarily or needlessly burden the department. [LB870]

ROGER BREED: No, not necessarily us. Again, you have two costs in terms of data. One is...well, you have three, but assuming the preparation of and defining the exact data that you are going to collect is done, then you have two costs. That is at...one is at the school building level. What does it cost to accumulate the data, put it into form? And the second is: What is the cost then to manipulate and report the state data at the NSSRS level, at the warehouse level, okay? [LB870]

SENATOR COUNCIL: Okay, thank you. [LB870]

SENATOR HOWARD: Questions. [LB870]

SENATOR SULLIVAN: Thank you, Senator Howard. Thank you, Dr. Breed. A couple of questions. On the data that is now collected and reported to the public, what sort of feedback do you get from parents, from superintendents, from teachers? How is the information...how are they reacting to the information that is now currently available? [LB870]

ROGER BREED: By and large, the reaction that I have received from school districts and from parents is that the data is useful because it's tied directly back to student

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learning, it is a statewide assessment, and it's based on the same standards across school districts. And so the discussion in communities...and you know, I've been in probably 45 communities since the start of the school year here. The discussion is, how do we address what is indicated by the data that we've received on our student performance? [LB870]

SENATOR AVERY: Um-hum. [LB870]

ROGER BREED: What is it that we can do as a school district to do better? What groups--you know, back to Senator Council's comments about disaggregated data--what groups are we not doing well with and how can we do better with those? Those are the discussions that I am hearing. Now I also hear don't do much more. You know, it's...we are burdened as school districts. There is a cost to testing. There is a cost to we're going to do on-line writing assessment. We're going to go ask all school districts to go to on-line administration of reading, mathematics, and science. And there is a cost to that not only in the use of the technology, but in pulling labs and computer stations offline to do assessment. And so I hear we're kind of at the limit of that, and so you know again, we want to do the job well. We want to have good data that informs the educational process, the learning process in our school districts, but not to the point where it becomes the sole focus. Schools have much to do. This should be one of the things they do in amongst all of the things that their communities ask them to do. [LB870]

SENATOR SULLIVAN: So that being said, these additional measurements--you're probably going to be fairly selective in any...adding any additional ones beyond what you say have been focused on the learning environment. [LB870]

ROGER BREED: Yes. [LB870]

SENATOR SULLIVAN: Okay. [LB870]

ROGER BREED: The short answer to your question is, are we going to have problems with additional? The answer is yes because those are going to be burdensome for a school district. You know the reading, mathematics, science... [LB870]

SENATOR SULLIVAN: Um-hum. [LB870]

ROGER BREED: ...writing, you know, those are the core learning experiences, along with social sciences. Social sciences has a separate statute in Nebraska law as to the teaching of what is necessary in terms of social sciences. We will also have social studies standards. Districts can assess that and districts also require kids to have fairly extensive backgrounds in social sciences in high school for graduation requirement. So I don't see a push for social studies assessment, if you will. The other major core areas

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are assessed. Now, no one in our department and no one on the State Board is talking about schools only being in the areas that are assessed. The question is: How do we as a state assure the public that students are receiving good education, good learning opportunities, and establishing a record of good learning by each of our schools across the state so that kids, regardless of the zip code that they're in, can be assured a level of learning that we can all point to and have some assurance that it is good there as anywhere in the state? [LB870]

SENATOR SULLIVAN: In that process, though, are you going to also have to consider some measurements that would impact a child's learning that are outside that learning environment, if you follow what I'm saying, you know, other...assessing these situations and the environment that would impact a child outside the classroom? Are you going down that path? [LB870]

ROGER BREED: Well, if we could establish if it was easy to collect,... [LB870]

SENATOR SULLIVAN: Uh-huh. [LB870]

ROGER BREED: ...if it had a direct bearing on student learning, that discussion could certainly be made. But again, in those areas and going into those areas that are not presently accounted for in statute and in resources, you would be talking about additional resource needs. [LB870]

SENATOR SULLIVAN: Okay, thank you. [LB870]

ROGER BREED: Um-hum. [LB870]

SENATOR HOWARD: Senator Haar. [LB870]

SENATOR HAAR: Thank you. When I talked with teachers, one of the most hated things really is No Child Left Behind. [LB870]

ROGER BREED: Um-hum. [LB870]

SENATOR HAAR: And teachers often feel that--and I feel that--that it's just teaching towards the test, teaching towards the assessment... [LB870]

ROGER BREED: Um-hum. [LB870]

SENATOR HAAR: ...and I have some concerns and I don't know all the details of this, but adding even more requirements, more teaching to the test, more focusing, because kids often don't, you know, fit into those molds that we'd like to have them. [LB870]

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ROGER BREED: Right. Do you want me to respond to that? [LB870]

SENATOR HAAR: Yes, please, yeah. [LB870]

ROGER BREED: Well, I would agree with your first assertion is that right now today, there are very few people that stand up and salute No Child Left Behind as it is presently configured. And that is because it is based on adequate yearly progress as measured by improvement and that is comparing this year's fourth graders with last year's fourth graders, so in different...you're comparing different groups of students and that is just one measure, and schools rightly feel that that's too narrow of a measure. That's the first criticism of that type of assessment under No Child Left Behind. The second criticism is that it, you know, it is reading and language arts and mathematics only. And so what about high schools? Because you usually...you're required to test, under No Child Left Behind, grades 3-8 and 11. So there really is no measure of growth in high schools. There's really other no parameters of high school. So the other criticism you hear about No Child Left Behind is it doesn't bring high schools into the discussion. Well, high schools should be in the discussion. In fact, we should have...we should consider, as we have said before this committee before, Nebraska's education system should be perceived as a early education through postsecondary education and into the work force education system and we should be attentive to those transitions, not only from preschool into school--and Senator Council mentioned the kindergarten readiness aspect of that, which is a concern--but also from high school into postsecondary education and into work. And if you do that, then you have to have an assessment that to some extent makes assertions about high-school performance. And No Child Left Behind was not designed for that. It was primarily designed for basic skills in a very fixed measure in a very narrow way. And we're trying to go away from that and yet not go to the point where we render or we bring about the criticism that all we're doing is testing, okay? We think we're hitting a good mix between what we should provide in terms of accountability for student learning, a responsibility of educators to do that to the public, and a responsibility still to provide a rich, creative, innovative education environment for kids as well. [LB870]

SENATOR HAAR: Okay. [LB870]

SENATOR HOWARD: Any other questions? Thank you, Commissioner. It's always good to have you here. [LB870]

ROGER BREED: Thank you. [LB870]

SENATOR HOWARD: Welcome. [LB870]

BOB EVNEN: Thank you, Senator Adams, Vice Chair Howard, members of the committee. My name is Bob Evnen, E-v-n-e-n. I am a member of the State Board of

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Education. I am the chair of the State Board's committee on accountability and so I thought I would try to add a little bit. I'm testifying as a proponent of this bill. I would urge the committee to send it to the floor, and I'm hopeful that the bill will be enacted by the Legislature and signed by the Governor. We have been working on measures of accountability for, now a period of a couple of years, over a couple of years really. And you have in the package of materials that Mark Quandahl asked to be provided to you, a packet, a series of sheets that talk about where we are today in the accountability model. And I am certain that you will find it endlessly fascinating, but I'm going to try to just summarize in a very brief way where we are in our own thinking in terms of the measurement of accountability. We are not at a point at this point to say, well, what schools...which schools, based upon our accountability measures, which schools do we need to have to deal with? Which schools do we need interventions with? Which schools do we need to designate as honor schools? And for those schools where we feel intervention is needed, what are we...what kind of intervention would we recommend be provided? Those are issues that we intend to discuss, study, and grapple with this year. Right now where we are is establishing our accountability model, how we're going to measure this, and that's really what LB870 speaks to. Where we are as a board is to take a look using the statewide tests that we're now administering. Using the data that we get from those tests, how do we construct in a model of accountability that captures what we...what's really important in terms of student learning? One element is status and that is what's your score? What was your score on the math test, the reading test, the writing test, the science test? Just taking a look at the scores school by school, and that's an important measure. That's one of the reasons, one of the main reasons we administer these tests to begin with. But there are other things that we're looking at as well: growth and improvement. Improvement is, how do this year's third graders do compared to last year's third graders? So we're looking at third grade year after year after year, fourth grade, year after year after year, to see what sort of changes there are in the scoring on these tests. And we're also looking at growth. Growth is a concept which is actually sort of a difficult one as it turns out. But we've reached some conclusions about how you measure growth and that is looking at the same students. Are the same...if I look at Bob Evnen this year who's in third grade and look at Bob's scores for third grade, then I want to take a look at Bob's scores at fourth grade and see how those scores have changed. Is Bob doing better in fourth grade than he was doing in third grade? As well, better, maybe not as well? And take a look at following then a cohort of students through the schools to see how they're performing over time. One is...one concept, improvement, is looking at the grades. Then you have the concept of growth, which looks at the individual students. And we're using both of those concepts, growth and improvement, as part of our measures moving towards accountability. So what...and then we have different weights for these things. What we're really trying to get to is that if your students and your school are scoring high status--that is, they're getting high scores on the tests--we want you to maintain that. If your students are not scoring so well on the tests, then what we're...we're not going to sit there and say, well, you're down here. Why aren't you up there like they are over at

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that school? We don't want to do that. What we want to say is you're down here; what do we need to do to get you here? This is where growth and improvement inform our judgments. You're here. What steps can be taken at your school to get you up to here? And then up to here? How can we stairstep the educational achievement of children in this school so that we see a trend of improvement? What we're looking for from an accountability standpoint is either if you're a school that has scoring at a high level, we want to see you maintain it. If you're at a school that's scoring at a not so high level, a low level, what we're looking for is improvement. Now when we put these measures together then, and then ultimately come up with some sort of an intervention model, if you will, what we'll be looking at, at that point, it seems to me, will be directed to, we're going to...schools that do not have high-status scores and are not showing growth or improvement. If you have a school that's down here and it's staying down here over some extended period of time, those are the schools, it seems to us, where we need to direct our resources which are, after all, limited. So that's where that is, which schools those might be, what resources, what sorts of interventions, these are things that are yet to be determined. But what I wanted to at least give you was some just generalized view of where we are in terms of these different accountability measures and how we hope to use them. So with that, I would be...I could go on for a while... [LB870]

SENATOR HOWARD: Well, let's see if we have any questions for you. [LB870]

BOB EVNEN: ...but perhaps I should yield to questions. [LB870]

SENATOR HOWARD: Thank you. Thank you, Senator Haar. [LB870]

SENATOR HAAR: Thanks for being here. The question I asked earlier, is this...are we pioneers in this or--since you've been studying this for a long time--or are we borrowing in the best...? [LB870]

BOB EVNEN: We are not pioneers in this. There are a number of states that have addressed these issues. We've taken a close look at Colorado's approach, we've taken a close look at Florida's approach; we have not adopted the approaches of either of those states. But there are states that we have taken a look at in order to get concepts and ideas about where we want to head. And what we're trying to find...one thing that we've found, Senator Haar, is that some states have an incredibly complex approach. And the problem with complexity is that for whatever marginal increase in accuracy you get, you lose it in the opaqueness of the approach. One of the great values of an accountability system is that, you know, teachers and principals are greatly rewarded both personally and professionally when their children learn, and they want their kids to do well. Giving them measures of performance is something that's really helpful to them because it shows how well their kids are doing and it helps them benchmark things that are helping them improve, things that are not working as well as they'd like. If that measurement process is so complicated and opaque that you can't tell what impact

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you're having, then its usefulness is really diminished. So we are trying to have as accurate a system as we can within the bounds of...but controlling its complexity. We'd like to try to observe the KISS principle. [LB870]

SENATOR HOWARD: Senator Avery. [LB870]

SENATOR AVERY: Thank you, Senator Howard. As the guru of accountability, (laugh) I'd like to extend the conversation a little bit as to how these scores might be used. Can you envision, for example, a rating, say, a double-star school or school district, a single-star or no-star or something like that--gold stars, blue stars, I don't know--some way of recognizing high-performing schools that schools could take pride in? We're trying to become a double-star school. [LB870]

BOB EVNEN: Right, I think that...yes, the answer is yes. We would like to recognize schools that are excelling both in terms of status and also in terms of growth and improvement, so the answer to your question is yes. [LB870]

SENATOR AVERY: Then would you ever envision these scores being used in a punitive manner? [LB870]

BOB EVNEN: I don't envision them being used in a punitive manner. What...the question is: If you have a school that is low performing over an extended period of time, what do you do about it? And that's a serious question with a variety of answers, a variety of ideas, but it seems to me that not to address it is...it would be immoral to ignore it. We have an obligation to the children who attend those schools to assure that they have an opportunity to learn. And one of my hopes is that when the data is provided to schools, that they will use it as feedback, so that less intervention is required. But, Senator, I don't...we're not looking for punitive actions to take against people. What we're looking for is: How can we improve the educational achievement of children? [LB870]

SENATOR AVERY: Do you have any knowledge of the extent to which teachers and principals are aware of what is being constructed here in terms of accountability? I mean, I know they are aware of NeSA; obviously, they're involved in it. But do you know to what extent they might be aware of LB870? [LB870]

BOB EVNEN: Well, I can't tell you about their awareness of LB870. I can tell you that we have been pretty open about--and we've tried to communicate with stakeholders, if you will--about what our thoughts are in terms of the measurement of accountability. [LB870]

SENATOR AVERY: And are you getting a receptive reaction or a pushback or apathy, what? [LB870]

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BOB EVNEN: No. For the most part I would say that we're getting positive feedback and encouragement from the standpoint of having this system. And then as we put it out there for people to comment on, we try to take into account the sorts of concerns that they have. I'll give you an example--Commissioner Breed made reference to it. We really have to have full participation of students. If we don't have full participation of students, we don't have a valid and reliable measure of student achievement at the school level. And yet, the absence of just a few kids can affect that, so we have to consider that and take that into account. That's an example. [LB870]

SENATOR AVERY: Thank you. [LB870]

SENATOR HOWARD: Senator Sullivan. [LB870]

SENATOR SULLIVAN: Thank you, Senator Howard. Thank you, Mr. Evnen. If you're the guru for accountability, you're going to be ending your term. So who's going to take up the torch? [LB870]

BOB EVNEN: Well, Senator, I believe that the people of my district will have a good opportunity to figure out who should succeed me. And in terms of who will take up the torch, I am confident that other members on the board are going to be fully capable of doing that. We have other members on the accountability committee who are very involved, very dedicated, and very capable. [LB870]

SENATOR SULLIVAN: Thank you. [LB870]

SENATOR HOWARD: Any other questions? Senator Council. [LB870]

SENATOR COUNCIL: Thank you. Thank you, Mr. Evnen. I appreciate your concern about complexity and getting too complicated. But I also have a concern if that we don't...if they're not looking at multiple measures, that when we get to the point where we start talking about interventions, then we're not being very broad in our vision in terms of developing the appropriate interventions that the children need. And I appreciate, you know, watching schools, you know, show improvement. I'm interested in children showing, you know, improvement. And with the measures, if we get, for example, too focused just on the math, reading, and science assessment and growth in that without looking at what Senator Adams alluded to in his opening, everything that comes to bear upon how children perform on those assessments, that if we don't have some of these other measurements, then our intervention may not be developed to appropriately ensure that all children are provided every opportunity to succeed. So I guess I want to have your view on that. And then the second part is, you'd indicated that...say a school is 83 percent of their students are proficient and so in that regard you indicated--and I don't want to misstate what you said--that one of the objectives would

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for there be stability there in terms of growth. You'd like to see them go up, but you...that 83 percent, if they show stability across a period of time, that would be an appropriate measurement of a success. But my concern about that is if that stability is the result of children in the upper quartile being served and doing better while children in the lower quartile aren't being served, and then the resulting effect is this stability, that's why I'm a proponent of subgroups and looking at your top quartile, your bottom quartile, those in the middle, to see if we're addressing all of those children's needs and that all of those children are performing better than the previous class. I like following the cohort, you know, to see how Johnny or Jane are doing in successive years, as well as that this third grade class may be doing better than the last third grade class. So on the multiple measures, that's question number one. And number two, on the need to drive deeper than just the overall performance. [LB870]

BOB EVNEN: The...one of the things that for me personally that I've been pretty fervent about, is to demand that we have a very, very high level of participation because we've got to have data on everybody. And just as a side note, you know we're piloting the use of the ACT in eight districts, and every eleventh-grader will be given that test at no cost to the eleventh-grader. And one of the benefits of that is that it will enable us to identify children of promise who may have been overlooked. Now from the standpoint of the first point that you raised, which is really...and my interpretation of the point that you raised is you can't be effective with students if you don't understand where they live and work and their communities. [LB870]

SENATOR COUNCIL: Right. [LB870]

BOB EVNEN: If you have a school that is showing progress or that has high scores, what that suggests to me is that the administrators and the teachers in that school have an awareness of the...of where those kids live in the community in which they serve. If you have a school that is over a period of time showing low-status scores, low scoring on the tests and is not showing improvement in growth or improvement, then what we have to go in and figure out...it is crucial there. One of the things that it indicates to me is that there isn't a full awareness on the part of the faculty and the administration there. There may not be full awareness of the community in which these kids live. So to me, the element that you're talking about there informs us about what we do about it as opposed to saying, well, they may...we don't want a situation where we're saying, well, these kids may be scoring lower, but consider their circumstances. All children can learn, and I have to say that seems like a penetrating glimpse into the obvious, but I receive e-mails all the time as a State Board member telling me that minority children in poverty cannot learn. And I don't believe it. I don't accept it, I reject it. So what we...if we see children who are not achieving, then the question is: Do we have a full understanding of the environment in which we're expecting them to learn? And how do we address our instructional programs to meet their needs? That's where that consideration becomes paramount to me. That's my response to your first point. And as

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to the second point, one of the beauties of the NSSRS, the Nebraska Student and Staff Reporting System, is that we can disaggregate data by a broad variety of demographic characteristics, which will enable us--and we're already reporting that. That's already being reported on the Nebraska Department of Education Web site. But it will also enable us to say, well, when we check on this demographic characteristic, we can see that these schools are having difficulty with those students, but here's a school over here that's being successful with those students. Can we learn anything from that school about what approach that school is taking? What instructional programs and curriculum are going on at that school that might be able to be used by these other schools that aren't having so much success? And that, to me, is part of the great promise of disaggregating data by these demographic characteristics. So those at least are my thoughts about the points you've raised. [LB870]

SENATOR COUNCIL: And I appreciate your comments, much of which I agree with. But I don't want us to get...let's take the situation: School A--only 25 percent of their students are on free and reduced lunch. And then you've got School B, where 75 percent of their students are on free and reduced lunch. Now, School B may not be performing as well as we would want them to perform on the assessment, but School A is performing pretty well. What I don't want to get lost there is like the statement you made and I agree with. If the school where 75 percent of the kids are on free and reduced lunch and you see continual growth, something's going on in that school where the staff and administration know what those youngsters need and you'll see that. What I don't want to get lost is in the school where only 25 percent of the kids are on free and reduced lunch and we don't look at how they are performing, just that cohort and not the entire school, because we may be missing that that school doesn't know how to address the needs of the 25 percent. They're real good at addressing the needs of the 75 percent, but they're not doing very well with the 25 percent. And that's what I want to be sure that our accountability system, we're able to look at that level of detail to be sure that all of these children are being...that their issues and their needs are being addressed at each of these school levels. Do you appreciate...do you need...okay. [LB870]

BOB EVNEN: Yeah, we don't want...yes, Senator. We don't want the school-level data to mask... [LB870]

SENATOR COUNCIL: Right. [LB870]

BOB EVNEN: ...some lower level of success with certain demographic or... [LB870]

SENATOR COUNCIL: Exactly. [LB870]

BOB EVNEN: ...you know, free and reduced lunch kids in your example. [LB870]

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SENATOR COUNCIL: Exactly, thank you. [LB870]

SENATOR HOWARD: Thank you. [LB870]

BOB EVNEN: Thank you. [LB870]

SENATOR HOWARD: Next proponent. [LB870]

TED STILWILL: Vice Chair, Senators, Chairman Adams, I'm Ted Stilwill, the CEO of the Learning Community, S-t-i-l-w-i-l-l, and I'm speaking as a proponent of this bill--slightly different purpose than the rest of this conversation. I enjoyed listening to a great dialogue as Nebraska thinks about creating a new accountability system. My purpose in coming before you this afternoon is really to perhaps help declutter the policy environment so that you can build new policy. And it's really to speak directly to that section at the very end of this bill in the legislation which asks to repeal 760.04 that established the K-3 standards in just the Learning Community of Douglas and Sarpy County--standards and assessments--for the reasons that Senator Adams described. The state now has standards they did not have then. We really don't want two sets of standards. So in consultation with the 11 superintendents and with the approval of the Learning Community Coordinating Council, we ask that that section of the legislation be removed, simply to declutter that policy environment for you so that you can do and proceed along the lines you've been discussing. I'd be happy to answer any questions you might have. [LB870]

SENATOR HOWARD: Do we have any questions? Brief and to the point, thank you. [LB870]

TED STILWILL: Thank you. [LB870]

SENATOR HOWARD: Well, John Bonaiuto. [LB870]

JOHN BONAIUTO: Hi, Senator. [LB870]

SENATOR HOWARD: Welcome to the Education Committee. [LB870]

JOHN BONAIUTO: Thank you, Senator Howard, Senator Adams, members of the committee. John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, a registered lobbyist representing public education governing boards, here as a proponent of LB870, and I want to thank Senator Adams for this new and improved bill. I know that Senator Adams has had many conversations about accountability and more importantly, he's listened to what people have been saying, and LB870 is a result of that. We've had great information from the department and State Board, so I wanted to mention something that--from the field--that may seem pretty basic to you. But when we look at this and the journey that

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we're on and the steps that have been taken over the last number of years, it's made a big difference. That the legislative branch, the executive branch, the department, the State Board, the commissioner, all of our policymakers are having conversations and are on the same page and helping us move in the right direction. And let me tell you, we don't take that for granted because that hasn't always been the case. And so I think that that is so critical and as we have a conversation like this, as long as we have those conversations happening between a state board that is in touch with the field, a commissioner that's in touch with what's happening in school districts, and groups that are approachable and that we can continue to communicate with, I think the rest of the journey will go smoothly. We're going to keep adding pieces to this accountability system. This is the next step; and in more steps to come and we're just going to get better at being able to improve education across our state in all of our schools. So with that I will conclude my testimony, but I believe we'll be having more of these conversations and trying to continue to improve on what we've started, so thank you. [LB870]

SENATOR HOWARD: Senator Haar. [LB870]

SENATOR HAAR: Thanks for being here. Is there an implication that if we do a better job of assessment, we're going to have to spend more money on education? [LB870]

JOHN BONAIUTO: You know, I...Senator, I don't know. If we do a better job, we may be looking at spending our resources differently. And I don't know if...you know, more is not always required. [LB870]

SENATOR HAAR: Sure. [LB870]

JOHN BONAIUTO: But I look at as we improve how we receive data, how we look at data, how we use data, and from a school board perspective, those policymakers need to take a look at where they're concentrating their resources and how they're spending their money. And so that will be part of this conversation. Are we spending the money in the right places? [LB870]

SENATOR HAAR: Um-hum, interesting, yeah. [LB870]

SENATOR HOWARD: Do we have any other questions? Okay, thank you. [LB870]

JOHN BONAIUTO: Thank you. [LB870]

SENATOR HOWARD: Hi, Mike. [LB870]

MIKE DULANEY: Senator...hi, Senator. [LB870]

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SENATOR HOWARD: Welcome to the Education Committee. [LB870]

MIKE DULANEY: Thank you, Senator Howard, members of the committee. My name is Mike Dulaney, D-u-l-a-n-e-y. I am the executive director for the Nebraska Council of School Administrators. And I, like Dr. Bonaiuto, will just have a few remarks, but...Senator Avery is not here, but he asked if teachers and principals are aware of LB870 and the answer is, at least for principals, yes, they're aware. In fact, when the bill was dropped in, we made sure to let them know as soon as possible. And so you can imagine there has been plenty of discussion about this. And we have compared the bill to LB635 and certainly many of our members regard LB870 as a more preferable version of this issue. You know, I think that on the whole administrators welcome accountability because they know that that's a part of the process, that they know that to receive state funding means to be accountable for what's happening in their school district. Naturally, also, that there's concern about what does this mean? What will happen with the State Board project and what will they put out there? I'm confident that the Commissioner of Education and the State Board of Education that we currently have is going to listen to the concerns and the issues raised by administrators and teachers and school board members. So I think that that process will be there and so we...I would just say that we support the bill and we look forward to working with you on this legislation and others throughout this session. [LB870]

SENATOR HOWARD: Thank you. Questions? Senator Council. [LB870]

SENATOR COUNCIL: Yes, thank you. I guess I have a question that...your statement that the administrators are much more comfortable with LB870 than LB635... [LB870]

MIKE DULANEY: Um-hum. [LB870]

SENATOR COUNCIL: ...and I am kind of troubled by that because the difference I see in LB870 and LB635 is LB635 really went to, okay, if the accountability system shows that you're not making the kind of progress in terms of performance, here's a means of assisting you. [LB870]

MIKE DULANEY: Um-hum. [LB870]

SENATOR COUNCIL: And maybe the administrators saw it as more of a punishment than an assistance and I can respect that. [LB870]

MIKE DULANEY: Um-hum, yeah. [LB870]

SENATOR COUNCIL: But let's assume that if--for purposes of this conversation--that what was intended by LB635 was not punishment but... [LB870]

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MIKE DULANEY: Yeah. [LB870]

SENATOR COUNCIL: ...you know, what can we do to aid you in getting to the level of performance that everyone wants to see for all the children across the state. [LB870]

MIKE DULANEY: Um-hum, um-hum. [LB870]

SENATOR COUNCIL: Is that what the administrators... [LB870]

MIKE DULANEY: Well... [LB870]

SENATOR COUNCIL: ...that they viewed it more as punishment than... [LB870]

MIKE DULANEY: Yeah, yeah. [LB870]

SENATOR COUNCIL: I'm just trying to get an under... [LB870]

MIKE DULANEY: No, I appreciate that, Senator Council, and I can't speak for... [LB870]

SENATOR COUNCIL: Um-hum. [LB870]

MIKE DULANEY: ...each and every member and not all administrators raised that issue. [LB870]

SENATOR COUNCIL: Um-hum. [LB870]

MIKE DULANEY: And it may be that punitive nature that they saw in LB635, their perception... [LB870]

SENATOR COUNCIL: Okay, I appreciate that. [LB870]

MIKE DULANEY: And it really is, as you know, a lot about perception--what's going to happen if we don't get...if we don't meet X, Y, and Z, what will the state do? And so there is that concern. [LB870]

SENATOR COUNCIL: Um-hum. [LB870]

MIKE DULANEY: I think that's reasonable. [LB870]

SENATOR COUNCIL: Okay, thank you. [LB870]

MIKE DULANEY: Yeah. [LB870]

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SENATOR HOWARD: Any other questions? Thank you. [LB870]

MIKE DULANEY: Thank you, Senator. [LB870]

SENATOR HOWARD: Oops...two vying supporters. [LB870]

SENATOR HAAR: That's right. You better run fast. [LB870]

SENATOR HOWARD: Welcome. [LB870]

JAY SEARS: (Exhibit 2) Thank you, Senator Howard. Good afternoon, Chairman Adams, Vice Chairman Howard... [LB870]

SENATOR HOWARD: Thank you. [LB870]

JAY SEARS: ...and members of the committee. For the record, my name is Jay Sears, J-a-y S-e-a-r-s, and I represent the 28,000 members of the Nebraska State Education Association. NSEA supports LB870. NSEA supports legislation this year that enhances the interrelationships of strong schools, strong communities, and a strong economy in Nebraska. LB870 does enhance some of those themes. Last year, NSEA came before you and supported LB635, which was mentioned earlier--another school accountability bill. We provided information at that time to the committee about the complexity of teaching and the need for accountability not just for schools and teachers, but for students, parents, and the community. Those types of supports and accountability are still needed. LB870 provides multiple measures of accountability for our state's school systems. NSEA trusts that the State Board of Education will develop an accountability system that truly uses multiple measures. Besides test scores, student improvement and growth on test scores, and graduation rates, NSEA hopes those multiple measures will include class size, student attendance, school funding, poverty, numbers of English language learners, and numbers of special education students. It wouldn't hurt if there was also a measure of support by the school district's community and businesses. NSEA is in the hope that the State Board of Education will develop an accountability system that holds all Nebraskans accountable and supports LB870 as a step in that direction. Thank you for your time and I'd be glad to answer any questions. [LB870]

SENATOR HOWARD: Are there any questions? Yes, Senator Haar. [LB870]

SENATOR HAAR: Yes, thanks, the question I asked before. Do you think there's a possibility that better accountability will point to the need to spend more on education? [LB870]

JAY SEARS: I think if we get the system put together, we can redirect the resources where we need them. [LB870]

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SENATOR HAAR: Okay, thank you. [LB870]

JAY SEARS: But we won't turn down more money. (Laughter) [LB870]

SENATOR HOWARD: Any other questions? [LB870]

SENATOR AVERY: He couldn't resist. [LB870]

SENATOR HOWARD: Thank you. Welcome. [LB870]

JON HABBEN: Thank you, Senator Howard, Senator Adams, all committee members. My name is Jon, J-o-n, Habben, H-a-b-b-e-n, with the Nebraska Rural Community Schools Association. A couple of things--and you've heard many, many things--so not to just rehash everything. The concept of incremental development toward a solution in some applications doesn't apply. This application, I think it does. Complexity of the issue is probably the biggest reason why. But one of the questions, I guess, that I've heard from a number of our members is, so when are we done? So what year is it we're aiming for? That will always be with you if you're deciding on an incremental approach. There's no way to avoid that. Certainly agree with the concepts of multiple measures and growth measures; totally understand you cannot have a list of everything under the sun as part of your multiple-measures system. If you get too heavy with the variety of measures, I think you run the risk of the system collapsing under its own weight. I don't know where the magic line is, but that is a concern. Growth measures, it goes without saying, obviously extremely important. The last part, and it is "the measures selected by the board for the accountability system may be combined into a school performance score and district performance score." Right now, we do have board members and superintendents as our district...or our organization represents 176 members from about the size of Seward to the smallest of members in the state of K-12 enrollment. The question becomes, so what's the purpose of what we report? What are we doing with the data? Is it just out there floating around for anybody to attach any interpretation to it or is...or do we have a better focus than that? I think Senator Avery asked the question, so what do you do with the information? And I think part of the answer is yes, you do use that information for school improvement. I mean, obviously that has to be the core of the use of the information. The other issue always becomes, when you make information public--and it becomes public information if you report it to the State Board, obviously. When it becomes public, what happens then? What happens next? And at a number of conferences that have occurred--legislative forums and so on and so forth--we have had board members stand up and be quite vocal about now, wait a minute. What are we doing with these numbers and why is it that you're saying they mean this or that? So please keep that in mind any time you're taking multiple assessments, shall we say, and bringing them together into a single reportable score. I would just say last, the basis of the whole system has to be school improvement student

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learning. And I know we worry about how much money will it take to support that or how complex the system should be, and those are critical questions and the Department of Education and the State Board are wrestling with those through this entire set of discussions over a period of quite some time. Their focus, and of course everybody's focus has to be student learning and school improvement. And that's all I have, thank you. [LB870]

SENATOR HOWARD: Do we have questions? No? [LB870]

JON HABBEN: Thank you very much. [LB870]

SENATOR HOWARD: Thank you. [LB870]

ANDY RIKLI: Welcome. [LB870]

SENATOR HOWARD: Welcome. [LB870]

ANDY RIKLI: (Exhibit 3) Senator Howard, Senator Adams, my name is Andy Rikli, R-i-k-l-i. I am the assistant superintendent with the Omaha School District in Omaha, Nebraska. Very briefly, I'd just like to commend the committee for their work on LB870. We believe very firmly in school accountability. As the committee will recall back in 2008 when LB653 was being debated, which transferred basically the accountability system from STARS to a statewide testing model, Westside was the only public school district in the state of Nebraska that testified in support of LB653, so accountability is certainly something we believe very strongly in. One observation, two humble suggestions, and I'll conclude my testimony. The one observation is we believe very strongly and would applaud the State Board for their recognition that four-year cohort graduation rates as well as six-year graduation rates need to be considered. We know that there's a wide variety of reasons from special education issues, serious medical issues, English language-learning issues that prevent all students from graduating in four years. Sometimes it takes a little longer and we ought, in my humble opinion, to recognize that. The two humble suggestions we would offer the committee with recognition of the fact that complexity could add to the cost of the system and it could make the system cumbersome, we want it to be as reflective of what's going on in our schools as possible. As such, I believe some consideration of demographic variables should be part of the system. For example, the Westside Community Schools has approximately 28 percent poverty. That can certainly be not an excuse by any stretch of the imagination, but certainly that is a factor to consider. Take Senator Council's district, for example, where you'll see poverty rates in excess of 60 percent poverty, some buildings approaching 100 percent poverty. Again, no excuses, but it certainly ought to be a consideration when we're looking at the relative performance of a school district. The last suggestion I would humbly make is perhaps some type of rigor index ought to be considered, and by that I mean this: not all public school districts in Nebraska have the

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same amount and number of requirements for graduation. We want to reward, in my opinion, those districts that go above and beyond simply the minimal standards of expectations for school districts. It is not uncommon in the state of Nebraska to have school districts require graduation demonstration exams. In the Westside school districts we require community service hours. We require service learning project. All of those things certainly go above and beyond what the State Board would require for graduation and we ought to recognize that, in my opinion. And with that, I'd conclude my testimony and gladly accept any questions the committee may have. [LB870]

SENATOR HOWARD: Thank you. Do we have any questions from the committee? [LB870]

SENATOR COUNCIL: Good luck. [LB870]

ANDY RIKLI: Thank you. [LB870]

SENATOR HOWARD: Welcome to the Education Committee. [LB870]

CHAD DUMAS: (Exhibit 4) Thank you, good afternoon. Chad Dumas, D-u-m-a-s, director of curriculum instruction assessment for Hastings Public Schools. I'd have to start by saying I'm a little bummed because I was under the understanding I have three minutes, and so I practiced to get everything down into three minutes. [LB870]

SENATOR HOWARD: (Laughter) Well, we appreciate that; no problem from our end. [LB870]

CHAD DUMAS: ...like to testify in favor of LB870 and I'd have three points and a plea in that effort. First of all, I'm a professional educator. I've been in the business a whopping 13 years. In that time I've served in three different school districts ranging in size of 600 students to 35,000 students and also served in ESU, serving some 30 districts in central Nebraska. I'm also a parent, have two "kiddos" who are in grades five and seven, and so I bring to you some comments not only as an educator but also as a parent. So, my three points. First of all, I think accountability is really important and so that's the first point, that's it. It's really important and I thank you for taking this up. My second point is that I think the accountability has to be meaningful for the twenty-first century world that our kids are going into and you've been talking a lot about that throughout this hearing. I think the Nebraska Public Accountability System, NePAS, is a starting line and it's not a finish line as it's been talked about as well--that test scores, while they're necessary, they're not a sufficient measure. And when you look at growth and improvement and status as the NePAS is doing, while it's a far better measure than AYP and PLAS from No Child Left Behind, it's still not enough. And so what I've provided to you is some materials from the International Center for Leadership in Education. This is the organization that coined the term "rigor, relevance and relationships"--the new three Rs

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for the twenty-first century--and I think that they know what they're talking about. And so they talk about in an accountability system, we shouldn't be just looking at test scores as you've been talking about. The NePAS system that's under development would address two of the four area learning dimensions that the International Center talks about--at best, foundation learning and stretch learning. On pages 4 and 5 of the document that I prepared for you--brought for you--there's some specific examples of indicators that can be used to measure the other two dimensions of a twenty-first century experience and that is learner engagement and personal skill development. So that's my second point is that I think the accountability system has to be reflective of twenty-first century learning and skills. And my third point is that, kind of what Senator Adams talked about too, is the idea of resource allocation, that ranking schools 1-248 or whatever the number is doesn't do us any good. But instead, allocating resources to build the capacity of the teaching and the leadership staff to improve the school is...it has to be there. So my final plea is as a parent. My kids, who are in 5th and 7th grade, they've gone to three different school districts in their time. They're not a test score, even a status or growth or improvement. They're still not; that's not who they are. Your kids and grandkids, that's not who they are, either. Schools, which are just a really in a simple way a collection of all these "kiddos," are not a test score. And so I would encourage you to please consider the accountability system, recognizing this fact. I thank you for your service to the state of Nebraska and to our kids and to our future. Thank you. [LB870]

SENATOR HOWARD: Thank you. Are there any questions? Okay, we'll read this information, thank you. [LB870]

CHAD DUMAS: Thank you. [LB870]

SENATOR HOWARD: Are there other proponents? Are there any opponents? Any negatives--or any neutral? Well, Senator Adams, would you like to close? [LB870]

SENATOR ADAMS: Thank you, Senator Howard. I know we've spent a lot of time on this and so I will keep this closing very, very short. I appreciate those who have been here to testify and I think if there's a common theme--at least I hope this is what I detected--is that just one test does not make a kid, it doesn't make a school district, it doesn't make a school building. And we need to expand the accountability system, but we need to do so in a methodical way, a systematic way, a rationalized way. And I don't see this as the end, but a continuation of what we started with LB653 and something that we're always going to have to continue to discuss. And I think Senator Council's...you know, some of the things that you brought up have been reinforced here today, and I know that I have heeded the call and I know that the State Board representatives and the commissioner have listened to that as well. So with that, I will conclude unless there are any final questions. [LB870]

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SENATOR HOWARD: Any questions? Looks good, thank you. (See also Exhibit 5)  
Well, it looked like you had quite the support. [LB870]

SENATOR ADAMS: Thank you, Gwen. [LB870]

SENATOR HOWARD: Oh, you're welcome. I tried to keep it moving for you. [LB870]

SENATOR ADAMS: Thank you, thank you, thank you. If you do not intend to stay around for the next bill, I'd ask you to vacate the room right away because we're going right on to LB763. Senator Louden, that's your bill. Senator, under normal conditions I'd have you launch right in, but I'm going to ask everyone to leave the hearing room if you don't intend to participate in this one. [LB763]

SENATOR LOUDEN: Well, we don't mind if they're here, just if they don't shout. (Laugh)  
[LB763]

SENATOR ADAMS: We also want them to listen, Senator. [LB763]

SENATOR LOUDEN: Yeah. (Laugh) [LB763]

SENATOR ADAMS: Senator Louden, the floor is yours, LB763. [LB763]

SENATOR LOUDEN: (Exhibit 6) Good afternoon and thank you, Senator Adams and members of the Education Committee. My name is LeRoy Louden and that's spelled L-o-u-d-e-n and I represent District 49. I have introduced LB763 because of situations that have arisen since the passage of LB126 a few years ago. With the consolidation of Class 6 school districts, there are districts now that are becoming of an enormous size and square mileage. One district in Sheridan/Cherry County now covers some 2,300 square miles. And I don't know if any of you realize what 2,300 square miles is, but that's a...that's something about 23 miles wide and 100 miles long. In other words, so you'd have a school district that stretches 10 miles or so on each side of Lincoln and from here to Grand Island and that's the size of one school district, so this is what's happening with this consolidation that we've put into force a few years ago. With such a large area, communities--or perhaps what they should be called is "elementary site pockets"--are developing that are not receiving school services that would educate young students in this day and age. And we just got done listening to this bill about how we test these schools and improve it and yet we do have situations where it's getting harder for schools to...for kids to participate in schools. There have been situations where the governing school board decides to close an elementary site and did not provide a plan to educate those students that were affected by the closure. The school board's first recommendation was to have them "opt in" to another district, and these young students from kindergarten to grade six would drive as much as 15 or 20 miles to meet a school bus at 6:45 a.m. and then ride the bus over 40 miles to be at a school by

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8:00 a.m. This is totally unacceptable for young children to be treated as such a commodity. LB763 would allow freeholders to attach their property to an adjoining district if a school board decided to close an elementary site for which an elementary site allowance was calculated, pursuant to statute section 79-1007.15 Now I don't envision this legislation to be used by freeholders because I believe that with such language in statute, that a school district would be more considerate of patrons living in remote areas. This isn't exactly a new concept. There is statutory language now that allows freeholders to attach property to adjoining districts if certain criteria are met in 79-458. In fact, there are five different itemized issues in that statute that allows for attaching land to an adjoining district. One of them is it starts at 79-458: Any freeholder or freeholders, persons in possession or constructive possession as vendee pursuant to a contract of sale of the fee, holder of a school land lease under section 72-233, or entrant upon government land who has not yet received a patent thereof. In other words if there's still anybody homesteading, which I don't think it is, but that's in statute anyway, "...may file a petition on or before June 1 for all other years of any year with a board consisting of the county assessor, county clerk, and county treasurer, asking to have any tract or tracts of land described in the petition set off from an existing school district in which the land is situated..." Now this is language that's probably been in statute since they started coming out with ink and paper, but this has been in there for a long time, I'm sure of that. And then one of the items is "a school district in which the land is situated is a Class II or III school district which has had an average daily membership in grades nine through twelve of less than sixty for the two consecutive school fiscal years immediately preceding the filing..." In other words, if these high schools get too small, you can actually attach your land to another district. Another one is: a Class II or III school district has voted to exceed the maximum levy established pursuant to the subdivisions in 77-34, which vote is effective for the school fiscal year in which the petition is filed. In other words, if they exceed some of the maximum levy, you can actually find ways of attaching. And also: The high school in Class II or III district is within fifteen miles on a maintained public highway or maintained public road of another public high school. And that's something in there that many people have looked at in the Sandhills, but most of them, their schools are more than 15 miles away that they'd want to go to because when you have schools that are 60 and 70 miles apart, why 15 miles...within 15 miles usually not that often. Another one is that "Neither school district is a member of a learning community," which up to now we haven't had that problem out in the Sandhills; that's mostly down here in the eastern part of the state. And another one is: Except as provided in subsection of this section, the school district in which the land is situated, regardless of the class, has approved a budget for the school fiscal year in which the petition is filed that will cause the combined levies to be more than \$1.20. And my understanding is that that probably holds the feet to the fire on many a school boards around the state because if they go over that, there could be people that would be willing to pull their land out. And so what I'm doing with LB763 is mostly as "the land described in the petition was in the attendance area of an elementary site for which an elementary site allowance was calculated." And that's about all it does is adds

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a new section to that part there and sets it in there that if they have an elementary site and they voted to close it, then those people in that elementary site area can attach their land to a contiguous school district. Now that means that it has to be adjoining, so you'd have to have one landowner that joins and another land owner would join them and so forth, so that was the way it works. It isn't a matter that you go out here and checkerboard an area and bring your land in; you have to join that other district. And I think some of you, as the areas that...out west there, those people can't hardly drive in and testify because we're just getting started. But I think there was some e-mail sent in by Chip Ramsay and he's the one that manages the Mormon ranch out there. And I know what is problem is, is when they...if you read that testimony that he sent in with e-mail from Chip Ramsay, he said that at the end of the 2010-11 school year, the school board voted to close down the grade school in Lakeside, citing budgetary reasons for doing so. And it said the closing of this school would have caused the children ages 6-12 to begin their day near 5:00 a.m. and end their day near 6:00 p.m., regardless of which school option we chose for them. So they had about two options: they could go to Hyannis, which is some 65 or 70 miles away; or they could travel around to what's called Golden Spade, is a school out there in the middle of the Sandhills. But in order to get there, you have to go down to Highway 2 and up Highway 2 and then back up Highway 27 and it isn't much closer, it was the same distance. Or they could go into Rushville, which is about 45 miles away. No matter where you went, there wasn't anything that was available. And then he goes on to say, "Fortunately, the school board in question took another look and made the right decision to recant their previous edict and leave this particular grade school open." Well, that's been going on for nearly seven years now. They haven't decided whether they're going to have school there the next year and it has put these people into real turmoil. And where they said they recanted this time, that's because the state senator got some of the people together and they went up there and had a parley with the school board and pointed out what some of the issues could be and wanting to know where their money was being spent. Because as I talked to some of these members of that district, I asked them as a one-on-one. I said, well if you don't want to have school there and the other adjoining district, Hyannis, is willing to open that school, why don't you let these people attach their land to the Hyannis school district and go about their business? And as you talk to each individual it was always well, I think it's a good idea, but I'm just one person on the board. So then we had our meeting and then I pointed that out, out there. Well, as I visited with these people, there was seven landowners that were involved with children that would consider right off the bat without even asking anybody else about attaching their land and one of them was, of course as you saw here, the Chip Ramsay with 50 some...or 50 thousand acres. But anyway, out of the seven landowners, there was 120 square miles that they would be willing to attach to the other school district. And of course, when they wanted to know what that impact was at and I said, well from what you gather from other sections, I suppose it would be somewhere around \$180,000, maybe \$200,000 revenue that would go with that 120 sections of land or so. Well, they...oh good lord, they couldn't afford to let that much revenue go, so that was that. So then

that's when they decided that maybe they ought to open the school because people were getting somewhat irate--the fact that they were paying that much in taxes and weren't getting this service. So that's what the bill is all about and I think if you've read some of the e-mails that have been sent in for testimony, this is what they've talked about: you know, where your vote is, where your tax money goes, and who is going to serve your children. So with that, I think it's a real simple bill. It's probably something that, as I say, is something that's going to be more or less a case where you'd hold our feet to the fire I guess, rather than something that you would pass into law and those people...somebody would have to go and comply with it right away. Because as I pointed out before, it's already in statute--some of the other issues--and I really don't know as they've...any of those other issues have been called upon to do anything, because the fact is that they're in statutes...makes the school board a little bit more cognizant of the rights and the needs of people in these, as I call them, "elementary pockets." And you know, we'll be seeing more of that as time goes on. You've got all the middle out there in Cherry County that's been in a turmoil now for about three years of closing some of their districts. Right now, the Cherry County school district are out of Valentine has the sites out in those areas, but they are having issues. I think they closed the one up by Merriman and that sort of thing. They're starting to close them, so as time goes on you're going to see more of this. So I'm trying to set something up there so that the people will have some schooling and some education and something that we need to do is educate our children. With that, I'll be glad to answer any of your questions. [LB763]

SENATOR ADAMS: Thank you, Senator. Are there questions for Senator Louden? Yes, Senator. [LB763]

SENATOR SULLIVAN: Thank you, Senator Adams, thank you, Senator Louden. So the end result of this, do you feel, will make it possible for shorter trips for kids to get to school? [LB763]

SENATOR LOUDEN: Yes, that's one way of summing up that I think the end result would be that I would hope there would be elementary sites in these areas so kids didn't have to travel that far. [LB763]

SENATOR SULLIVAN: Um-hum. [LB763]

SENATOR LOUDEN: Not necessarily that they would attach their land someplace, but if they did attach the land, there would be an elementary site available to them within their community. [LB763]

SENATOR SULLIVAN: Do you think that there's the possibility of some unintended consequence of this? [LB763]

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SENATOR LOUDEN: Well, I don't know. I think every law you ever pass probably has some unintended consequences. But right now, I think the intended consequences far outweigh the unintended consequences because like I said, these issues have already been in statutes on the other issues and right now I don't know as any of them have ever been implemented. Most of these districts see to it that they stay out of that mill levy. Most of them, when they start getting down to that 60-member high school, in my understanding is a lot of them are starting to look at consolidation on their own. I mean, this isn't something that they're forced to do because they just ignore the whole thing, because they do know that that's in statute, that if they don't consolidate that they might be a whole bunch of people leave them--will leave them in droves, you know. So that would be my answer to that question and I...there could be some unintended consequences, but right now I think they'd be very minimal compared to the problems that we have as the situation is now. [LB763]

SENATOR SULLIVAN: Okay, thank you. [LB763]

SENATOR ADAMS: Other questions? Senator, if I might ask you some questions specifically about the school district that has brought this to your attention. What kind of student numbers are we talking about and how much do they fluctuate over a two-year, one-year period? [LB763]

SENATOR LOUDEN: Well, the student numbers, yeah, what, six or eight? [LB763]

SENATOR ADAMS: Right. [LB763]

SENATOR LOUDEN: Yeah, I mean none of these areas like this you're going to have 25 or 30 students, there's not that many people that live in those areas. [LB763]

SENATOR ADAMS: Right. [LB763]

SENATOR LOUDEN: So you're talking about somewhere between...I would say anywhere from four to eight students, probably, in an area. But those students are allowed to have an education just as much as the school that's got, you know, 400 or so. In the early days--or when I grew up--we had these small schools around an area. There's many of those schools out there that there were two or three kids went to school out there. I think my son went through all eight grades and I don't think he ever had any classmate. I know of some people that had two students for all...for the whole years they were in school, but at least they didn't have to drive, you know, 40 miles to go to school. And a lot...and those students, for the most part, probably did just as well or better as the students in the larger schools. Now when I had some of my kids growing up, we had probably about 10 kids in the school in Ellsworth at that time, which it was...that was a fair-sized school for that area. And when those...there was two of those boys, my son and one other boy came out of there in the eighth grade and went to what

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was St. Agnes Academy, and there was a girl from a country school by Alliance that went there. Anyway, there was three country kids that went to St. Agnes Academy and they were ahead of the kids that were already in the school, because the director of that school sent out a letter that we may have to reevaluate how we're teaching our children because here we have three kids that come in from country schools that were ahead of what they are. And usually with a parochial school, they usually see to it that they're up there where they should be. So just because there aren't a lot of students in that school doesn't mean that they're not getting a well education. [LB763]

SENATOR ADAMS: And my next question would probably require a lot of speculation on your part, but you know your part of the state far better than I do. How much change in population do we see? I mean, is it something where for one or two or five years you've got four to eight kids and then it's...we may go two or three years where it drops down to one or three, but then a family moves into a ranch and now you're back up. Is that what happens? [LB763]

SENATOR LOUDEN: Well, for the most part in some of the areas where...the deal with Lakeside and Chip Ramsay where they hire in people to come in. First of all, you can't get anybody to move in there that's going to have kids. Why should you move out there and have to go through that to put your kids in school if you're just working for a job? This is...when we talk about worrying about the population of rural areas, well if you take away the schools, that isn't going to help it any. What I've noticed in most of these areas is you have families that live there. The kids will go to school, then they'll work their way out of school, then some of these kids will come back and they'll start being...what the next generation or so, and that's usually how you see that. You'll have a flux of...you might have eight or nine kids for a while and then you're right. As those kids go through school, you'll probably get a part...some place in there that you won't have hardly any kids again. And then, somewhere along the line if you have it so that it is available for those people to come back, they will have another situation where you have a few kids again. I don't envision seeing any of these elementary sites like that having a big influx of students. Now something like Lakeside that's on the highway and not that many miles from Alliance, they probably could be something like Harrison over there, where Harrison sends a school bus into Gordon...or into Gering and hauls kids out from there for their school. Like they say, at 3:30 in the afternoon you don't want to be on Highway 71, because there's nothing but school buses hauling kids back to Gering. Now, they do that and they either charge money or they're opt-in; I don't know how to do that. But I know if it's close to a town, then you will have a larger amount of kids. But this isn't what we're talking about. We're talking about rural areas out there that we're trying to educate these six or eight kids or four or however many out there, up to probably grade six or so, until they get big enough so they can maybe ride a bus for an hour-and-a-half or something. That's one thing, but it's little kindergartners and that sort of thing that you're going to put them on it. As I think Mr. Ramsay said, that they were going to have to be on at 5:00 in the morning. Can you imagine what time you're going to get that kid up,

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feed him breakfast, and get him moved around and started and load up and meet the bus? Between any kind of weather, you know. [LB763]

SENATOR ADAMS: I'm curious if I might ask one more question. And you and I have kind of talked about this over the years, but why aren't local school boards--and I'm not just picking on Gordon. It could be any school district out there that has these. Why aren't the school board members themselves--those people who understand the geography and the culture and the demographics--why aren't they more sensitive to the issue that you've got a child that may be getting on a bus at 5:00 a.m. that could be remedied by keeping a site open? I mean, those are the people should probably better understand the issues than this committee sitting here. [LB763]

SENATOR LOUDEN: Well, I agree and I asked the same question. And my answer to that is, all I can figure out, is greed. They want that revenue source to come in to their schools in these smaller towns and to hold that together. When this all came about, one of the school board members told us that they didn't know if they could afford pencils for their kids in town. Well, we're not worrying about pencils in town, we're worrying about schools in these various areas. Now if you can tell me this: they were getting somewhere between \$180,000 and \$200,000 of revenue off of this community right there and the school that they were furnishing was costing, they said \$150,000 I think, which I thought was way too high for what it was. When the people run it themselves, they were running for around \$65,000 or \$70,000. But anyway, it was costing them \$150,000. They still had \$30,000 more to do whatever they wanted to over operating that school district. So the question arose, well if you're getting this much money out of this area, how come you're not furnishing school there? Now I think they could have furnished it a lot cheaper than what they were doing. I mean, there was...there's some problems there with management. Most of the problem was is that's...is the Lakeside school is about 70 miles from Gordon and they didn't want to fool with it that far away; they couldn't manage it from the principal or superintendent's office in Gordon. I think that was the number one issue there because as they would RIF teachers or something, whichever was the tail-end teacher is the one that got sent down to Lakeside. Years ago when that school was operated, they had a teacher each area and they hired a teacher for that area. But as they get into this consolidation and this one large district, then they started--as these teachers work their way through, the new teachers have to go off to the fringes of the earth, you might say. And that as the teachers get their tenure in there, they move in closer to town where they live. And consequently, one of the options they did come up with to start with was to have this school as a trailer-house-type school moved about 15 miles north of Lakeside or 20. And I said well, the reason for that is so they can hire a teacher in Rushville and she can drive down. That's the whole thing. Well, they ended up with the teacher in Rushville drives the 50-some miles down to Lakeside every day to teach school. So there's a management problem there when it was done--when the people themselves, they hired a teacher that was right there at the time. [LB763]

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SENATOR ADAMS: Okay, other questions? Senator Avery. [LB763]

SENATOR AVERY: Thank you, Senator Adams. Senator Louden, if this were to become law, the landowner would be able to attach their property to a nearby district and their property taxes then would go to support that district where they would send their kids. What about...would that just be the school portion of the property tax or would the county from which they move their land, or they'll move the land that they detach it from, would that also...would they lose money for county government, money for the ag society and other entities that take a part of our property taxes? What would happen? [LB763]

SENATOR LOUDEN: Well, Senator Avery, I guess I need to give you an education on how that works. We've done that for years, had school districts that was bordering on other counties. Right now, the Hyannis-area school district is in Cherry and Grant County. Right now, the Gordon-Rushville school district is in Cherry and Sheridan County. It doesn't have any effect on your county government whatsoever; it's you're school district. When you get your tax statement out there, why, whichever school district you're in, that's where you pay your taxes to. It's been like that for years that they've... [LB763]

SENATOR AVERY: So the rest of the property taxes would remain... [LB763]

SENATOR LOUDEN: It wouldn't any...wouldn't have a thing to do with it. [LB763]

SENATOR AVERY: Yeah, okay. [LB763]

SENATOR LOUDEN: It's just the school district levy, no different than your community colleges or anything that go over different counties and that sort of thing. They all levy the same levy and then the counties get their levies separate from it and don't have a thing to do with it. [LB763]

SENATOR AVERY: I've never thought about that, the multiple county school districts. Living in Lincoln, that's not an issue. [LB763]

SENATOR LOUDEN: Well, probably not. There's a lot of things living in issue in Lincoln that you don't have issues with out in the rural areas. [LB763]

SENATOR ADAMS: And maybe they should, right? [LB763]

SENATOR LOUDEN: Well, yeah. [LB763]

SENATOR ADAMS: Are there other questions for Senator Louden? Thank you then,

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Senator. Becki, let's switch over to the lights now. I don't know that it's necessary, but as a common practice we use them, so let's go five minutes. Let's begin with proponent testimony. Proponent testimony. Seeing none, we'll move to opponent testimony. Any opposition testimony? [LB763]

JOHN BONAIUTO: That's just panic. Senator Adams, members of the committee, I'm John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, registered lobbyist representing public education governing boards. This is really a difficult one in the sense that I've driven those roads out there, I know where those schools are, I know...I've been through Cherry County and the Sandhills and I definitely would not sit here and try to minimize the challenge that those school boards and those communities face. And I think Senator Adams, his question was very much on target. I would hope that the school board and the community could figure this out. My opposition to the bill is really that what we're talking about is moving land around and the valuation for that land and with a K-12 district--and we could talk about how much land is part of this elementary site--but that valuation and we...you know, I would venture to say that what we're talking about here are more than likely nonequalized districts that are depending on their valuation and what they generate locally to support the K-12 district. And so the community needs to come together to figure out how to best serve these children, there's no question about that. And that's the discussion that my organization, the School Boards Association, is very much responsible to be having with its members. But we've got a problem with these very rural and remote sites and I don't know how you minimize the distances. And one year you may have four kids and if the...for whatever reason that changes, another year you could have seven and another year you could have two. It really is a difficult situation, but these kids...and we talk about it regardless of what their zip code is, if they had a zip code--hopefully they do, or a post office box, maybe--but they deserve a quality education; they deserve to be served. And I would not want to see kindergartners on a bus, you know, at 5:30 in the morning and getting home at 6:00 at night, but that community is going to have to figure this out. And I don't think it's going to get any easier or any simpler, but I do really worry about moving big parcels or large amounts of land around and the valuation, so. You know, and cost may be a factor, the...moving a trailer out. You know, talking about teacher...the whole situation is difficult when you're trying to create a school site in a very remote area. Frankly, the board may have a hard time getting a teacher to be at that site. And there have been situations where people have been happy to live in a teacherage at a remote site and move from their trailer to the school at...and that works, but it is a challenge. And unless you're out there and you see it, we're talking about a very difficult and challenging problem that's not easy to solve. So with that, I'm going to conclude my testimony and I will pledge to have this conversation with my members and make sure my rural school board members understand that there's a real concern here. [LB763]

SENATOR ADAMS: Thank you, John. Senator Avery? [LB763]

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SENATOR AVERY: Thank you, Senator Adams. Don't you see this as a fairness issue? If a landowner cannot...or if the school district will not or cannot provide an elementary site for the kids of the property taxpayers, then why shouldn't they, in fairness, be able to move that property to a school district that will provide a school site for them? [LB763]

JOHN BONAIUTO: And again, it's...as you look at this, it may be at this particular point in time that another district is...it has a situation where they're saying yes, we can do this at this point in time and three years later the whole thing is different. And I could see where boards are saying I've got a site out here with three kids or four kids or six kids and I've got a school over here in the same district where the classrooms are not even close to being full--you've got 10, 12, 14 kids in each grade and teachers there ready to take more students--it's a difficult situation and it's not an easy solution. It's not an unwillingness to serve the families and the students, it's trying to figure out how do you do this and make sense out of it. [LB763]

SENATOR AVERY: Yeah, I recognize that it's difficult, but it's not fair to say to that parent, you have 50,000 acres of property here. We want to keep your money, but we're not going to educate your kids. [LB763]

JOHN BONAIUTO: Well, it's how can we educate that student? And even under a good circumstance we may be talking still a 25-mile distance. I mean, this isn't around the corner, around the block. With their...even under an ideal condition, there may be a 20...a 15-, 20-, 25-mile distance to that site. [LB763]

SENATOR AVERY: I understand... [LB763]

JOHN BONAIUTO: Yeah. [LB763]

SENATOR AVERY: ...but you're taking sides here. [LB763]

JOHN BONAIUTO: Well, I... [LB763]

SENATOR AVERY: And you keep saying this is very difficult and tough issue. Yes it is, but you're taking sides and you're ignoring the fairness issue. [LB763]

JOHN BONAIUTO: You know, and I've...and I'm really concerned...I think that the issue becomes one of how does these communities best serve these students and families? And once we start moving property and valuation around, is that going to be the solution? What we're talking about is pretty much...the fairness issue here is we're holding the district that has the property, in a sense, hostage. We're saying figure this out or you're going to lose this property valuation. It's moving out of your district to someplace else. And this has been the case with freeholding historically, where if a district needed to go to the voters to pass a levy override or a bond issue and it met the

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criteria of a district that had a secondary school that had 60 or fewer students, they couldn't bring something to the voters because they had the potential of losing more valuation than they could pass in a bond issue or a levy override. I mean, it's...and that's what it's about. It's really...it is holding the district's feet to the fire, but I... [LB763]

SENATOR AVERY: And maybe that's an argument for passing LB763. [LB763]

JOHN BONAIUTO: Well, I... [LB763]

SENATOR AVERY: But you want to...we already have a freeholding law. You're arguing against freeholding. [LB763]

JOHN BONAIUTO: I'm arguing against adding elementary sites to the existing language, simply because we're creating another situation where the district and the elected school board and the community...I think that it takes their decision-making power away from them because they're going to have to have that elementary site, you know, I mean to keep that land. If it has two students or if it has three students, they're going to have a teacher and an elementary site... [LB763]

SENATOR AVERY: Um-hum. [LB763]

JOHN BONAIUTO: ...and is it fair? I would... [LB763]

SENATOR AVERY: You've talked about mobile homes. I mean, do... [LB763]

JOHN BONAIUTO: Well, that's... [LB763]

SENATOR AVERY: That's an option. [LB763]

JOHN BONAIUTO: It is. [LB763]

SENATOR AVERY: You invest \$20,000 in a mobile home, move it to a site closer to the kids...where the kids are... [LB763]

SENATOR HAAR: Um-hum. [LB763]

SENATOR AVERY: ...and this bill would make that possible. [LB763]

JOHN BONAIUTO: It's...you know, that surely is something that boards can do without this bill and again... [LB763]

SENATOR AVERY: But they're not doing it. [LB763]

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JOHN BONAIUTO: Well, I don't know. I mean, it's...it is...there may be a... [LB763]

SENATOR AVERY: Well, Senator Louden told us they weren't. [LB763]

JOHN BONAIUTO: Well, and I'd want to say that you'd have to really understand what the discussions might have been with that particular board in that community and the families that were involved and the... [LB763]

SENATOR AVERY: You're speaking for school boards. I want to speak for taxpayers and families and that's what I think LB763 tries to do, and it...you have to take into account what this means to those kids and to those families and to those taxpayers. It's not just about school boards. Now I know you represent school boards, but still, I mean you... [LB763]

JOHN BONAIUTO: Well, and we want to do the best thing that we can for children also. And so it is at what point does...and I know it's...it would be great to have a site closer, but when you have three or four or five students, is that a school? And can you serve them? I mean it... [LB763]

SENATOR AVERY: It's a classroom. [LB763]

JOHN BONAIUTO: It's a classroom and we're not talking about everybody in that school being a kindergartner. [LB763]

SENATOR AVERY: No. [LB763]

JOHN BONAIUTO: We're do...so it's a challenge, and I'm not saying that there's an easy solution here. This...there is a problem with distances in that area and it's...I don't want to make this about money. I want to make this about how do we best serve these children? That's the...and I think that's some of the discussions of school board I would hope would be having is: Is having a site with three or four or five kids of varying ages a good thing for those five kids? But on the other side of that is: Is putting them on a bus at 5:30 a good thing for them also? I mean, that's...no. [LB763]

SENATOR AVERY: You raise a concern about well, you know, this year you have six kids in, say, a mobile home... [LB763]

JOHN BONAIUTO: Yeah. [LB763]

SENATOR AVERY: ...and then next year you may only have one or none. It's mobile; you move it. [LB763]

JOHN BONAIUTO: Well, yeah. You would have...you'd hope that you could

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move...have something that would work. [LB763]

SENATOR AVERY: It's not just moveable... [LB763]

JOHN BONAIUTO: Yeah. [LB763]

SENATOR AVERY: ...it's mobile. [LB763]

JOHN BONAIUTO: Um-hum. [LB763]

SENATOR AVERY: I mean, you hook it up to a nice-sized pickup and you pull it to another place. [LB763]

JOHN BONAIUTO: This is a legitimate discussion and a concern and a real problem and when we created...when this body and this...the move was to K-12 districts, and we knew that there would be sites in rural Nebraska that would be a problem, and... [LB763]

SENATOR AVERY: And they seem to strike Senator Louden's district more than any other. [LB763]

JOHN BONAIUTO: A lot of geography out there. [LB763]

SENATOR HAAR: Yeah, Sullivan's, too. [LB763]

SENATOR ADAMS: Senator Sullivan? [LB763]

SENATOR AVERY: Oh, no, I'm sorry, not his current district. (Laughter) [LB763]

JOHN BONAIUTO: Well yeah, there's a lot of geography there, but it's a lot closer. [LB763]

SENATOR ADAMS: Senator Sullivan. [LB763]

SENATOR SULLIVAN: Thank you, Senator Adams. John, have you had occasion to visit with the school board involved in this? [LB763]

JOHN BONAIUTO: No, I have...and I know that we have some challenges with elementary sites. My point of reference many times has been Senator Fischer because of Cherry County and the distances there and...but I have not had any conversations recently about remote elementary sites and problems and...probably because there was a solution that was reached in this case, because the school board did see that the potential to have the landowners and the taxpayers and the parents revolt and want to

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move their land. So that's...that in a sense is pressure, and so but I have not had any discussions, Senator. [LB763]

SENATOR ADAMS: Other questions? Thank you, John. [LB763]

JOHN BONAIUTO: Um-hum. [LB763]

SENATOR ADAMS: Other opposition testimony? Neutral testimony, then. [LB763]

DOUG NABB: Good afternoon, Senator Adams and Education Committee. My name is Doug Nabb, N-a-b-b, and I am a lobbyist, registered lobbyist with Fremont Public Schools. And I'm sitting back there and kind of an epiphany hit me--well, actually floored me. Several years ago, my wife and I took a trip to Australia and New Zealand and Fiji, and in Australia they have a thing called...it's a like a virtual school. They have an area that's three times the size of South Dakota with less than 200 students and they do this all across the air. It started out as a radio thing, now it's television. And I was in Alice Springs and saw the T.V. station, watched the action going on. And it's one of those things where they've been very successful with it, and once or twice a year they bring all the kids into Alice Springs and have an Olympics-type of thing and they do very well with it. Now I don't know...I didn't have enough time to really deal with the issue and to talk to the teachers, but I saw them in the T.V. booths, studios and so on, and I saw them interacting with the students. The students have a T.V. camera right there on the ranch and there's a T.V. camera in the classroom and it's back-and-forth, give-and-take. And it is packet learning, but they all have computers and they're all up to snuff on things and I would be willing to say that those kids probably could do as well as our kids do in regard to tests. So just an idea, a possible solution for the situation is to take a look at what they're doing and what's going on because it's been successful for over 50 years. We're not talking about something that just started, so I'll leave it at that. [LB763]

SENATOR ADAMS: Are there questions? [LB763]

SENATOR AVERY: Yes. [LB763]

SENATOR ADAMS: Senator? [LB763]

SENATOR AVERY: I'm interested in this. So this would be just old regular old black-and-white television? [LB763]

DOUG NABB: Well they were in color, but... [LB763]

SENATOR AVERY: Well, I mean, but that's what they started back in those days. [LB763]

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DOUG NABB: Yeah, it started on radio, actually. It started before T.V. [LB763]

SENATOR AVERY: Uh-huh. [LB763]

DOUG NABB: It was just radios--and they showed some pictures. As I say, we went through the studios right there and it's amazing though, to see the interaction because it's...the kids are in the classroom and they're right there on their ranch. And their parents, you know, they have a little room that they devote to that I assume on those ranches, because I didn't go the ranch. I just simply saw it right there at the station in Alice Springs. [LB763]

SENATOR AVERY: So it...with the current technology and computers, it should be even easier to do and then... [LB763]

DOUG NABB: It'd be a piece of cake, I would think, so to speak. [LB763]

SENATOR AVERY: Yeah, right. [LB763]

DOUG NABB: It would be probably considerably cheaper than hauling the trailer around. Plus, they wouldn't have to worry about weather. So I mean there's a lot of considerations there, but I'm just throwing this out. It just came to me as I saw it and I saw it working and it was working very well. I don't know why we couldn't adapt it here. [LB763]

SENATOR ADAMS: Senator? [LB763]

SENATOR SULLIVAN: Thank you, Senator Adams. Well, thank you. It does beg the question, you know, our constitution says that we provide free education. It doesn't say that they have to drive to where that education is. [LB763]

DOUG NABB: No, I'd...like I say, I was floored when I saw a map with the size and the distance that we were talking about because we're talking about three times the size of South Dakota. And with the pins in the map and where the kids were--and you're talking about kids that are 50 miles apart, not just 50 miles to a couple of kids of...you know, as far as a school building. [LB763]

SENATOR ADAMS: Fascinating idea, Doug, thank you. Appreciate your willingness to share with us. Is there any other neutral testimony? Senator Louden to close. [LB763]

SENATOR LOUDEN: Well thank you, Senator Adams and members. Two or three things here. When Senator Avery asked about this mobile school, that's what they've done now. You've got to be careful when you're buying it because the schoolhouse or the trailer house that they built is actually set up in three rooms. And so when the

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teacher has class with one bunch of kids, she's not in the same room that the rest of them are and then she doesn't have any room for a teacher's desk--she just has a table in there. So you have to be very careful on what you have because you remember several years ago when I was on the school board, we set up rules on what you had to have in a schoolhouse. And I don't know if you remember or not, but you know at one time we didn't have to have running water and we didn't even have to have hot running water in there. And I think when I was on the school board that came about, we had to have hot running water and different...and bathroom facilities and all that sort of stuff. So I mean, we've progressed through some of that because at one time that wasn't...when I was on the school board, that wasn't necessarily requirement. The other thing I think, as Mr. Bonaiuto had...I wondered if maybe he was...should have been testifying in favor of it when he talked about the roads and the distance out there. But one thing that I did pick up on was when he said you don't know what a school board would do when you got these two or three or six children out here in this area, then you have a town that doesn't have only maybe 15 students in a class and they have room for them. Now, when you're thinking that way, to me you're thinking of those children as a commodity. Do I have room? Where can we push them around? We're not thinking about education for those children whether they live out there in a remote area or whether they live in a town. So that is part of the problem with the school boards that come up with those solutions that we have room in town. And I've been with them; Alliance was one of them. They were in such a tizzy to bring those outlying rural schools in because we have room in town. And as I told them all right, now you're treating your children as commodities rather than as students. So with that, I would mention that. And also, grades that...when they talk about various grades in a classroom, that isn't all bad. That...there was many a person got their education through a...in a school that had all eight grades in there or even perhaps nine, now, with kindergarten, but that isn't all that bad. And usually when you have those small areas, if you've got four students, you're only going to have four grades at the most and perhaps not even that. So that I don't think is a problem with the amount of grades that a teacher would have to worry about. The...as they said and he mentioned, having this valuation and hold those people as a hostage--yes, that's what it's all about. That's what this bill that's already in statute is about. If they don't do certain things, they are held hostage. So that's all we're doing is just adding one more item to it and I think as I mentioned at the beginning of my presentation, I don't expect it to be probably implemented, but yes it will be as a hostage-maker or we'll be holding somebody's feet to the fire. Thank you. (See also Exhibit 7) [LB763]

SENATOR ADAMS: Thank you, Senator. Senator, you're introducing LB800 and long as you're in the hot seat, we'll just keep rolling. [LB800]

SENATOR LOUDEN: Okay, good enough. Good afternoon, Senator Adams and members of the Education Committee. My name is LeRoy Louden and that's spelled L-o-u-d-e-n, and I represent District 49. I have introduced LB800 at the request of the

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Board of Educational Lands and Funds and what I might point out at this time is I don't know how many of you are familiar with the fact that there's the school lands out there and the board does own...it could be millions of acres, I'm not for sure. At one time I thought it was 2 million acres, but I'm not sure the amount of land. I think director Endacott will be able to answer those questions with his testimony. The reason I'm introducing LB800 is that they had the passage of LB210 in the last legislative session and the Nebraska Educational Lands and Funds was required by statute to offer land at public auction with the beginning bid at least equal to an appraised value. And before that, they were allowed to use their own appraised value. So what this did was it made the Board of Educational Lands and Funds have to hire an appraiser and it made it more complicated for the way they did stuff because before, that they could put it on their Web site and you could go in there and you'd know what the land was appraised at. And my understanding is now, with that in there you have to get it appraised, so you don't know where to put the bid in with that. So I think Mr. Endacott will probably testify more on this bill and that was the reason I had brought this forward. I've been involved in school lands ever since I was probably about 14 years old when they all came up for rebids back in 1951 and '52. Any of you that are...for any information before that, if you had a school land, you got to renew that lease all the time whether you moved it or what you did. And in 1951, they decided that those leases should come up for bids and that's when all hell broke loose and the livestock and in the Sandhills, because a lot of those school lands that had been held by people and ranches for years--for less than what the taxes was on them for lease--were put up for bids. And there was bonus bids at that time \$8,000-\$10,000, just for the privilege to lease that land. And at that time, the leases were for 12 years and now I think they're down to 6 years and every once in a while you see where there's a bonus bid on land. But for the most part, the Bureau of Educational Lands and Funds have got it around so that their lease is pretty well comparable to private land leases and so you don't see that much of it. But they still are required to sell it and there is a method for purchasing that land, so this is what this is all about. And I'll answer any questions I can, but probably Mr. Endacott can do a better job of it. [LB800]

SENATOR ADAMS: Thank you, Senator. Are there questions for Senator Louden? If not, thank you, sir. We'll take proponent testimony. [LB800]

RICHARD ENDACOTT: Chairman Adams. [LB800]

SENATOR ADAMS: Good afternoon, Dick. [LB800]

RICHARD ENDACOTT: Senator Howard, members of the committee, my name is Richard Endacott, spelled E-n-d-a-c-o-t-t. I'm the executive director of the Board of Educational Lands and Funds and have been for the last three years. This...I tried to boil this issue down as short as I can. This is really about the term, two words: appraised value. And appraised value--if you look at the interrelationship of the statutes that we deal with for the Board of Educational Lands and Funds--appraised value

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means what is the minimum bid price that somebody has to offer in order to qualify to bid on school lands. Then the question in this statute, in this bill LB800 is: Who determines appraised value and how is it determined? And in order to accurately talk about that, I think I need to speak a little bit about the evolution of appraised value. Several years ago, actually before 2011, what happened was when somebody wanted to buy property, they would contact us and say I'm willing to pay \$100,000 for this property, I'll send in a written offer for that. And that became the minimum opening bid, subject to the statute--which was 258.03--which said that you cannot sell it for less than the adjusted tax value determined by the tax commissioner. And so what would happen is we would...our appraisers inhouse would determine whether that \$100,000 that we had had on our Web site was a fair price. They'd already done that, they reconfirmed that. And then we would check with the tax people and they would tell us it's worth \$90,000. In most cases, 99 percent of the cases, the tax value was significantly lower than the value that we had put on there, but we always went through that process. It kind of slowed down the process because we had to wait, particularly at the end of the year, to get that figure before we could put it up for auction, but it worked reasonable well. And then in 2011 came LB210, which changed that scenario. It changed the definition of adjusted tax value and they took out the language about taxes. And due to the interrelationship of several other statutes that we deal with, adjusted value then became determined by a certified general appraisal. And we have lived with that for just a few months, but our experience has been that people wanting to buy our land do not like it, it discourages land sales, it increases the red tape involved, and slows down the process. So I'd like to just tell you what my experience has been as to five reasons why LB800 would correct this situation and why LB210, the existing law, has problems and why we need to amend this. First of all, it creates uncertainty in the buyer. If you're a buyer and you come to us, we don't...we've taken all our prices off the priority land sale list because we can't set the prices. It has to be set by a certified general appraiser. So if somebody wants to come in and buy, they say well, how much is this land worth? Well, all we can do is give them some sort of a range, but we can't guarantee them that that's the price because we have to determine by a certified general appraiser. So then we determined well, we're going to have to have this appraisal, what's it going to cost? Well, we've determined that it's going to cost, on the average, about \$1,500 per appraisal. So we tell the prospective buyer, you're going to have to make a refundable deposit of \$1,500 to pay for this money and if you back out, you're going to lose that money. If you go through and bid on it and somebody else gets it or you bid on it and get it, then we will credit that \$1,500 against the purchase price. So you can see the great uncertainty. Why does somebody want to pay \$1,500 for the possibility of them having you back out when they don't know what the price is going to be, when they don't know what the certified general appraiser is going to do? It also makes it very complicated to explain to people who call. People will call and we have to go through about six or seven steps. We tell them well, we don't know what the price is. We have to get a certified general appraiser; that's going to cost you \$1,500. Then when we get that certified general appraisal, we'll tell you what that is and ask you if you want to continue

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on. If you want to continue on, then we present that to our board and our board determines whether they feel the certified general appraisal represents fair market value for the property. And then if that happens, after a two- or three-month delay getting the appraisal, then we put it up for auction and we finally get it done. So you can see how unduly complicated it is. Plus, because of the fact that we make this a refundable deposit if the person goes through and purchases it, it's costing \$1,500 right off the top for education. We're paying \$1,500 if you...10 of those, that \$15,000 that comes right out of education's pocket by doing this process which, as I say, delays the process by months. And finally, we feel that it's unnecessary because we're not talking about a situation where we can manipulate the price. All we're talking about is the minimum bid price. It still has to be advertised and it always has had to be advertised since 1951. And anybody can come in and bid above that advertised price, so the market forces are still available. If we set the price at too low a value, then certainly anybody else can come in and bid up the price. So it creates uncertainty, it's unduly complicated, it's additional expense, it delays the process, and it's unnecessary because of the auction. LB800 simply says that our board, with the assistance of our appraisers--we have 10 of them across the state, 5 of which are certified general appraisers--we determine what is the opening bid price. We certainly don't determine what the final bid price is. And it's a very simple arrangement, I think it's fair, and you would have the right to ask me well, what protection do we in the state have that you won't sell this property for less than what it's really worth? That happened you know, after we became a state between 1867 and the turn of the century. Before we had public auctions and before we had this whole process refined, people were selling school lands for \$7.00 an acre. The first governor was impeached because of it, the state treasurer went to the state prison, and all that is way, way, behind us. So there are protections involved here. First of all, the people that do our appraisals--we have 10 of them scattered around the state--it's incumbent upon them to maintain the confidence and the trust of the people in their community, and they are experienced in appraising and they do a good job, so there's that protection. Secondly, school lands are a trust created by the federal government. We are subject to mandatory fiduciary duty and part of that fiduciary duty as reaffirmed by the Nebraska Supreme Court is that we have a duty to maximize our income. So as long as we are fulfilling our duty--we as a board, I'm speaking for the board--then we must maximize our income. We don't give land away and I think that's certainly...the record will show that. And finally again, I don't think it's...you're protected by the fact that this is only the opening bid price. This is not the final bid price, so people can come in and bid. I think it's good for prospective buyers, it certainly cuts out on the red tape and the delay in our office, and I think it's good for public education. If I, with your permission, Senator, could have just a couple minutes to elaborate on a point that's kind of related to this, I would appreciate it. [LB800]

SENATOR ADAMS: Yes... [LB800]

RICHARD ENDACOTT: Well... [LB800]

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SENATOR ADAMS: ...given that we don't have a room full of people. Otherwise, I'd hold you to that red light. [LB800]

RICHARD ENDACOTT: Thank you very much. [LB800]

SENATOR ADAMS: But go ahead. [LB800]

RICHARD ENDACOTT: We at the Board of Education deal with you ladies and gentlemen primarily. You are the Education Committee and we are an education entity, so I think we've been focusing on trying to build trust between these two entities and I wanted to kind of...since you're...I'm asking you to trust us in making these determinations. I would just like to kind of give you a very brief report on what our organization has done in the last three years, which shows that we are adhering to that trust and our board is exercising its mandatory fiduciary duty. For example, in the last three years our gross income is up by \$5 million. This shows an 18.96 percent increase over the two last fiscal years. Mineral revenues were increased by 59 percent. Agricultural revenue has increased by 18.35 percent over the last two years. Bonus bids for agriculture...our agricultural land have never been higher. We set records this year for the amount that people pay not only to rent our land...not only for the rent for our land, but for the bonuses for the opportunity to bid on our land. The average for the number of leases that we offered was \$12,550 in bonuses and that was a record \$4,314,000 in bonuses received this year. I can't tell you what we're...what our record will be for this fiscal year because we are on a fiscal year, July to July, but I would expect it will increase our revenue considerably since that time. The value of the school land has been steadily increasing. The market value in 2009 was \$688 million. Today it is worth \$829 million and that's a conservative value. And finally, I think I'm very proud of our staff in that our costs, our expenses have remained fairly stable. The total budget has increased from \$10,606,000 dollars in 2009 to \$10,938,000 in 2010-11. This has increased of only \$332,000 over two years. \$508,000 was solely attributable to real estate taxes, resulting in a decrease in our line item expenses of \$175,000. And so I just wanted to give you that brief report. I think our board is very conscientious, very passionate as all of you are about education, and I hope that we can continue to build the mutual trust that I think exists. Questions? [LB800]

SENATOR ADAMS: Thank you, Dick, we appreciate that. Are there questions for Mr. Endacott? Yes, Senator Council. [LB800]

SENATOR COUNCIL: Thank you, and thank you, Mr. Endacott... [LB800]

RICHARD ENDACOTT: Thank you. [LB800]

SENATOR COUNCIL: ...and the board's doing a great job. I happen to have a little

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experience with them... [LB800]

RICHARD ENDACOTT: Well, you are an alum of our board, so you're responsible for part of that. [LB800]

SENATOR COUNCIL: Yeah, longtime member of the board and my recollection is we tried not to sell the land because we maximized the income by...through the rentals. But since LB210 has been in effect, do you have any evidence or data that shows that what the difference is between what your appraisers would have come up with and what the...I mean, are...did you see any significant difference between the fair market values? [LB800]

RICHARD ENDACOTT: Well, it really only took effect, you know, late in the year, so we haven't had that much experience. But I would speculate that the difference would be insignificant. [LB800]

SENATOR COUNCIL: All right. [LB800]

RICHARD ENDACOTT: I think it's a waste of time and money. [LB800]

SENATOR COUNCIL: Okay, well I've had them...and again, I've had experience with the appraisers that were used by the board and, you know like he said, most of them are licensed general... [LB800]

RICHARD ENDACOTT: Right. [LB800]

SENATOR COUNCIL: ...appraisers. [LB800]

RICHARD ENDACOTT: We have five of them that are certified general appraisers and one of the questions that we wrestled with was, well, why don't we have this done inhouse? And we came up with the problem in that there is a board that you have to qualify before. It's called--I wrote it down--it's called the Uniform Standards of Professional Appraisal Practice, and they have certain standards that you have to meet in order to do appraisals and those standards involved going to the property, walking on the property, doing "comparables" in the area, and some of our certified general appraisers are in the east. That would mean they would have to travel out to Cherry County or Sheridan County, spend two days' traveling, lodging, food, and we determined that the cost was prohibitive and we couldn't really have those people who were not certified general appraisals do it because it would run afoul of this ethical prohibition. So we felt that in the long run it would be cheaper to do it outside, if we have to do it. [LB800]

SENATOR COUNCIL: And now when you say it's refundable, it gets credited if you

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pay...if I'm the person that pays for the appraisal and I'm the person who wins the bid, but if I don't win the bid, I get my \$1,500 back... [LB800]

RICHARD ENDACOTT: From us. [LB800]

SENATOR COUNCIL: ...from you, but the person who wins the bid didn't have to pay anything. [LB800]

RICHARD ENDACOTT: That's right. [LB800]

SENATOR COUNCIL: Now that's not fair. (Laughter) [LB800]

RICHARD ENDACOTT: Well, you know, he wasn't involved...he or she was not involved in getting this process started, so we want people to be serious about wanting to buy before they get this whole process started and before we go to the expense. So if a person puts us through this and backs out, they lose their money. [LB800]

SENATOR COUNCIL: Um-hum. [LB800]

RICHARD ENDACOTT: But if they go ahead and either are successful in the bid or someone else is successful, they get their money back. It costs us the \$1,500 because we refund that money to them. [LB800]

SENATOR COUNCIL: Okay, but that's what I'm concerned about. You know, the person in good faith starts the process, pays the \$1,500 and somehow spurs interest from others, gets outbid, they get their \$1,500 back. The agency loses \$1,500 and the person who is the benefactor of can say--and this is a good piece of property--I want to bid on it; there's no cost to them... [LB800]

RICHARD ENDACOTT: That's right. [LB800]

SENATOR COUNCIL: ...and the agency is losing the \$1,500. All right, thank you. [LB800]

RICHARD ENDACOTT: Maybe that could be refined somewhat, but that's kind of the way our board and our field representatives felt it was the fairest way to do it, so. [LB800]

SENATOR COUNCIL: Okay, all right. [LB800]

SENATOR ADAMS: Are there other questions? Senator Avery. [LB800]

SENATOR AVERY: Thank you, Senator Adams. Mr. Endacott, you have been with the

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Board of Educational Lands and Funds--I always get that mixed up--you've been there three years? [LB800]

RICHARD ENDACOTT: Yes, sir. [LB800]

SENATOR AVERY: When LB210 was working its way through the Legislature last session, did you testify against this bill? [LB800]

RICHARD ENDACOTT: No, I didn't testify against it. There was a kind of a mix-up in our office as to the hearing and so I immediately did a memo and dealt with the Revenue Committee on that, presented a memo similar to the one that was distributed to all of you here today. But for some reason, nothing happened. It didn't get passed at the last... [LB800]

SENATOR AVERY: Were you in the Rotunda when the bill was being debated? [LB800]

RICHARD ENDACOTT: No, I wasn't. [LB800]

SENATOR AVERY: That would have been a good opportunity. [LB800]

RICHARD ENDACOTT: And my understanding was that no one was going to present this amendment. [LB800]

SENATOR AVERY: I'm sorry, what did you say? [LB800]

RICHARD ENDACOTT: My understanding was that no one was going to present the amendment similar to this amendment to the Legislature. [LB800]

SENATOR AVERY: But LB210 contained language that you're now trying to get changed, right? [LB800]

RICHARD ENDACOTT: Yes,... [LB800]

SENATOR AVERY: Did it... [LB800]

RICHARD ENDACOTT: ...it provided for it. It resulted in the certified general appraisal by...yeah. [LB800]

SENATOR AVERY: Um-hum. And did you anticipate then that it would be a problem for your board? [LB800]

RICHARD ENDACOTT: Not as much as I do now, but I did anticipate it and I think that's reflected in the memo that I gave to the Revenue Committee... [LB800]

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SENATOR AVERY: Um-hum. [LB800]

RICHARD ENDACOTT: ...before it came up for debate. [LB800]

SENATOR AVERY: But you didn't actively lobby against it. [LB800]

RICHARD ENDACOTT: I talked to Ruth Sorensen, who was I think really one of the spearheads of it because it was a problem for their agency to be hounded get these figures together toward the end of the year. She was in favor of our amendment and I talked to the aides in the Revenue Committee, Bill Lock,... [LB800]

SENATOR AVERY: Um-hum. [LB800]

RICHARD ENDACOTT: ...and asked them what I could do. And basically at that point there was nothing I could do at that point. [LB800]

SENATOR AVERY: So you did have an amendment drafted that you wanted... [LB800]

RICHARD ENDACOTT: No, I had a memo, a memo which contained the language... [LB800]

SENATOR AVERY: Uh-huh. [LB800]

RICHARD ENDACOTT: ...for the amendment. [LB800]

SENATOR AVERY: Yes. [LB800]

RICHARD ENDACOTT: The same... [LB800]

SENATOR AVERY: Yeah. [LB800]

RICHARD ENDACOTT: The same language that's in this bill and in LB800. [LB800]

SENATOR AVERY: It sounds to me like you didn't talk to the right people. [LB800]

RICHARD ENDACOTT: That's always possible. [LB800]

SENATOR ADAMS: Other questions? Thank you, Dick, appreciate your testimony. Is there any other proponent testimony today? [LB800]

JOHN BONAIUTO: Senator Adams, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, a registered lobbyist representing school boards. We have followed and

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tried to be as involved as possible with the Board of Educational Lands and Funds, knowing how important that is to schools across the state. And this seems like a very reasonable change to allow the board to determine the value when they are working with sales, so I would conclude my testimony there. I also am very familiar with their process and some of their appraisers and I would tell you that one of their certified appraisers is a school board member and one of my past presidents. So I've been in conversations about what they do, how they do it, and I really can believe that if they're determining, or that the board is able to determine a value, there's not going to be any significant difference in the process they use, whether they use one of their certified appraisers or if they have to hire this out. But the board should have that decision--it's a very responsible board. Thank you. [LB800]

SENATOR ADAMS: Thank you, John. Are there questions for John? Thank you, sir. [LB800]

JOHN BONAIUTO: Thank you. [LB800]

SENATOR ADAMS: Any other proponent testimony? How about opponent testimony? Neutral testimony? Senator Louden to close, if you would. [LB800]

SENATOR LOUDEN: Well, thank you, Senator Adams and members of the committee. If my memory--and I haven't...don't have LB210 in front of me, but I think that dealt with something else. I don't remember for sure, but I thought Senator Campbell introduced that bill and it had to do with something altogether and this was all mixed up in it. And, as you say, unintended consequences and when the dust all settled this is where we found out and it was mostly found out too late. So it is something that needs to be corrected. I would hope that it was a simple bill. Perhaps if you have a way of putting it in on some type of committee bills that you have going or consent calendar or something like that--it's mostly something to clean them up and make it work better for them to do their business with selling that land. Now, as Senator Council says when she was on the board why, they tried not to sell that land in order to keep the valuation up. But I think somewhere along the line, and there was the Cattlemen's and different organizations that tried to get it, so it's...some of that land had to be sold. And over the years in our area where I live, most of the land that's sold is land that was piecemeal or odd-shaped or something that needed to be sold, I guess, or laid within someone's meadow or something like that. As the time goes on, you don't see very many of those. I haven't seen any of those school land sales now for probably a couple of years or so, I'm sure. Mr. Endacott could tell me more when it...or could tell more about when it come up. But this isn't...there isn't a wholesale issue to sell school lands anymore, mostly because they got the valuation and the cost up high enough that, you know, you can't hardly afford to buy it. There isn't any...very little school lands and they're from, what, North Platte east where this farmland where Senator Adams is, it sells for \$11,000 an acre. I don't know if the school district or if the school lands...Bureau of Educational

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Lands and Funds has much of that land. Most of theirs is out there in that rangeland and I think some of it's out in the middle of some of those big ranches and they usually are satisfied to lease it. So with that, I would ask that you would advance this and see if you can find a way to get the thing through and done in a reasonable time. [LB800]

SENATOR ADAMS: Thank you, Senator Louden, for your patience today, too. It's been a long afternoon... [LB800]

SENATOR LOUDEN: Well, I'm a patient man... [LB800]

SENATOR ADAMS: Thank you. [LB800]

SENATOR LOUDEN: ...you can tell by that. (Laughter) [LB800]

SENATOR ADAMS: Well, I knew that. I knew that, thank you. Committee, that will close our hearings for today and the... [LB800]