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Education Committee  
February 05, 2013

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[LB129 LB262 LB274 LB470 LB539]

The Committee on Education met at 1:30 p.m. on Tuesday, February 5, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB539, LB274, LB470, LB262, and LB129. Senators present: Kate Sullivan, Chairperson; Jim Scheer, Vice Chairperson; Bill Avery; Tanya Cook; Al Davis; Ken Haar; Rick Kolowski; and Les Seiler. Senators absent: None.

SENATOR SULLIVAN: Good afternoon, everyone. Welcome to the Education Committee. I'm Senator Kate Sullivan of Cedar Rapids representing District 41, and I chair the committee. I'd like you to meet the members of the committee. On my far left is Senator Ken Haar of Malcolm. To his right is Senator Les Seiler of Hastings. To my far right, Senator Kolowski of Omaha; Senator Al Davis of Hyannis. And to my immediate right is Senator Jim Scheer of Norfolk, and he's also the Vice Chair of the committee. Senator Tanya Cook of Omaha has just joined us as well. We have at least one other senator coming. And I will say, too, that periodically during the hearings some of the senators may have to leave. You know they at this point in the game often have bills that they are introducing in other committees, so don't be offended if they leave. Also helping us today is to my left is Kris Valentin, the research analyst for the Education Committee; and clear over there at the end on my right is Mandy Mizerski who is the committee clerk and recording all the comments of today. Also we have two pages that are helping us: Phoebe Gydesen from Lexington who is a student at UNL, and Sean Miller who is a student at Doane College, Lincoln campus. Today we have before us five different bills: LB539, LB274, LB470, LB262, and LB129. If you're planning to testify, I would ask that you please pick up a green sign-in sheet that is on the table in the back of the room. If you do not wish to testify but you would like your name entered into the record as being present here, there's a form on the table to sign for that as well. And this too will be part of the official record of the hearing. Please fill out that green sign-in sheet before you testify and please print because it's important to also complete the form in its entirety. And when you come up to testify, please give the sign-in sheet to the committee clerk, and this will make sure that we have an accurate record. If you do not choose to testify, you may submit your comments in writing and have them read into the official record, and please let us know if that is your intent. If you have handouts, please make sure that you have 12 copies for the pages to hand out to the committee. When you come to testify, please speak clearly into the microphone; tell us your name and please spell both your first and last names. And I ask that you please turn off all your cell phones, pagers, and anything else that might beep. That's out of consideration for and respect for those testifying. If you do have a conversation that needs to take place, please take it out into the hallway. We'll also be using the light system for testifiers. You'll have five minutes to make your initial remarks to the committee. You'll see the yellow light that comes on indicating that you need to wrap up your comments, and when the red light goes on please end your testimony. And I ask that...I don't expect this to happen, but please no displays of support or opposition to a bill in a vocal

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or otherwise manner. We've also had to my far left is Senator Bill Avery join us who is a member of the committee from Lincoln. So with that I believe we are ready to start. And we will begin, open the hearing with LB539. Senator Chambers, welcome to the committee.

SENATOR CHAMBERS: Thank you. Madam Chair, members of the committee, it's a pleasure to be here. I remember young Mr. Valentin, he has a day named after him. Two of the Legislature's largest rooms are named after me: Chambers. Also the judges' locations named after me: chambers. So I don't feel in any way diminished. I don't take a long time to get to the point and I will not unduly burden you because I know how committee hearings are and you have many things that you have to consider. But I will make one brief introductory remark. There was a yarn, or a story, about a fellow named Daniel. And without going into all the details, he wound up in a lions' den. And the thing that I'll let you know about the story is Daniel and the lions' den, I feel like a Daniel...I feel like a lion in a den of Daniels here today. (Laughter) And I have no illusions or delusions about the fate of this bill. I could characterize this committee as murderer's row when it comes to my bill. I have no expectation that anything other than a swift death will be handed out to this bill; so let me prepare the victim. I went ahead in my statement of intent and quoted the significant language of the bill. "No school board or board of education shall require that any candidate for superintendent of schools have teaching experience. Any rule, or regulation adopted by the State Board of Education purporting to authorize school boards or boards of education to include such a requirement in any contract of employment is null and void." By the way, for the record, I'm Ernie Chambers; I represent the 11th Legislative District. I apologize to the transcribers for not having said that in the beginning. This bill does not modify or alter in any way all those other qualifications, as they're called, which I think in many instances have nothing to do with a person's ability to carry out the responsibilities of a superintendent. A superintendent is not a manager; a superintendent is not a teacher; a superintendent is not a mentor. A superintendent is the one who is going to run this operation, is going to administer the school district. And I don't see any connection between two years of teaching and the ability to operate, effectively, a school district. Right now, the largest school district in the state, Omaha Public Schools, has hired a superintendent. A requirement that is in the Nebraska law, certainly was not in the law of the two districts he had been the superintendent for prior to these, and that is to have a certain degree, a doctorate or some kind of endorsement and certain courses. Those other districts did not feel that those types of things would indicate that the person selected was going to be capable and the absence of those types of requirements would not indicate a lack of ability. So, to go on with this statement of intent: "The current requirement of two years' teaching experience cannot be shown to enhance or to be a reliable indicator of a candidate's ability to perform the duties of a superintendent, nor can the absence of such experience be shown to undercut such ability. Removal of the mandate will expand significantly the pool of potential candidates to include persons of a wider variety of backgrounds, experience and demonstrable

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capability to perform, competently, the duties of a superintendent." The two main arguments against this proposal seem to be: one, it has always been done this way; two, it has never been done that way. Neither argument to me is persuasive. If you look at statutes in the Nebraska statute books, you will see a lot of unnecessary surplusage. It's almost as if they felt when a bill was written for the purpose of being converted into a statute through adoption by the Legislature, they were like Charles Dickens: paid by the word. There are words that are duplicative, that overlap, that are vague, that really add nothing to an understanding of what the statute is trying to say, nor specify the duties as in the case of that state board rule that would indicate there is a connection. And this might be part of the reason: So much of the public schools do not register, or to use the cliché, "resonate" with the students. It cannot be shown that there is a connection between what they are being taught and the kind of life they have lived, the kind of life they are living now, and the life they anticipate living. So they learn by rote enough things to try to pass if their intention is to try to complete the course. If that is not their ultimate intention, they just want to stay in school long enough to reach a point where they can drop out and they won't...nobody will bother them. So I think it is good for those who are going to teach, to teach by example. If the school system is designed to be practical, pragmatic, realistic, as well as idealistic, then there has to be in the operation of that system an indication that the students and others can see that these things being presented are being presented by people who know what is going on in the world, who know what this particular position is to accomplish, and persons are going to be allowed to vie for that position who can carry it out. I'm not aware of Dwight D. Eisenhower having taught a day in school, but he was the president of Columbia University. The commissioner of basketball, the NBA, a multibillion dollar operation like the NFL, didn't play basketball. The commissioner of the NFL didn't play football. So to say that a person just for the sake of appearance has to have spent two years in a classroom, perhaps at a time so far in the dim recesses of that person's history, he or she doesn't even remember what was going on. We'll let you know that it is an empty, meaningless requirement. And you can prevent people whose experiences in life would equip them to be excellent superintendents, but because in their early days they may not have even thought about going into education at all. They didn't teach. They may have all these other paper credentials, but they didn't bother to teach. So having everything else they need, but not the two years, that person cannot be considered. And I don't think that makes any sense. But I say again, I don't expect this committee to do anything other than kill the bill. This bill, in addition to that, says that you don't have to have any teaching experience to get one of these administrators' certifications, or whatever they call...endorsements, or whatever they call it. Nobody can show that it has any connection to anything. But I say that change is difficult to accept. I've got four years to get this done. And if I don't get it done in four, I can take another shot at four years and that will make the NSEA have heartburn and heart attacks because I found out how hard they were striving to keep me from coming back to the Legislature. Even after the former person who held the seat representing our district committed six felonies of dishonesty, they knew that over \$60,000 had been stolen, and yet they were writing to

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members, some of whom contacted me, saying give her the money. They didn't love Brenda Council; they hated me. That was the problem. This is a real-world situation that I'm dealing with. And I'm not going to try to deceive any of you all about my intentions. I'm going to start looking at the existing laws talking about the qualifications of people to hold certain positions, and I'm going to try to prune and weed out those things that I deem not to be essential. And I will talk to people in other professions other than school, education--I call them the "educationists"--to see what are those traits that will enable a person to carry out the duties of a superintendent. And we know that nobody can tell the future or predict with exactitude that a person who is hired is going to be a perfect fit for that job. But in closing I will say this: The current superintendent who is under contract, apparently, with OPS is not qualified pursuant to the state law to hold that position. But do you know what they do instead of being forthright and saying these things don't mean anything? You can get a provisional endorsement for two years and then it can be renewed and renewed and renewed until, I guess, you get all the hours you need to get this doctoral training or whatever other paper credential they want you to have. But the fact that the person does not have that "qualification," and I put that in quotes, but it's nevertheless qualified to serve as a superintendent and it's felt by those who hired the person to be the best candidate for the job, how silly is it to say these qualifications, as they're called, are essential. You've got to have this to do the job, but you don't have to have it to get the job. You don't have to have it to keep the job. And the lack of it doesn't indicate you cannot do the job. And more than that, it indicates you'll do it better than anybody else who applied for it. As they say in some quarters, work with me on this. But I know that your work is cut out. I know that you have to kill it. But kill it and I will not be offended because I know already what's going to happen. But the discussion needs to be started, and it needs to be started by somebody strong enough to suffer the slings and arrows of unkind fates and those who carry out that fate. That's all that I have, and any questions you would like to put to me I will answer them one way or the other.  
[LB539]

SENATOR SULLIVAN: Thank you, Senator Chambers. If this bill were to pass, it doesn't preclude a school district from still going ahead and looking at candidates that have the current qualifications for superintendent, does it? [LB539]

SENATOR CHAMBERS: I'm not even interested...no, because they hired one that doesn't have them. But this teaching...I had read that the State Board of Education could not give a waiver on the two-year teaching requirement. And all I know, like Will Rogers, on that score is what I read in the newspaper. [LB539]

SENATOR SULLIVAN: Thank you. Any other questions for Senator? Senator Scheer.  
[LB539]

SENATOR SCHEER: Thank you, Chairman. Senator, one clarification, the new OPS superintendent that would be coming starting in July, he wasn't short as far as

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requirement though, the teaching portion of the licensure. So, just for clarification, that's not... [LB539]

SENATOR CHAMBERS: I didn't say he wasn't. I said he didn't have that doctoral qualification. And to me that would be... [LB539]

SENATOR SCHEER: Sure. [LB539]

SENATOR CHAMBERS: ...it seems more important than this teaching thing because there's certain subject matters that will be found in that course of study. But I don't think that ought to even be a requirement. [LB539]

SENATOR SCHEER: Okay. Second, in your opinion, knowing that in Nebraska there are just huge discrepancies in size of districts, so that a superintendent in a district that perhaps only has 100 or 125 students, his responsibilities would be far different than that of the OPS superintendent as far as doing the evaluations and other things. Can you see the educational portion having benefit in the much smaller districts regardless if it would have a benefit in OPS? [LB539]

SENATOR CHAMBERS: Don't hire a superintendent, hire a teacher. If the school district that has fewer students is deemed not to have the same needs as the school district that has thousands of students, then I think first there has to come a discussion of what ought to comprise a school district. If these districts that have few students don't have enough in the way of student population to justify the full panoply of duties and responsibilities on one who is to be the superintendent, don't have those little bitty school districts. It's as simple as that. But I'm a politician and I know politically that's not going to happen in Nebraska. So if you're going to be practical, you can say it does not require as much in the way of qualification to adequately be a superintendent of that small district as to be superintendent of a wide far-flung district. But the one who is head of that large district has to know something about delegation of responsibility, the ability to judge those who are going to be given these duties to carry out. The captain on an aircraft carrier is responsible for everything that happens on that ship, but he or she is not in a position to know directly and personally everything that is happening. So you have to find people who you know are going to carry out the duties in his or her realm which when they are all brought together will make that craft operate. And these people who are captains will say it's not going to happen on my watch meaning that I'm going to be held responsible, even if I didn't know personally and directly that such and such a thing occurred. I knew or should have known how to put somebody in a position to make sure that that responsibility was carried out. And if you look at OPS, you cannot show one exemplary superintendent who moved the district forward. The problems that existed when I first started going to that school many, many decades ago have worsened as we move away from that period of time. And they have had a handful of superintendents, no one of which sticks out as an innovator, as one who has lessened

an achievement gap or done any of the things that will mark a school district as an entity which educates the children. And to make it simple for me to explain what I mean by education, there is a teacher and there is a learner. The learner is down here; the teacher is up here. What is between the teacher and the learner is knowledge, information needed to make it. And the closer the teacher can bring that student to what is being taught, the more learning that is occurring, the more teaching is being carried out. So when you have a large district, you have to have what people call benchmarks or standards that are to be met. If you are in first grade, second grade, third grade, and so forth, so that you have something to shoot for and by which to measure and judge. So, I would say under the way the systems exist now, a child is considered to have been successful if he or she learns or masters what is expected to be learned and mastered at that grade level. And if that is continuing to not be the case, the problem is not with the children, it's not with their parents, it's not with poverty, it's with the ones dispensing the so-called learning. You don't expect people to be well before they come to the hospital. You don't expect a person to have all of his or her teeth perfect before going to a dentist. But when it comes to the schools, they say, well, if your child can't read he or she is not ready. Well, you're the teacher of reading, what is your job? When I was growing up, I grew up in north Omaha, but in south Omaha a lot of people from eastern Europe were coming into Omaha. They were called DPs or displaced persons. Many of them couldn't speak English, and they certainly couldn't read it, but when their children went to South High, no teacher said, well, your parents can't speak English, we can't teach you to speak English. Your parents can't read, so we can't teach you to read. But when it comes to black children, Latino children, Native American children, poor white children, the schools have this excuse, well, your parents don't have a lot of books in the house and we're ordinary people where we thought the books were in the school. We thought the textbooks were supplied by the school system. We thought the learning would result from those who were teaching. I'm not a teacher. I'm a parent. I work hard. I provide food, clothing, and shelter for my children. I've been told that there is a public school system which society feels is there to make it possible for every child to reach for that brass ring and ultimately recognize the American dream and realize it. But you're telling me that I'm not a good parent because I work too hard and I can't read to my children. I don't even know how to read myself so my child is going to be punished because I can't read. His father has eaten sour grapes so his child's teeth are set on edge, that's the public school system. You all can't accept it, that's the way I see it. The school system has been the enemy of my children, and my children are all those children who are to be educated in a public school system. But at the same time, since the vast majority of people's children will go to the public schools, the public school system has to be maintained as a strong, viable entity, even if not all those who are a part of it are doing their job. So in order that you know, I don't go for charter schools, none of these tack-ons; I want a rigorous core curriculum. I want to see a system where every classroom in every building in every district wherever located offers every child the opportunity to obtain a meaningful and adequate education so that whether the child goes to school across the street or across town then the educational opportunity is

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there. But for our children, meaning black children, and I've been black all my life, there are only two things I got to do, that's die and be black. (Laughter) We prefer to have...the people that I know, and myself included, prefer to have...I prefer to have my children go to school down the street...across the street, not across town. I could go to the school. When your children are little and you care about them, you also worry about them. You want to keep them as near to you as possible. And if something happens, you want to be able to make your way to where that child is to be the provider and the protector if that is needed. If your child is way across town in a neighborhood that is hostile to them, among people who are hostile to them, being supposedly taught by teachers hostile to them, it's not a wholesome environment. My children were bused, and do you know why I allowed them to be bused so many years ago? So that my children would experience what other people's children were experiencing; so that I would have the same concerns as a parent, so when I spoke against busing I had experience. And here is what they would do when they were talking about integration in Omaha, the children from our area; now I did buy books for my children, I did read for my children because I didn't trust the schools, and when they went to school the teacher would ask me could I send work for my children to do at school because they were beyond what was being taught in the classroom and I thought that was tragic. But at any rate, my feeling was that if you're going to have this so-called integration, that's what it should mean. But here's what would happen, since our children were known by the school system to get an inferior education, it was stated blanketly without seeing those children as individuals that these children are not going to be qualified when they get to these white schools, they're not going to be able to keep up. They weren't talking about my child. They branded an entire group of children based on their race. So when they got to the school it is determined that they wouldn't feel comfortable in a classroom where they were behind. The presumption was that they would be behind, so you put them in a classroom with children who operate at the same inferior level. So you know what that meant? Segregated classrooms inside the white school. That's what has been foisted on our children. I have no confidence in the public school system. I don't believe white people are capable, in general, of being entrusted with the education of black children. There is nothing in this society that encourages that to happen, but rather the contrary. And when you plant seeds that produce bitter fruit, you are going to reap a bitter crop. And it might seem like what I'm talking about in this bill has nothing whatsoever to do with these other things I've said, but it does. It goes to the notion of putting people in a position who can do the job. And when you have all of these paper requirements it hinders reviewing and focusing on those traits, qualities, and abilities. So I say again, kill the bill. It gave me an opportunity to say what I have to say on the record. And I am so strong that you can kill it even before I leave the room because we know that's what is going to happen to it. Everybody knows, and I accept it. I'm like the one, as I talked about the other day, the executioner who based on the custom would be given a token to show that the victim was not angry. This is one penny, but it cost more to make this penny than the value of the penny. And it's probably the only coin in the American system that does that. So to my executioners, I'm saying do your job

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because it is your job. But like the phoenix, I will come back and from the ashes I will rise and I will be here when you all are gone. I had told them when they brought term limits, I'm the only one who can carry out a threat that people make; when I go I'll take everybody with me, which I've done. But I also told them I will be the last one standing, and I am, because those who started with me are all gone. And some of those who came after me will be gone before my eight years are up. So I'm realistic and I will not go away; I will not quit. And I'm going to fight against this unequal, discriminatory education being forced on black children and poor children. And it has...this stuff of talking about poverty and lunches...free lunches, and subsidized lunches, that's crazy. That's a moving target. When the economy is bad, these rich people might not have as much money so now their children get subsidized lunches. So they're going to be considered a minority. Then when the daddy gets a good job, the momma gets a good job, they're no longer on subsidized lunches so now they don't fit into the equation. The problem is black and white, racism; and they think they can get away with it by calling it poverty. It just happens that there's a confluence when you have poverty and black people, but the underlying problem is race. You know why I say that? They say that the schools are segregated because neighborhoods are segregated. Neighborhoods are segregated because of race. I'm not interested in separation; I'm not interested in integration. I'm interested in education. And you know why I took all this time? Because you gave it to me. (Laughter) And in football they say take what the opposition gives you. But remember this, I'm conceding that the bill is dead; but I may be the first one to make a motion to pull it from committee. So we'll have the discussion. I think it's very important. [LB539]

SENATOR SULLIVAN: Thank you, Senator. Any other questions for the senator?  
Senator Seiler. [LB539]

SENATOR SEILER: Senator, I've read a lot about superintendents correcting the problem with bad teachers. Do you get the impression that having not taught, you would be considered a Monday morning quarterback having never played the game? [LB539]

SENATOR CHAMBERS: It wouldn't make any difference what they think. I'm in charge. They talked about... [LB539]

SENATOR SEILER: No, the superintendent is in charge. [LB539]

SENATOR CHAMBERS: Well, I meant if I'm the superintendent. [LB539]

SENATOR SEILER: Okay. [LB539]

SENATOR CHAMBERS: It doesn't matter what these teachers think. No, I'm not here to be their friend. [LB539]

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SENATOR SEILER: No, I'm more concerned about what your constituents of your school district think if you haven't had the experience of teaching. [LB539]

SENATOR CHAMBERS: They don't even care. A lot of people didn't know that the person who is the superintendent has to have taught two years. And I bet if you asked most of the people in Nebraska to name a qualification of the superintendent, teaching two years would not be it. And if teaching, in fact, means something, then two years is not enough. You're not even a master teacher in two years. [LB539]

SENATOR SEILER: That was my next question. [LB539]

SENATOR CHAMBERS: Say it again. [LB539]

SENATOR SEILER: That was my next question, is two years enough? [LB539]

SENATOR CHAMBERS: No. Two years is not enough; but two years is too much when it goes to whether or not you're even qualified. [LB539]

SENATOR SEILER: Okay. Thank you. [LB539]

SENATOR SULLIVAN: Any other questions? Senator Cook. [LB539]

SENATOR COOK: Thank you, Madam Chair. And thank you, Senator Chambers, for sharing. I agree with points you made regarding poverty as a substitution for structural racism. [LB539]

SENATOR CHAMBERS: Um-hum. [LB539]

SENATOR COOK: And I'd like to talk a little bit more about that when we get out on the floor. But for right now, those of you...those who might share a similar view about who might run a school district might say something to the effect of: Let's run this school system like a business; or let's run government like a business. Could you speak to that? Is that your intent? [LB539]

SENATOR CHAMBERS: No, no, and I'm glad you mentioned it. [LB539]

SENATOR COOK: Do you think that's the answer? [LB539]

SENATOR CHAMBERS: And I'm glad you mentioned that. First of all, government--I'll take the easy one--is not a business. Government is based on representing the people, a diverse, often ignorant, uninformed constituency. In a business, you're allowed and expected to choose, cherry-pick, and select people who are going to do specific things, and if they don't do it you can fire them. In government, it's not that way at all. And the

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more, what they call democracy you have, the messier the government becomes because you accord the people the right to speak freely, to associate with whom they want, they can call me a baby killer if they want to, they can call me a baby eater if they want to, because I'm a public official. And some people will say, well, for you, Chambers, that's one of the nicer things we'll say about you. But the idea is that the principles on which a business would be based are not principles according to which a government can be operated. I think the idea of the philosopher king or the philosopher queen would be the notion that you have somebody with ideals, principles, a concept of nobility, justice, compassion, which will inform what is the overarching approach taken, but that person is realistic enough to know that there will come times when harsh things will have to be imposed on individuals because they violated other people's rights and even hurt them. And there are times when stringent policies will have to be put on the whole populous such as tightening the belt because there's not enough money to spend and so forth. So you have these goals that you want to reach, but you're realistic enough to know that you're not going to pop your finger or wave a wand and it will be done. When it comes to the business...I mean to the school system, what has to be done first of all, I think, is create a structure within which the educating is to occur. You should have certain positions that would constitute a chain of command because the person at the top can't do everything, can't know everything, but has to be a person who can hold the reins and keep these fiery steeds roughly going in the same direction, but also how to surround himself or herself with capable people who share that vision and will be somewhat of a buffer between that top person and these other lower levels of individuals; not where it is the class structure, but because that person at the top cannot answer every complaint, every grievance, or deal with every minor thing that comes up. This person has to be free to make those universe-like decisions. Then you have these, you can call them assistant superintendents, or whatever you want to call them, then you determine how big your administrative core is going to be even before you assign duties. And once you make that determination, you parcel out the duties among the number of people that you have and let them know, this is what you're going to be required to do; I'm looking for you to do it, and if you don't do it I'll find somebody who will. And as far as this silliness about sensitivity training, I'll put a basket by my door. When the day comes that you need to be sensitized as though you're an adolescent or a child or your feelings get hurt, just throw your resignation in that basket. When it comes to principals, these people are not teachers either. They are mini, m-i-n-i, superintendents. They supervise individuals, but they also have to be responsible for mundane decisions: heating, cooling of the building, all those kind of things. So, don't let this principal get locked into the notion of being a super-teacher because...you asked for my view, that's not what he or she is. But every one of these people who is a teacher is going to have standards to meet. And you're not going to come in my school, the superintendent is not going to send people to this school who cannot teach, who don't know the subject matter they are to teach. And you do it in that fashion. There are lines that run from the superintendent into all these other areas of the district. And you hold every individual accountable for what he or she did. When I was in the army, I was in

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the lowest branch, which is the infantry. I was in the lowest category of the infantry, I was a rifleman, the MOS was 111. That's the lowest you can get. But each one with the 111 had certain things that he was supposed to know and certain things he was supposed to do, and you functioned as a group. You had a squad of eight or nine people; then you had four squads in a company. And you kept going up and each one of those units had somebody who was in charge. And the captain who was in charge of the company would hold each squad leader responsible for what the squads did. But if there was to be discipline, the captain was the one who got it. And the one...the thing they always tell you, you as an underling are never going to make it as hard on me as I can make it on you; so I'm not going to look bad because of you. I'll do to you whatever I have to do to make sure that I don't look bad. Now, I know the situation. For a principal was performing very well. The World-Herald wanted to do an interview. The principal was prepared to give it. The principal was told you cannot give that interview; attention cannot be drawn to what you're doing because it will make other principals look bad. Instead of it being a standard, a paradigm to be reached for, it was deemed to be something that would make the nonperforming principals look bad. That's in OPS. And this has not happened only to that person. There was another principal who was given a lot of credit for being able to handle students...well, this was a school called...well, I won't mention the name of the school, but it was in the newspaper, and I won't mention the principal's name because that's not what I'm here for. But the teachers loved her because she was a disciplinarian. That meant be hard on the kids. So she wound up being removed from the school and nobody would tell why. But they said all the teachers liked her, so why is she gone? And teachers said she was great on discipline. Do you know what she did? She said that a 7-year-old boy...6 or 7 years old was running around the office and he wouldn't stop. So she took his shoes off and sent him back to his classroom barefoot. Humiliated him. That was her idea of discipline for black children. That didn't happen to my children. And I'll tell you this, there were times when I went into those schools and I didn't punch a teacher, but I put my hands on teachers. If a teacher grabbed my child, I'll go up there and I'd grab that teacher, and I said, there's less disparity in size between you and me. You grabbed my child and here's where you grabbed my child and I tried to snatch the arm out of the socket. I said, that's the way you grabbed my child. Now my child's daddy is here, grab him like that. And that teacher would be gone. I told my children, if those white kids call you that "n" word, you can fight. So one day, and this was at Fontenelle School, my son was outside in the hall, and my daughter was there, she was older than he. The principal called my daughter; she said, I want you to talk to your brother. And she came to him, she said, what happened? He said, that boy called me that "n" word. And she said, you know what daddy told you to do. He said, that's what I did. And so my daughter told the principal. Her name was Dawn (phonetic). Miss Dawn, you have to talk to my father about that. She never did. You know how I found out? My children told me. She didn't want to talk to my children's father. Why should I as a parent have to teach my children these kind of things, that you have the right to stand up for yourself? And if they put their hands on you, that's what you have a father for. And I've never been a coward. There's

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a guy named Smogus (phonetic), he stood well over six feet, weighed close to 300 pounds and he was teaching at Horace Mann; and he slapped my little sister. He slapped my little sister. I couldn't get to the school fast enough. And I think Eugene Skinner may have been the principal then. And when I came to the office, I saw this tall...he'd make Senator Kolowski look like a munchkin. This big creature was standing there. I said, this is what slapped my little sister? And so he sat down and when he sat down he was by one of these vents that we have in our office where heat and cold comes out, and there was a little ledge like and then the window. And the corner of that ledge fit right at the top of his shoulder. And you know what I did? I jumped in his lap and I grabbed his necktie and I started strangling him. My brother was there, this guy's eyes went in the back of his head. My brother said, Ernie, you're killing him, let him go. And I looked at him. And I wondered why he slapped my little sister and he wouldn't do me, but I let him go. He went down with the superintendent to the city prosecutor, whose name was Herbert Fiddle (phonetic), at the time. I didn't know about this until Herbert Fiddle (phonetic) told me. He said, Ernie, the superintendent came down here with a man to press charges against you. I said, for what? He said, assault. I said I didn't even think about that as an assault, I said, I didn't assault anybody. He said, yes, you did, at Horace Mann. I said, you mean that giant? I said, I want you to press charges against me. I want you to press charges so they can show this 6'8", 300-pound man accusing this 5'8" little slip of a fellow, me, of assaulting him, and let the judge and people in the courtroom respond. And he said, that's exactly why the one you called the giant said he didn't want to bring charges. You know why I'm telling you all this? When you send your child to school, there are different things that you see as problems from what I'm describing to you as problems for my children. Fortunately, they had a father who is not afraid of anything and anybody where my children were concerned. There was nothing I would not do to protect and defend them. And there were children physically harmed in the classrooms my children were in, and I'd go up and tell the teacher, when you do that to those children you make my child nervous. Don't you put your hands on another child in this classroom. And my children being in classrooms, other people's children were protected. And when I say hurting children, a child would be chewing gum and the teacher would come and grab the child's head and slam the face down on the desk. You all don't believe that, do you? I don't care what you believe. And that's why I don't come here pussyfooting and swallowing spit trying to make you like me or believe me. I know what happened. I know what happens now. Why do you think I got a law to prohibit corporal punishment in the schools? One of these days I'm going to bring some of the paddles down here to let you see that were used on our children. That thick, an inch thick, maybe two and a half...two feet wide with blister holes in them. And do you know how I got them? I went to the schools and I took them. I took them from the principals. I went in their office and I went behind their desk and I took their paddles and I dared them to put their hands on me. Maybe if some of them had, I wouldn't be here, I'd be in the penitentiary. But it would have been worth it for me. Why do children have me as a father? And we got problems similar to that now. And I've got to come here with a simpleminded bill like this because they got simpleminded

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obstacles to people who could be good superintendents. See, I'm not even opposed to somebody who had a military background, not that they're going to bring militarism into the classroom, but they understand the concept of accountability--farming out responsibility, a chain of command, visiting where the troops are actually carrying out their duties and responsibilities. But I've talked too long. I won't even take another question because you all have been very indulgent. And other things that you might want to talk to me about we can talk about, you know, not on the committee's time. And there are probably people here who want to speak against this bill. And I don't want any of them to go home before they've had their opportunity. And if they're here, they listened to me, so I'm going to stay here and listen to them. [LB539]

SENATOR SULLIVAN: Thank you, Senator Chambers. [LB539]

SENATOR CHAMBERS: Thank you. [LB539]

SENATOR SULLIVAN: We'll now hear proponent testimony. Anyone speaking in support of the bill? We'll now hear opponent testimony on LB539. Welcome. [LB539]

JAY SEARS: (Exhibit 1) Thank you. Good afternoon, Madam Chair and members of the committee. For the record I am Jay Sears, J-a-y S-e-a-r-s, and I'm here today representing the 28,000 members of the Nebraska State Education Association. NSEA is strongly opposed to LB539. As you've heard from Senator Chambers, LB539 would prohibit the State Board of Education from requiring teaching experience as a prerequisite for the issuance of a certificate to administer. You'll find that in Section 2. And using those terms and words that means even principals, assistant principals and curriculum instructors, and so NSEA is concerned that our whole process of preparing educators to be teachers, to be principals, to be assistant principals, and even to be superintendents is based on a progression of knowing about the profession of education. And this bill, much like LB121, would weaken the expectations that the leader of the school be an educator and be a professional educator. Professions have standards. And we have standards in the education profession, especially for teachers, for administrators, whether they are principals, assistant principals or superintendents, and they are trained to do the business of education. We see legislation that takes out the experience of being in the classroom and understanding how the teachers that they will be evaluating have a great effect upon what happens for students in the classroom also. Most of my testimony in the middle, the written part, is asking the questions: what would the principal be like if they didn't have any experience in the teaching, in the classroom? And then one last question about what about the superintendents, especially in our smaller schools who are also responsible for evaluating the principals who evaluate the teachers? Principals and superintendents need to be more than just managers of people. They need to be the professional education leaders of their school buildings and their school districts. They get that in Nebraska through the process and progression of going through our certification and endorsement and training process.

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The NSEA requests that the Education Committee indefinitely postpone LB539. And I thank you for the opportunity to testify. [LB539]

SENATOR SULLIVAN: Thank you very much. Any questions for Mr. Sears? Senator Kolowski. [LB539]

SENATOR KOLOWSKI: Thank you, ma'am, I appreciate it very much. Mr. Sears, the endorsement standards do differ between states. [LB539]

JAY SEARS: Yes. [LB539]

SENATOR KOLOWSKI: What kind of...of course there are similarities as well as differences between those standards for endorsements. Why isn't there a better national standard? Let me ask that question. That would be more universal toward this Kansas superintendent to come to OPS and not have to go through what he'll be going through in this particular issue. Could you speak to that? [LB539]

JAY SEARS: Yes, I guess I can answer it in a couple of different ways. First of all, Nebraska in its endorsement process, especially for those for superintendent or principal or whatever administrative certificate we're looking at, but I understand that most of the legislation is focusing on the superintendent job. We have taken, meaning "we," those who are advising the State Board of Education in the endorsement process which includes the higher education preparation institutions, superintendents who currently hold that certificate and endorsement, and teachers in the classroom who are on those committees looking at that have taken the national standards and made sure that our 16 institutions, though not all prepare educators to be superintendents, are upholding those standards. What Kansas might do is look at those standards also, but decide that we don't require a doctorate. Nebraska has always been on the edge of requiring more for our educators. We hold the bar high and that's what we're doing whether it's superintendents or the English teacher. [LB539]

SENATOR KOLOWSKI: Thank you. [LB539]

SENATOR SULLIVAN: And, Senator Seiler, did you have a question? [LB539]

SENATOR SEILER: Yes, thank you. I'm a little surprised that by your testimony you would exclude a CPA from being able to be a superintendent who handles large money, been in business. Why wouldn't a good CPA who has been out in the business world make a good superintendent? [LB539]

JAY SEARS: A superintendent that was a CPA might do a good job of budgeting; but what skills and knowledge, as Senator Chambers talked about, is he or she trained for to manage the whole district? How would he hold the people below him accountable for

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the education process; how would those people hold the teachers accountable? That's the whole progression that we've looked at when we're talking about the endorsement and certification process in Nebraska. A district who wants to have someone hired to work on their budget can hire a CPA; they're not excluded from doing that. What we require in Nebraska is that a person holding the certificate of superintendent meets such...certain high standards. And they would also have to understand how to do the budgeting process also. [LB539]

SENATOR SEILER: I think a CPA would understand the budgeting process. [LB539]

JAY SEARS: Yes. [LB539]

SENATOR SEILER: But I also wonder if they wouldn't understand personnel and personnel management. [LB539]

JAY SEARS: Yes. [LB539]

SENATOR SEILER: Okay. But under this rule, under the current rule, if you didn't teach two years, you couldn't be the superintendent. [LB539]

JAY SEARS: If he hadn't gone through the progression of administrative certificates and other endorsements, they wouldn't be prepared to be the educational leader of the business of education in Nebraska. [LB539]

SENATOR SEILER: I think that's debatable, but go ahead. [LB539]

SENATOR SULLIVAN: Any other questions? Thank you, Mr. Sears. [LB539]

JAY SEARS: Thank you. [LB539]

SENATOR SULLIVAN: Welcome. [LB539]

JOHN BONAIUTO: Thank you, Senator Sullivan. Members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, registered lobbyist representing the Nebraska Association of School Boards and the Nebraska Council of School Administrators who are in opposition to LB539. And as Senator Chambers said, we have for many years done it a certain way and I would like to think that if there was a different way that we needed to look at qualifications for a school superintendent, that our State Board of Education would work with the field, and we'd work with the commissioner and the state board and talk about that. So, I don't know that we would never do it a different way, but I think the way that we're doing it currently has served the 249 districts that we're working with. And I'm not hearing of a shortage of candidates for these jobs. Now having qualifications and criteria is important. And having...whether it's a person that's

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going to be an attorney or some other professional field, I believe in education that you build on experience in education. You have highly qualified excellent teachers in the classroom that at some point in their career may want to work with a larger group and impact a larger group of children and become building administrators and are principals. And there are people that are excellent principals that do not want to get any farther away from children than being a building administrator, but there are some that would like to move to the central office, to become a superintendent because, again, they want to broaden their field of who they're working with and use their leadership skills to impact, again, a greater number of children. So I think that between experience and education you build on your experiences and move from one level to the next and have traits, qualities, abilities that help you understand the bigger picture. Being a superintendent is highly complex. I don't want to minimize the demands on that level of administration. And working with a lay board, working with professional staff, working with community, on and on and on, and we're talking about trying to use data to narrow their achievement gap, it's a highly complex position. And it is through experience and education that, I believe, superintendents have the abilities to successfully do the job that they do. I would encourage you to, as Senator Chambers said, kill this bill and move on from there. Thank you, I'll conclude my testimony. [LB539]

SENATOR SULLIVAN: Thank you, Mr. Bonaiuto. Any questions for him? Thank you. [LB539]

JOHN BONAIUTO: Thank you. [LB539]

BRIAN HALSTEAD: Good afternoon, Senator Sullivan, members of the Education Committee. For the record my name is Brian, B-r-i-a-n, Halstead, H-a-l-s-t-e-a-d. I'm with the Nebraska Department of Education and the State Board of Education in opposition to LB539. I believe the State Board and the department believe that having knowledge about what it takes to teach, what needs to go on in classrooms every day with good teachers is one of the fundamental things that the superintendent needs to know, what the principals at the mid-level need to know; because it's about students being educated, like Senator Chambers said. So with that I'd stop and I would take any questions you might have. [LB539]

SENATOR SULLIVAN: Thank you. Any questions for Mr. Halstead? Senator Seiler. [LB539]

SENATOR SEILER: Is a two-year education enough? [LB539]

BRIAN HALSTEAD: That's a great question. That's currently what the regulation of the department has is two years. And I don't think that the board is opposed to having the discussion about how much teaching experience do you need. I suspect, as anything, how you pick a number sometimes is a compromise. [LB539]

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SENATOR SEILER: For one superintendent it may be too much, for another it may not be enough. [LB539]

BRIAN HALSTEAD: Well, and as you are well aware, education...we're moving away from the input side. If you have all of these input, you're supposed to have quality. [LB539]

SENATOR SEILER: Um-hum. [LB539]

BRIAN HALSTEAD: We're now looking at what are the results and is that producing it. So it's an ongoing discussion. I think the State Board is more than willing to have the discussion and Senator Chambers says...he's indicated he'll be back again. This is a good discussion, it needs to be had. [LB539]

SENATOR SULLIVAN: Senator Kolowski. [LB539]

SENATOR KOLOWSKI: Thank you, Madam Chair. Brian, I find myself...well, I'm one of the persons in the room who might have all the endorsements you're talking about, so that is part of my own past, but I could easily make an argument for five years or more needed for teaching because I've seen teachers going through a maturation process as far as opening up to what curriculum and instruction is all about, and great ah-ha's that come on, that just don't happen in a year or two. So there's a part of me that could make that argument for more. I certainly understand where Senator Chambers is coming from and I agree with him on 90-plus percent of the comments that he made on many of the things that we agreed with over the last four years together with our work together on the Learning Community. But I also understand exactly what he was talking about from his military examples that he gave of an aircraft carrier or a platoon. You want people to have the competencies; that could be an endorsement. But you want them to have the competencies that are described at every level of your attainment within the areas of expertise that you're seeking in, in those particular endorsements. And you're as good as the people you have underneath you. And as a testament to having been a high school principal and knowing the hiring practices and what you're looking for as far as quality people in a position, it's extremely important to have those standards. And I don't think we're remiss in asking for this minimal amount as far as a superintendent is concerned. Yet there is lots of room for debate on this. Thank you. [LB539]

BRIAN HALSTEAD: Sure. [LB539]

SENATOR SULLIVAN: Any other questions? Thank you. [LB539]

BRIAN HALSTEAD: Sure. [LB539]

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SENATOR SULLIVAN: Any further opposition on the bill? We'll now hear neutral testimony. Seeing none, Senator Chambers to close. [LB539]

SENATOR CHAMBERS: Madam Chair, members of the committee, I definitely will take any...will not take anywhere near the amount of time I took making my presentation. But just to touch briefly on some of the things that were said here, I don't know why that man came up here and said he represents 28,000 people, because I venture to say that not all 28,000 people, if truly that's the number, agree with his position or agree with any kind of position. So maybe he can say he's hired by an organization that has 28,000 people, but he certainly does not represent the views of all of those people. The gentleman from the State Board of Education has to understand that I'm a policymaker. The State Board of Education does not enact laws, the Legislature does. The State Board did an end run around the Legislature by requiring the flag salute to be said after the Legislature and one of its committees specifically rejected that and the school...the Board of Education said, well, it doesn't matter what the Legislature says, we don't need the authorization of the Legislature, in fact, we can go exactly opposite to the Legislature. They've been allowed to operate as a rogue organization too long. To speak of professional educators being the only ones who ought to be in line to be a superintendent indicates a certain parochial insular type of attitude which excludes most of the people in this society. And not one person spoke against this bill mentioned what the teaching should consist of. Does one who teach...one who teaches special education encounter the same experiences as one who teaches math? Athletics are extremely important in every aspect of this country's life. There are colleges and even professional teams looking at students as low as the elementary school level and certainly the high school level. There's no requirement that the superintendent know anything about coaching. Athletics are very important. There are people who will even donate to high schools based on the quality of the athletic program. They discount that. You've got a group of people who sat around and just picked things out of a hat and said this will be a requirement, this is one, and not one of them can show you a direct relationship between that so-called requirement and doing the job. I do think that a person needs knowledge, but there's a different type of knowledge. Experience and understanding required when you're going to be the captain of the vessel or if you're going to be a swabbie on the deck or even a steersman, or if you go back to Roman days, an oarsman. I don't know what I can say that would save this bill. So all I really expected to do was have an opportunity to make a record. But to show how accommodating I am, anything in this bill that would seem to refer to somebody or some position other than that of superintendent can be jettisoned. Focus it on the superintendent. But in drafting a bill like this, I want to cover the waterfront and listen to the objections that people make to the other parts of the bill and then I'll let all that go and focus on what the aim of the bill is. I have finished; and I say again, the committee has been very accommodating. But I guess when you're the executioner, you can do that. If you have any questions still though, I would answer them. [LB539]

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SENATOR SULLIVAN: Thank you, Senator Chambers. [LB539]

SENATOR CHAMBERS: Thank you very much. [LB539]

SENATOR SULLIVAN: That will close the hearing on LB539. We will now hear LB274. Senator Nordquist. [LB539]

SENATOR NORDQUIST: Good afternoon, Madam Chair, members of the Education Committee. I'm Jeremy Nordquist, N-o-r-d-q-u-i-s-t, I represent District 7, in downtown and south Omaha. I bring before you today a bill entitled the Education Compensation Transparency Act. It is the intent of LB274 to provide transparency to the public regarding the full compensation of school superintendents and ESU administrators. Compensation information including total salary, any fringe benefits, provided in contract, in policy, or through action taken by the board shall be published on the home page of the school district's Web site or ESU's Web site. The Nebraska Department of Education shall create a standard format in which the information shall be reported on the school or ESU's Web site. Compensation information also shall be reported to NDE and shall be made available on NDE's Web site either by means of link to the district or the ESU's home page or in a form or manner prescribed by NDE. Without a doubt the demands and responsibilities of administrators are substantial, and I believe the compensation should reflect those responsibilities. However, as some of the most highly paid public employees in our communities and our state it is important that we promote full transparency in what that compensation package ultimately looks like. I firmly believe that making compensation of top school administrators more transparent will lead to greater deliberation by those approving the compensation and therefore better accountability of public dollars. I'd like to make a couple quick notes about the fiscal note. My bill requires two things of the Department of Education. Section 2, subparagraph 2 requires the department to create a standard format in which the information shall be reported on the home page and requires the information be made available on the Web site of NDE either by means of a link, as I said to the school district's home page, or in a form or manner prescribed by the department. However, the fiscal note talks about tracking salary, benefits, and information; requesting contracts from every school district in ESU. Again, all we're doing is asking the department to create a format to...and the districts would then submit that information. The fiscal note also requires new FTEs to design and report Web site application, yet the bill allows them to just, as I said, publish a link on their Web site. The fiscal note requests \$100,000 to collect reports and post information. It talks about creating a process to monitor the information, audit what is provided by the districts, and monitor any board amendments to the contracts. None of those provisions are required by this legislation. So I certainly will follow up with the department in this discussion. As a member of the Appropriations Committee I tend to do that on all my fiscal notes, but I do think it's concerning that the fiscal note is longer than the bill itself. And it seems like it

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prescribes a number of more responsibilities than were intended in this legislation. And I'd be happy to work with them to put any clarity in that to make sure that we are not...that the department doesn't see this as more than it requires. I would like to thank the school administrators and school boards who worked with me on this legislation. I believe they will have a representative testifying in support of this legislation. Thank you. [LB274]

SENATOR SULLIVAN: Thank you, Senator Nordquist. What is your rationale in feeling that it is important to post this information on the Department of Education Web site as opposed to just at the local level? [LB274]

SENATOR NORDQUIST: Well, I do think it would...first, simplicity for someone wanting to look at comparisons among districts. I mean, if it was on the local Web site, it's easy for the local community to come and see what their top school personnel is being paid, but I do think that having it together on a Web site, even though you would require some clicks, I do think that there is a nice ability to have, at least, the access to that information all in one central point. [LB274]

SENATOR SULLIVAN: In the spirit of local control, then to follow up a little bit more, what's the value in seeing the comparisons between and in among districts with superintendent salaries? [LB274]

SENATOR NORDQUIST: Well, I do think, certainly from a state perspective of policymaker, I think there...I know we do believe in local control, but I also do think as we make state appropriation decisions that we should be able to access information about what those local decisions are and what they're spending their dollars on. I think this just allows us as policymakers and the public at large to have access to that. [LB274]

SENATOR SULLIVAN: Do we have access to that right now? [LB274]

SENATOR NORDQUIST: I believe the department has said something that they do have some sort of tracking, but it's not published. I think we could probably request it. But I know each...that you could, obviously, request the contracts from each district. But I do believe...and the department, if they testify, could correct me. I do believe I read somewhere in an e-mail back and forth that they do collect it, but it's not published in any kind of public manner. [LB274]

SENATOR SULLIVAN: And then in terms of it at the local level, is that information available to the public if they ask for it? [LB274]

SENATOR NORDQUIST: If they ask for the contract, certainly could. And I do...I would just point like...the Omaha World-Herald, we printed out here, they did...they have about

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15 superintendents, mainly from the metro area, but some of the larger districts, they did a simple publication of it. But that's leaving it up to a newspaper and a nongovernmental entity to publish that, as opposed to having it done through the government entity itself. [LB274]

SENATOR SULLIVAN: Thank you. Any other questions for...yeah, Senator Kolowski. [LB274]

SENATOR KOLOWSKI: Thank you, Madam Chairman. Senator Nordquist, thank you for your comments. I believe there is a listing of all administrators in districts that...do get a list of principals, curriculum coordinators, all the rest that is published, but I don't think the superintendents are on that list, if I'm not mistaken. When you go to listing the superintendents, will this bring about a greater standardization of all those other categories? [LB274]

SENATOR NORDQUIST: That's right. [LB274]

SENATOR KOLOWSKI: Because every superintendent does an individual contract... [LB274]

SENATOR NORDQUIST: Yeah. [LB274]

SENATOR KOLOWSKI: ...with his or her Board of Education. [LB274]

SENATOR NORDQUIST: That's right. [LB274]

SENATOR KOLOWSKI: And you'll need a lot of different categories... [LB274]

SENATOR NORDQUIST: Yeah. [LB274]

SENATOR KOLOWSKI: ...to catch the entire amount of money that contract would entail that doesn't exist at the current time. [LB274]

SENATOR NORDQUIST: And that's why we have the NDE developing--and I know the school boards have offered to help develop this--a standard reporting format, to capture those things. Certainly this very much came out of constituents in my district raising concerns over retirement buyout packages and the values of that and those not being transparent to the public; some people would say it wasn't even that transparent to the board when they signed the contract. So this is about shining a light on that. And I think NDE, with the help of, certainly, the school boards, would be able to develop a standard reporting format where that information could be made very clear to the public. [LB274]

SENATOR KOLOWSKI: So your goal would be that every dollar in that contract would

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be visible to... [LB274]

SENATOR NORDQUIST: Identified in some way. [LB274]

SENATOR KOLOWSKI: ...the taxpaying public. [LB274]

SENATOR NORDQUIST: Absolutely. Yes. [LB274]

SENATOR KOLOWSKI: Thank you so much. [LB274]

SENATOR SULLIVAN: Any other questions? Senator Avery. [LB274]

SENATOR AVERY: Thank you, Madam Chair. Senator Nordquist, I like this bill. [LB274]

SENATOR NORDQUIST: Well, that's nice of you to say. [LB274]

SENATOR AVERY: You may remember, as Chair of the Retirement Committee, I had a similar problem that originated here in Lancaster County... [LB274]

SENATOR NORDQUIST: In Lincoln, um-hum, yeah. [LB274]

SENATOR AVERY: ...where the compensation was kind of not exactly clear. So I know I'm supposed to be asking questions... [LB274]

SENATOR NORDQUIST: (Laugh) [LB274]

SENATOR AVERY: ...but I just wanted you to know I like this. Thank you. [LB274]

SENATOR NORDQUIST: Well, you can always follow up with questions later, if you have some. [LB274]

SENATOR AVERY: (Laugh) [LB274]

SENATOR SULLIVAN: (Laugh) Any other questions? Thank you, Senator Nordquist. [LB274]

SENATOR NORDQUIST: Thank you. I'll leave Senator Chambers' penny here for the next testifier. [LB274]

SENATOR SULLIVAN: (Laugh) Will you be here for closing? [LB274]

SENATOR NORDQUIST: Yeah, I will stay here. [LB274]

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SENATOR SULLIVAN: Thank you. We'll now move to proponent testimony. [LB274]

JOHN BONAIUTO: Hello again, Senator Sullivan, members of the committee. John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, registered lobbyist representing the Nebraska Association of School Boards and the Nebraska Council of School Administrators. The two organizations I represent...they appreciate that Senator Nordquist invited them to work with him on developing this bill. And John Spatz from the School Boards Association and Mike Dulaney from the Council of School Administrators gave input and are very supportive of the transparency issue, trying to find a workable, easy way for patrons...anyone that wants to access what is already public information somehow in an easier, more meaningful fashion than having to send a public information request to ask for the contract. So it...you know, I think that this is an approach that really is not punitive; it asks for the information to be gathered and displayed. And the two associations would help in any way that we can. I think that having the standard format is going to be important. And one of the references that the senator makes in the bill is Section 48-1229, and that's part of the wage and payment and collection statute. And it really talks about and defines terms. And the idea here is to capture all of the information and getting the information put together in some understandable way. And so, again, I think that it is an attempt to provide information that would be available in an easier fashion. With that, I will conclude my testimony. [LB274]

SENATOR SULLIVAN: Thank you. Are there questions for Mr. Bonaiuto? Senator. [LB274]

SENATOR KOLOWSKI: Yes, ma'am, thank you very much. John, do you think this is also a good recruiting tool for the state? [LB274]

JOHN BONAIUTO: You know, I...right now, the...through the work of the associations with the department, information is compiled in a salary survey, but it's pretty basic... [LB274]

SENATOR KOLOWSKI: Vague. [LB274]

JOHN BONAIUTO: ...information. [LB274]

SENATOR KOLOWSKI: Very vague. [LB274]

JOHN BONAIUTO: It is very vague. And so a lot of times it...I believe that the district, or firms that are doing superintendent searches especially, are having to gather information to try to figure out what the market is for certain positions. And when you're looking at a superintendency, it is a...pretty much a market-driven position and trying to be comparable and hire people that...at the right salary amount or compensation amount. And so it's good to have something where you have a standard form and able

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to understand what is all involved. [LB274]

SENATOR KOLOWSKI: I think it would be very handy as far as a tool for someone who has the proper endorsements for the state, as per our earlier discussion, to look at the...my potential career directions within this state, if I wanted to stay here. [LB274]

JOHN BONAIUTO: Absolutely. [LB274]

SENATOR KOLOWSKI: It would be very helpful. Thank you. [LB274]

JOHN BONAIUTO: Um-hum. [LB274]

SENATOR SULLIVAN: Senator Haar. [LB274]

SENATOR HAAR: Thank you. John, I don't think you used the word, but Senator Nordquist used the word "transparency." Why do you think this information is necessary for...? [LB274]

JOHN BONAIUTO: You know, I think that the issue of transparency is putting the information together in an understandable way. Again, this is public information. If someone wants this information now, they can request a copy of the contract and try to figure out what all of that may mean. In Senator Nordquist's approach, he's asking that this information be put in, in some format that would describe what the fringe benefit is, and then attach the dollar amount to that description or that information. So, again, I think it's trying to make it easier to understand and...but it's...I keep going back to the fact that it's not something that isn't available now, it's just something that a person has to obtain and spend more time with to get to where they want to go in that information. [LB274]

SENATOR HAAR: What in Nebraska law allows me to know this information in the first place? [LB274]

JOHN BONAIUTO: Well, I think that the Open Meetings Act and public information laws that a public body, if you request this information...it is a document that the board has taken action on at a public meeting and should be readily available to the public. [LB274]

SENATOR HAAR: Okay. [LB274]

JOHN BONAIUTO: And so it...and this is just putting that information into a neater package, if you will. [LB274]

SENATOR SULLIVAN: Any other questions? Thank you. [LB274]

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JOHN BONAIUTO: Thank you. [LB274]

JON HABBEN: Good afternoon, Senator Sullivan, members of the committee. My name is Jon, J-o-n, Habben, H-a-b-b-e-n, executive director, Nebraska Rural Community Schools Association. This bill looks like the cleanest method of dealing with a growing issue. The whole idea of transparency may have been highlighted by a few individual contracts, but the idea of transparency has been with us a long time. I was a practicing superintendent for 17 years at three different school districts. The expectation that once my contract was done, that that information was available and the media came and got it, that could happen every single year; that was never something that one expected to hide from. Now that's not to say, for example in our membership, that there's always a local newspaper to do that. But what we've moved into in this continuing developmental age of technology is the ability to put things on a Web site. And virtually every school district has a Web site. That becomes that location to make information available. A uniform form by the Department of Education would make it possible for everybody to disclose in exactly the same manner. That's important, that everybody disclose in exactly the same manner. The department has long developed a list of salary information and struggled with its ability to have everybody report identically. This might be an improvement upon that circumstance. It would allow not only for...and you have to assume this: it's entirely possible some superintendents are going to look at other superintendents' contracts and see what is happening there that maybe "I should have been smart enough to do in my contract," or whatever. I mean, those things, those comparable circumstances, are simply going to occur. They already do to some degree. This would make it easier. The senator's question about what does this do for recruiting people into administration, particularly the superintendency; or what does this do about keeping people in-state? Well, we know that there are people who come in and want to do everything silently; we know that there are people who want to apply and not provide any information to the public. Part of the reason they do that is they don't want the people that they might leave to know that they are applying for something; they don't want to jeopardize what they already have. Part of that may be that they feel, like, putting everything out to the public, that's uncomfortable, don't really like that, makes me feel bad. Well, as a superintendent for 17 years, I can tell you that when it came out in the paper, yeah, there were some kids that said some things to my kids; there were some adults who made some comments to me. Those things happen. When you go into the superintendency, you go into the superintendency eyes wide open. That's the reality. Either you're capable of doing that, or you're headed in the wrong direction. I think this is a good bill. The interest in transparency is significant. It allows the local board to do its job and then make the information available to the public. And I think that's a solid method of handling the circumstance. Thank you. [LB274]

SENATOR SULLIVAN: Thank you, Jon. Do you think this opens the door for, then, the public to want even more information about other staff, whether it's principals and on

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and on? [LB274]

JON HABBEN: I think it will encourage some of that. At one of the schools I was at, I did run into that, where when my information was put in the newspaper, the newspaper got requests: Well, let's put in every school person's information; let's list all of the teachers, name, by salary. We had a couple even say: Well, can we also know exactly what their educational attainment is? You know, you can imagine the cost of putting all of this in a newspaper. But we did have a few questions. This type of thing could cause that request to come because a Web site...you can post on a Web site. I would hope that maybe if common sense is common sense...kind of calms that to a certain degree. But it could. [LB274]

SENATOR SULLIVAN: When you said that this will help a local school board do their job better...this is information that's already available to them, so by making it more public, how does that make...allow the board to do their job even better? [LB274]

JON HABBEN: Oh, let me clarify. In allowing the school board to do its job, it's important that they be able to do their job in confidence with that superintendent as a method of negotiations to hammer out a contract. They will consult their attorneys; they will work through all of the elements to the contract; they will have the contract approved by the district's attorney; they will go through all of those steps. What I meant by "it allows the school district or the school board to do its job" is, have them do that in the same fashion they do it now, with all of the pieces going on, but then requiring them after they've done that to let the sun shine on it, seems to me to be the best way to do it. That's what I was alluding to. [LB274]

SENATOR SULLIVAN: Thank you, Mr. Habben. Any other questions? Senator Haar. [LB274]

SENATOR HAAR: Yes, thank you. But doesn't it sort of tie the hands of a school board to have to make this so transparent? [LB274]

JON HABBEN: Well, it...that's an interesting question, because if one assumes that there is something to be held from the public, you would say, yes, it ties the school board's hands. My concern is that we're not trying to hide anything from the public--that shouldn't ever be a goal in negotiations between a superintendent and the board--the idea is that if it's a fair contract, a comparable contract, if you want to use those terms, whether on the salary side or on the list of benefits side, shouldn't be afraid to lay it out, let the sun shine on it, and move on into the business of schooling. [LB274]

SENATOR SULLIVAN: Thank you. Any other questions? Thanks, Mr. Habben. [LB274]

JON HABBEN: You bet; thank you. [LB274]

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SENATOR SULLIVAN: Welcome. [LB274]

PATRICK GERHART: (Exhibit 1) Chairman Sullivan, members of the Education Committee, my name is Patrick Gerhart; that's P-a-t-r-i-c-k G-e-r-h-a-r-t. And I am the policy outreach director for the Platte Institute for Economic Development. I'm here today to speak in support of LB274, which would require full disclosure of superintendent and ESU administrator compensation, fringe benefits, and retirement contracts. The Platte Institute has been an advocate of transparency in government since its inception: a government that implements proper transparency protocol, promotes accountability, and provides the necessary information to the citizens. In doing so, political subdivisions help ensure public trust, public participation, and collaboration on issues. Recently, the Sunshine Review, a national nonprofit organization that monitors transparency issues in federal, state, and local governments, ranked Nebraska dead last in government transparency. The report mentioned that the state of Nebraska lacks in areas such as contact information and budget information; in addition, the state's Web sites were not user friendly in comparison with other states on the list. While the overall report of our system is troubling, the lowest score out of all the agencies came from our school districts, which got a "D" in transparency. This bill can help make the Nebraska educational system more acceptable...more accessible to the taxpayers of our state. Had such a bill been in place last September, it is very unlikely that the Omaha public school board would have been surprised by the over \$1 million retirement payout they made to former Superintendent John Mackiel, which caused a public outcry and has since jump-started efforts to fundamentally reform the school board. Such a bill would greatly benefit concerned parents, teachers, and taxpayers in all of Nebraska's school districts by allowing them to see their decisions made by the school boards when it comes to the administration. It would also force school districts to be more accountable in the deals they make with potential superintendents and possibly help them contain administrative costs. For government agencies to function well, they must not only be successful in serving the public but must also let the public see how they are functioning, which allows for much-welcomed input from the taxpayers. The ability for parents and other community members to be able to see where their tax dollars are being spent in the school system is important. The Platte Institute sees a bill such as this one as another area that citizens will be able to monitor locally. While LB274 is not the solution to all of Nebraska's government transparency problems, it is a good step forward. The Platte Institute supports LB274. [LB274]

SENATOR SULLIVAN: (Exhibits 2 and 3) Thank you very much. Any questions? Thank you for your testimony. Any other proponent testimony? I'd like to read into the record that we have two letters of support for LB274, one from the Americans for Prosperity sent by Brad Stevens, the state director, and also from Rick Black, superintendent of Papillion-La Vista school district. We will now move on to opponent testimony. Anyone wishing to speak in a neutral capacity? [LB274]

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BRIAN HALSTEAD: (Exhibit 4) Good afternoon, Senator Sullivan, members of the Education Committee. For the record, my name is Brian, B-r-i-a-n, Halstead, H-a-l-s-t-e-a-d. I'm with the Nebraska Department of Education. We're here in a neutral capacity. And I suspect when the fiscal note got mentioned, you knew I'd be here to explain the fiscal note to you. The State Board has no opposition to providing transparency in compensation information about any of the public employees. Currently, the Nebraska Department of Education, pursuant to 79-804 of the statutes, is required to collect a fall personnel report from all of the school districts, educational service units, and any other public education institutions that are educating on a prekindergarten through 12th-grade basis. We currently in that report, collect compensation, but the definition of "compensation" is not one easily defined, nor can you necessarily articulate all of the issues related to that. We have been doing that for decades as a result of a compromise with the NSEA, the Nebraska Council of School Administrators, and the school boards association. And that is an ongoing discussion, as to what they consider to be, quote, compensation. We are not opposed to collecting the information. The bill as currently written talks about a form that we will prescribe in a manner to collect total salary and a description of each fringe benefit as defined in 48-1229, and any additional benefits. When we read the bill, we presumed you wanted a value put next to every one of the possible fringe benefits that may be offered. Currently we have nothing to do with superintendent contracts. We have absolutely no knowledge of what is currently included in superintendent contracts, as to wages, benefits, fringe benefits, and all of those things. So greater clarity by this Legislature as to exactly what it is you want us to collect and if you want dollar values for each of those, how we would define the dollar value for health insurance or sick days or vacation days or a car allowance. Is it the dollar amount of the vehicle? Is it the amount of miles? Is it, the school provides you with a vehicle, what's the value of the vehicle? I know those seem like nitpicky items, but each one of them, if we're going to collect it on a form, we need to define it so the people reporting it to us know what the dollar value is on the form. So with that I'll stop; I'll answer any questions. We are not opposed to transparency; we are here to work with you to provide the information you believe the public needs to see. And any greater clarity you can provide to us about those values will assist us in doing the work you want done. [LB274]

SENATOR SULLIVAN: Thank you very much. So it's fair to say that even with additional clarity, with clarity comes a cost. [LB274]

BRIAN HALSTEAD: In the sense of originally designing...how much specificity do you want? I am not a financial planner; I know very little about that. But what's the value of certain items: an annuity, retirement? We do know that some superintendents don't pay their share into the retirement program, the board pays it, the district pays the whole thing. So that's a different value than what I get. You know, at the department they have a cost for employing me; they then have a line that says, here's my gross salary; and

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then I know what I net every month. Those are three different dollar values. And they differ on employees, depending on what fringe benefit you select and the value that may be assigned to that at any given time. So I'll stop; I'll answer more. [LB274]

SENATOR SULLIVAN: Is there a wide variation among our 249 school districts of the kinds of packages, or do you know? [LB274]

BRIAN HALSTEAD: We don't know at the department because we don't negotiate the packages. This is a local school board responsibility. We certainly can make the attempt, and that's why the fiscal note indicate...we'd have to collect them all, first of all, just to get an idea of what is the breadth of the compensation packages, what are included in many of them, what aren't. [LB274]

SENATOR SULLIVAN: What if the decision was made to rein it in, so to speak? And could the department, maybe, not collect the information but give guidance to how a local district should report it on their own Web site? [LB274]

BRIAN HALSTEAD: Well, we certainly can provide guidance. But keep in mind, guidance is just guidance; it's not a requirement. [LB274]

SENATOR SULLIVAN: Um-hum. Um-hum. Right. [LB274]

BRIAN HALSTEAD: Currently we have instructions that tell the school districts how they should calculate that compensation dollar they put by every school employee. And invariably somebody will ask us at the department: Can you tell us what this school district pays its teacher? We'll give it to them. And the first thing we get is a call from the school district: Well, that's wrong. Well, the people filling it out, the people submitting it, whatever, there's always that issue about making sure what you've submitted...auditing the data for its correctness, if you're going to use it, is always an ongoing issue. And again, some of this is more of: the people who are going to put the dollar value in the box, how do they calculate the dollar value, if that's what you want, if, you know...and this bill...LB470 is following, I think our fiscal note says nothing. If all you want us to do is collect all the contracts for superintendents, that's a public record request, and in a month we could have them all up on our Web page for everybody to be able to read them. That's not a cost. Trying to break out them reporting to us boxes with dollar values has a cost. [LB274]

SENATOR SULLIVAN: Okay. Thank you. Any other questions for Mr. Halstead? I guess that's it. Thank you. [LB274]

BRIAN HALSTEAD: Thank you. [LB274]

SENATOR SULLIVAN: Any other neutral testimony? Senator Nordquist, for closing.

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[LB274]

SENATOR NORDQUIST: I'll be brief here. I appreciate Brian's comments, and I think we may just need a little more clarity here. I don't see this...I would think that NDE could work with the associations about what is the standard in some of those packages, develop a form. The school districts get that form, have to fill it out. Now we're trusting that they fill it out accurately and put that up on their Web site. And then whether or not we want that central repository of NDE putting those links or those forms, when completed, on their Web site, we can work on that. So I do think there's a way to get to simplification here, maybe without as much cost, by pulling these together. And I certainly stand willing to do that. I will also note, Madam Chair, you asked about other employees. I...actually, the first draft of this bill I had any employee making over \$100,000 a year. But then after speaking with the groups, it's, I mean, it's clear that superintendents and ESU administrators are essentially the only individual that gets to negotiate their individual package with different perks in it. So that's why we decided to limit the scope, because everyone else is under more standardized packages for more multiple employees. [LB274]

SENATOR SULLIVAN: Okay. Very good. [LB274]

SENATOR NORDQUIST: Thank you. [LB274]

SENATOR SULLIVAN: Thank you. Any other questions for Senator Nordquist? [LB274]

SENATOR NORDQUIST: Thanks. [LB274]

SENATOR SULLIVAN: Thank you. [LB274]

SENATOR NORDQUIST: Yep. [LB274]

SENATOR SULLIVAN: That closes the testimony on LB274. We'll now move on to LB470. Welcome, Senator. [LB274 LB470]

SENATOR SCHEER: (Exhibits 1 and 2) Thank you, Madam Chairman, Education Committee. My name is Jim Scheer, S-c-h-e-e-r. And I represent the 19th District in the Nebraska Legislature, which is Madison and a portion of Stanton County. My bill is similar to Senator Nordquist's. But there are some distinct differences, which...I think it makes it a better, more comprehensive bill. But let me give you a little historical perspective. I had several years where I was on our local school district, and you lose perspective of the compensation of your superintendent, to a certain extent, because they're there for a longer period of time and it just goes on and on, and you really never take the time to look where you are in relationship to other districts, either similar in size or not. As far as benefits, it's a personal negotiation. Senator Sullivan asked the

question: Is there big discrepancies? There can be, and there probably are, because each one is a individual school district contract. Now mine does similar things as Senator Nordquist's, but LB470 is unique to the extent that it is only the superintendent. I did not dwell into the ESUs. They are a different breed. And I wanted to keep mine more simplistic and put it in the form of just the school districts. It also provides a listing, for the school districts to provide that: one on their local school district page--and as far as I know every district does have a local school district page--that shows the compensation, and it would also have a central location on the State Department of Education for a listing of total compensation, so that anyone that wanted to could go compare and look at other districts. It has benefits for a lot of different reasons. If you are a superintendent, certainly, as one of the testifiers of the previous bill said, I can go look and see what other districts my size are offering as a total compensation package to their superintendents: I might be in a great deal; I might not have, like they said, done a very good job in negotiating for myself. So I can use this for prospective...improving myself. But, conversely, it's also a very good tool for your local school districts, because they can look and see what they're offering their local superintendent and, based on that, determine, are we doing too much or are we doing too little? And I will tell you, one of the things that happens to school districts, and I speak from experience, you end up having a superintendent for a number of years, and all of a sudden that person retires after 10, 12, 14 years--and there is longevity in superintendencies--and all of a sudden you go to rehire the new superintendent and you find out you're about at 70 percent of the going rate. And here you had an individual that has worked for your district for 12-15 years and all of a sudden you're going to hire the new person at about a 25 percent bump just to attract a competent-quality person. So there is benefit from both perspectives, of the school districts and the individual that is serving in that capacity, as well as someone that is looking at, as Senator Kolowski said, looking at an avenue of...as a superintendent as a new profession. It lets you look at those avenues: what my compensation, what my responsibilities would be in those types of areas. Now, my bill, the differences are twofold, other than having the list and having them similarly both on the local district and on the state department. When do people want to know what the compensation is of their local superintendent? It's when the contract is issued or when it's renewed. Mine speaks to that. It says that you have to have a minimum of five days before action is taken on your superintendents either a new contract or a rollover; any time it's changed you have to put it on your Web site. I'm not suggesting that they spend a lot of money on advertising; it's simple, just a spot on your Web site showing the new corresponding financial features so that the public is aware what you're offering either as a new contract or as a rollover, so that they know what your expending. That may or may not make any difference to them, but at least they're aware of it before there's a vote. I think one of the most disingenuous things we can do is have a item on our agenda approving the superintendent's salary--and normally it just says extension of his contract or her contract--and it gives no other information. This way the public will know what that is. I think that's a very important component of this bill. And the last thing that it does, and it probably...if I'm going to hear criticism, it might be from the fact that there

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is the stick. There's the carrot and there's the stick. And the stick is, if you don't provide accurate, quality information to the state department so that they can have this list, the treasurer will hold your TEEOSA funds until you correct it, so you darn better be honest and forthcoming with the information. And it doesn't hold it...you don't lose it. Whenever you provide the correct information, it's released. It's not punitive, it's just making sure that we all get the same information, that all districts are fair in the reporting and they give the correct information and everybody is above board. You don't have to worry: Did they include this; did they include the annuity? You know, this isn't directed towards OPS; this is just sound government practices. It is sound transparency for school districts. Every person in any school district knows that your superintendent is the most highly paid individual in that district. That's not going to come as a shock to anyone that is looking at that information. But as a matter of fact it should be accessible to the common person in that community. Are they available now? Yes, but not necessarily in the correct amounts. And is it easily accessible? No, it's not. So what this would do is it streamlines that process, it holds districts accountable to making sure that that information is correct, and it also notifies the public, any local school district, their public, if and when there is going to be a change to that superintendent's contract and what it entails and what the compensation level is. It's very simple; it's straightforward; it's good policy. And with that, I would close and entertain any questions from any of the board members. [LB470]

SENATOR SULLIVAN: Thank you, Senator Scheer. Now you passed out this... [LB470]

SENATOR SCHEER: Yes, I will clarify. You have an amendment that essentially...the revised bill. My legislative aide, Katie Linehan, and Tammy have been working hard on trying to get all of my little mess-ups taken care of so that you have an amended version that may not have the technical difficulties that we might have encountered with... [LB470]

SENATOR SULLIVAN: So it's more technical in nature... [LB470]

SENATOR SCHEER: Yes. [LB470]

SENATOR SULLIVAN: ...it really doesn't change the substance of the bill. [LB470]

SENATOR SCHEER: No, it doesn't change the substance. I just...I think, I guess the analogy would be Tammy went through with a comb and made sure that we smoothed everything out so that everything is appropriate within it. [LB470]

SENATOR SULLIVAN: I'm a little confused when you talk about consistent information that's being presented. [LB470]

SENATOR SCHEER: Um-hum. [LB470]

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SENATOR SULLIVAN: And, reflecting on what Mr. Halstead had said earlier, that the department would receive the information and simply post the information on the department's Web site, I took that to mean that there would be no analysis or review of it, it would just simply be, I don't know, scanning the document onto the Web site. And is that what you would expect that would be done at the local level too? Or is there some fine-tuning of lifting out certain parts of the contract, rather than just putting it out there verbatim? [LB470]

SENATOR SCHEER: Both. I would suspect...I would...my intent would be to have those contracts scanned in, so that the contract itself is available to anyone that wishes to look at it. Secondly, there would be a form that would show the financial package that is being provided to that individual that serves as a superintendent. And it would be in detail: the districts would have to show any compensation that would be deferred, any current compensation, any annuities, whatever fringe benefit package they are provided, regardless if it's the same as the rest of the instructional staff in a district; sometimes they're the same, sometimes not. It would give a listing of all individual items, total complete compensation. If it is the use of a car, whatever the value of that car is; and normally what school districts do is they lease them. So it's not a hard process to figure out the cost of that. When you lease a vehicle, there's also insurance. Insurance policies for school districts are no different than yours at home; it shows the vehicle; it shows the cost of insuring that vehicle. All those dollars that are invested in that position would be shown. It's...it...to me, that is the transparency of the position. [LB470]

SENATOR SULLIVAN: And then a little clarification on the stick. Who's the gatekeeper? The department is the one who then would send notice of withholding of the TEEOSA payment; or do they have to communicate to the county treasurer; or...? [LB470]

SENATOR SCHEER: The way the process is outlined in the bill is that the Department of Education would notify any school district that is in noncompliance. It would be then given time, and, I apologize, I don't off the top of my head know if it's 12 days or 30 days. Every school district would have the opportunity to correct that deficiency before anything happened to it. I mean, there are mistakes; I understand that. So it's not punitive. If they send you a note saying, by the way, you know, last year you noted that you had a vehicle as a fringe benefit, it's not shown this year; you can write back, we don't have that anymore, we don't provide that, or, I'm sorry, you're absolutely correct, here's the amount; and it will be changed. Nothing happens. It's only...if they ignore those requests or they don't provide the information at all, that ultimately would call into place that their TEEOSA funds...the department would notify the county treasurer, according to the bill, and they would hold those funds. They wouldn't return them to the department; they would hold those funds until they were ordered released by the department once that information was received by the Department of Education.

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[LB470]

SENATOR SULLIVAN: Okay. Thank you. Any questions? Senator Haar. [LB470]

SENATOR HAAR: Yes, thank you. I've never served on a school board as such. What...your bill and Senator Nordquist's bill obviously provide detailed information on compensation. Does the public have any way of knowing the intent of the board in hiring a person: the why and so on and so forth? [LB470]

SENATOR SCHEER: Well, I can only speak for the... [LB470]

SENATOR HAAR: Sure. [LB470]

SENATOR SCHEER: ...activities that I'm...normally when you are hiring a new superintendent, when you hire that person, you will give the attributes that you as a school district and a board were looking for: you wanted someone that is being more active within the community, somebody that perhaps was more accomplished in the financial field, someone that was more accomplished in human relations and staff management, or those type of things. Every district is unique what they need at a certain point in time when they're hiring a leader, so those things would all be different. And I can only speak for myself; we would have talked about that when we would be hiring a person. And, if you're continuing that employment, each year when we renewed that contract we would talk about the attributes of the superintendent and also goal setting and what they have achieved in the past and what we were looking for in the future. I can't speak to other districts, but I would assume they would be similar in nature. [LB470]

SENATOR HAAR: Is that part made public, or is that confidential? [LB470]

SENATOR SCHEER: Uh, the... [LB470]

SENATOR HAAR: The goals and so on that you set for... [LB470]

SENATOR SCHEER: No, those were...at least in my district, you know, those were presented in an open meeting. They were part of public knowledge, public information. [LB470]

SENATOR HAAR: Okay. Okay, thanks. [LB470]

SENATOR SULLIVAN: Any other questions? Thank you, Senator. Oh, excuse me, Senator Davis. [LB470]

SENATOR DAVIS: One question. Senator Scheer, there is some loading, if you want to

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call it that, of superintendents' salaries. Do you think this is going to address some of those problems? You know what I'm referring to, in trying to load for retirement. [LB470]

SENATOR SCHEER: Well, hopefully; because you're talking about the deferred compensation portion. And this clearly would have to be stated in that. So if that's what a district wants to do, that's fine; they just have to be transparent about what they're...how they're going about it. [LB470]

SENATOR DAVIS: Well, my example...I'm going to use my own example. [LB470]

SENATOR SCHEER: Okay. [LB470]

SENATOR DAVIS: Our superintendent, in approaching retirement, said: I'll pay my own insurance. So that became salary then; we paid him an additional... [LB470]

SENATOR SCHEER: If you're...you're speaking more to that as far as retirement income. [LB470]

SENATOR DAVIS: Um-hum. [LB470]

SENATOR SCHEER: And this would not prohibit what you're talking about. And to explain to the other committee people, the retirement income on the retirement system is based on your last several years' average salary. So if you are a superintendent and, for example, you are getting an annuity, you could choose not to have that annuity anymore, because it's sheltered income, and say: I just want it in regular pay. Well, that then would show your compensation going up by maybe \$15,000 or \$20,000. And if you do that for the last three or four years, truly, from a retirement standpoint, you would gain more. This will not stop that. I mean, that's part of the retirement process of that system. I think they've tried to put some safeguards into that. I'm not exactly sure how widespread that may or may not be, but I believe that's what you're talking about. And this bill does not take aim at that particular practice at all; it is just trying to get the total amount of compensation and benefits available. [LB470]

SENATOR DAVIS: So what you'll do then is: we'll take the basic salary, we'll take the value of the car, we'll take the value of the insurance, we'll take the value of the housing, and that will all be percolated up into a dollar figure. [LB470]

SENATOR SCHEER: Correct. [LB470]

SENATOR DAVIS: And then that will be what is reported. [LB470]

SENATOR SCHEER: Correct. [LB470]

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SENATOR DAVIS: Is that correct? [LB470]

SENATOR SCHEER: Correct, because right now, when the department asks for the salary or compensation, there's no definition, technical definition, per se. So one district could say, well, he or she makes \$142,000, and that may be every one of those items you just listed. Another district could say, well, ours only makes \$122,000, but that's just the compensation that's on, you know, his end-of-the-year statement for tax purposes. And they are two different things. [LB470]

SENATOR DAVIS: So I'm still exploring this just a little bit more, because I fully support the concept. But in a shared situation, where school districts are sharing their administration... [LB470]

SENATOR SCHEER: Um-hum. [LB470]

SENATOR DAVIS: ...how is that going to be split out? If... [LB470]

SENATOR SCHEER: If...if...I would assume if a district or multiple districts were sharing a superintendent, that under my logic, and I'm a big logic person...so logically if four districts are sharing a superintendent, their cost would be one-fourth of whatever that total compensation is. So it may show the total compensation...and say Hyannis's 25 percent cost for superintendent would be, if it's \$100,000, would be \$25,000... [LB470]

SENATOR DAVIS: Okay. [LB470]

SENATOR SCHEER: ...but it would show the total of the value. [LB470]

SENATOR DAVIS: And will there be a notation then in the forms, that this is a half-time position or a quarter-time position? Because otherwise you're going to end up with somewhat unusual figures. [LB470]

SENATOR SCHEER: I think that's a great suggestion. I would suggest that we do that. This does not go into that specific, but certainly that's well worth providing. [LB470]

SENATOR DAVIS: Thank you. [LB470]

SENATOR SULLIVAN: Any other questions? Thank you, Senator. [LB470]

SENATOR SCHEER: Thank you. [LB470]

SENATOR SULLIVAN: We will now hear proponent testimony on LB470. Good afternoon. [LB470]

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SHAWN RENNER: Good afternoon, Senator Sullivan, members of the committee. My name is Shawn, S-h-a-w-n, Renner, R-e-n-n-e-r. I'm a lawyer with the Cline Williams law firm here in Lincoln. I appear today as a registered lobbyist on behalf of Media of Nebraska, Inc. Media of Nebraska is a nonprofit corporation comprised of representatives of both the press and broadcast news media throughout the state. The steering committee asked me to appear today and indicate to you that the news media of the state has looked at the bill and believes it's a good idea for the people of the state of Nebraska. It will make the job of both broadcasters and newspaper reporters easier in reporting on local school districts and particularly what they pay their superintendents. And it will also allow, my clients believe, for the better ability to compare across district lines, too, and believe there is value in that. So the organization as a general rule supports transparency in government expenditures, because members of my organization have a pretty steady diet of local school district business, that's what many small-town newspapers and broadcasters report on, they believe that the information that would be available under LB470 would be useful in providing that information to their readers and listeners. With that, I'd take any questions the committee may have. [LB470]

SENATOR SULLIVAN: Thank you, Mr. Renner. Senator Avery. [LB470]

SENATOR AVERY: Thank you, Madam Chair. Mr. Renner, is there some reason why you did not support or oppose LB274 that was just previously heard? [LB470]

SHAWN RENNER: Probably not a great one, Senator. In looking at the two bills, the steering committee believed that this was a cleaner bill in terms of what it was presenting and how. It certainly did not oppose the previous bill. And I didn't indicate by testimony that it was opposed to it. But between the two, it was the steering committee's judgment that this was the preferable bill, and they asked me to convey that sentiment to the committee. [LB470]

SENATOR AVERY: Okay, thank you. [LB470]

SENATOR SULLIVAN: Any other questions? Thank you, Mr. Renner. [LB470]

SHAWN RENNER: Thank you, committee. [LB470]

SENATOR SULLIVAN: Welcome. [LB470]

TIM GAY: (Exhibit 3) Welcome. Good afternoon, Senator Sullivan, members of the committee. My name is Tim Gay; I'm representing Papillion-La Vista school board. I have a letter we handed out; it may be the same letter on LB274. But the letter states we're in full support of the concepts of what's being proposed on transparency; we believe in transparency. Dr. Black wrote a letter, and we're going through a search now.

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We just wanted you all to know we try to be as transparent as we can. Many times people come in and they ask for the contract; they can get it. The only thing...I think what we wanted to say is, between the two bills...you'll work it out whatever works best, of course, but if there can be some consistency...as you've heard, there's many different issues you have to deal with. Our main one would be, if we're going to file more reports, that they're consistent. And that may be a little bit hard, but that would be the...what we wanted to get across today. Thank you. [LB470]

SENATOR SULLIVAN: Thank you, Mr. Gay. When you say that someone comes in and asks for the information, then do you simply give them the contract, or have you put together some points that they can readily see what the features are and the values of each feature? [LB470]

TIM GAY: No. Well, in probably any community there's people out there who attend meetings pretty regular and want to know...and the news media, by the way, too, follows a lot of these things. But they just give them the contract; it's never been a problem. It's been done several times, so this isn't new. And, like I say, we support the concepts...but you had heard earlier there's a lot of moving parts to this... [LB470]

SENATOR SULLIVAN: Um-hum. [LB470]

TIM GAY: ...of what could be done. My own personal opinion would be to simplify the...somewhat legible. I mean, you can go as deep on these things as you want... [LB470]

SENATOR SULLIVAN: Um-hum. [LB470]

TIM GAY: ...but we would...on the Web site would probably be easy, and they're already being reported to the state. [LB470]

SENATOR SULLIVAN: Um-hum. And, as you mentioned, I referred earlier to the letter that the Superintendent Black sent that included not only LB274 but support of LB470, too, and I'll put into the record. [LB470]

TIM GAY: Yes, thank you, Senator. [LB470]

SENATOR SULLIVAN: Senator Davis. [LB470]

SENATOR DAVIS: What's your...how do you feel about what I call the "penalty phase" of this bill? Do you think that's fair? [LB470]

TIM GAY: Well, I'd just be giving my personal opinion; although, in the letter, Dr. Black did talk about there is no...right now you could turn in anything you want, almost, and

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there is no reporting...he did tell me directly if any of you want to call him, you can call him. But I'd just be speaking on my own opinion. [LB470]

SENATOR SULLIVAN: Any other questions? Thank you. [LB470]

TIM GAY: Thank you. [LB470]

PATRICK GERHART: (Exhibit 4) Senator Sullivan, board members, again my name is Patrick Gerhart; that's P-a-t-r-i-c-k G-e-r-h-a-r-t. The testimony I just handed out is almost identical to the one I had for the previous bill. I just wanted to show respect to Senator Scheer and yourselves, to bring up any other questions you might have for me on our issues, with this bill, specifically towards transparency, for example. [LB470]

SENATOR SULLIVAN: Any questions for Mr. Gerhart? Thank you very much. [LB470]

PATRICK GERHART: All right, thank you very much, ma'am. [LB470]

SENATOR SULLIVAN: Um-hum. Any other proponent testimony? We'll hear opponent testimony on LB470. [LB470]

JOHN BONAIUTO: Senator Sullivan, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, a registered lobbyist representing Nebraska Association of School Boards, Nebraska Council of School Administrators, trying not to shoot myself in the foot on this bill. No. (Laugh) I talked to Senator Scheer before committee, and so it's no surprise that we prefer the other bill. There's a few things here...I can agree with so much of what Senator Scheer is saying, but there are a few things here that we find problematic. One is that I think it's really not good state policy to ask a school board to start publishing or putting on a Web site contract information before the board has approved it. I mean, that's...if...we're happy to be transparent about contract negotiations and what the contract says, but not before the board has acted on that contract. Now, if the voters and the community is unhappy with the actions of the board, then they should exercise their authority at the next election. But I really think that now we're creating a whole different dynamic with the superintendent, especially if you're trying to hire someone, that you're going to put all this information on the Web site and you don't have a valid contract yet. And so I just think that is difficult and will be a problem. The other piece to this--I talked to Senator Scheer about it--is that I think this bill is long on stick. I looked hard for the carrot. But it does have a lot of stick in it. And I think that what we're doing is we're trying to support transparency and providing a better format to help the public understand information they already have access to. Now I'm guessing that if there's a...we could put our heads together and maybe come up with a different approach to make sure that the school district, the school board...the board is the one responsible for developing this contract with this superintendent. So I think the board and the superintendent need to be the responsible parties. And I don't know if it's

the board directing the superintendent to make sure that this information is put on-line, made available in the proper format...and get rid of all this stuff about state aid and get rid of all this about taxes and everything else. And if this information is not put in the form that it is required by law--and the board is directing the administrator, the superintendent, to do this--then it becomes an issue with the Professional Practices Commission; you know, it becomes fraud, and that individual's license or certificate is at stake. There are other ways to deal with this, and we're not trying to make this any more difficult than it needs to be. Again, we're trying to figure out a way to make public information more understandable and readily available. And so I think that...you know, I've given you the areas that we find are of concern. But there's more, I think, in common that we could talk about with the two bills. So with that I'll end my testimony. [LB470]

SENATOR SULLIVAN: Thank you, Mr. Bonaiuto. Assuming that details could be worked out on what would be shared and the format, and doing so, without having a stick, is your sense that school boards would participate in this? [LB470]

JOHN BONAIUTO: Absolutely. The school boards and school administrators, both groups, feel strongly about the fact we have nothing to hide. And we want the public to understand this information. And it's just a matter of figuring out what form it can be compiled, because I think an earlier question was, are there a lot of differences in the contracts? The answer is yes, lot of differences. The retirement piece is going to be complex. But the retirement system has really ratcheted down what it will allow a district and its superintendent to roll into salary. And they have managed to keep that increase, you know, much smaller, because, you know, there was a time when that wasn't the case, and there was a concern about, you know, even if it was your last three years, is it actuarially sound to roll 20 percent of your compensation into your retirement for three years and then retire? Well, no, it isn't. And so I think the retirement system has really, really...tried to deal with that. I think there are some other areas that would need to be worked on, to look at...I think we could figure out what a car is, the value of a car is, and ask the right questions there, and then there's the policies that districts have dealing with vacation. This isn't going to be simple, but trying to make sense out of it, I think, is going to be important, and it will be beneficial in the end. [LB470]

SENATOR SULLIVAN: Any other questions? Senator Haar. [LB470]

SENATOR HAAR: Thank you. Well, I see, I guess, a difference in...do you see this too, that this particular bill is more transparent at the front end, in terms of the contract, than just after the fact? [LB470]

JOHN BONAIUTO: And that is true, it deals with it up-front. And I would prefer to deal with it after the board has done its job and approved it. [LB470]

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SENATOR HAAR: You think it ties the hands to have transparency up-front like this? [LB470]

JOHN BONAIUTO: I think it's going to cause problems for that board and the...especially a new candidate that they're trying to hire. [LB470]

SENATOR HAAR: Okay, thank you. [LB470]

SENATOR SULLIVAN: Senator Avery. [LB470]

SENATOR AVERY: Thank you, Madam Chair. Mr. Bonaiuto, did I hear you correctly when you said that one of the problems with this bill is that it's difficult to do? [LB470]

JOHN BONAIUTO: No, I'm sorry if I...no, I said that that piece, the piece about up-front, was a concern, and the stick piece was a little more than we'd like to see. But it's going to be difficult to come up with a standard format because of the differences in contracts and compensation pieces. And so that will be the part that...trying to make sense out of...getting that done. And, possibly, in doing this it will help standardize some of the contracts. [LB470]

SENATOR AVERY: Are you testifying in opposition or support or neutral? [LB470]

JOHN BONAIUTO: Opposition to this particular bill, but not the transparency piece. [LB470]

SENATOR AVERY: Okay, if you're in opposition, then this is a fair question. Do you think that if something is difficult to do but it serves an important public function, that is, improving accountability in public institutions, that that's a valid objection? [LB470]

JOHN BONAIUTO: I'm not objecting to doing this; I'm just saying it will be a challenge to get the different elements compiled so that they'll make sense. But I'm not objecting to that, Senator. [LB470]

SENATOR AVERY: Okay. I deal with agencies all the time that object to public records and open meetings because it's hard to do. [LB470]

JOHN BONAIUTO: The organizations, associations I represent support the transparency piece, and so that's not a part of this testimony. [LB470]

SENATOR AVERY: Okay. Thank you. [LB470]

SENATOR SULLIVAN: Senator Seiler. [LB470]

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SENATOR SEILER: The part that bothered me is the--and it may be the same bother you have--is that you're publishing a copy of a contract or amendments that have to be published five days prior to this hearing. [LB470]

JOHN BONAIUTO: Absolutely, Senator, I... [LB470]

SENATOR SEILER: And in the time you publish to the time you... [LB470]

JOHN BONAIUTO: Yeah. [LB470]

SENATOR SEILER: ...approve it, a lot of things could change. [LB470]

JOHN BONAIUTO: Absolutely. That's why I say doing this up-front, especially if you're trying to hire a superintendent--not dealing with an existing superintendent--I think is very problematic. And that five days, things could change and... [LB470]

SENATOR SEILER: What you're really worried about is the coffee shop negotiating your contract. [LB470]

JOHN BONAIUTO: Oh, absolutely. [LB470]

SENATOR SEILER: Okay, that's true. [LB470]

JOHN BONAIUTO: There's a...no question about it. [LB470]

SENATOR SEILER: Thank you. [LB470]

JOHN BONAIUTO: And people hunting down board members at the grocery store and at church and everyplace else, so I...which happens, so... [LB470]

SENATOR SULLIVAN: In terms of trying to get some consistency in the kinds of information presented, would there be value or simply not enough information if the salary is posted and then just kind of a check-the-box if there is a retirement component, a house component, and all of that? Does the salary just not, alone, give you not enough of a picture? [LB470]

JOHN BONAIUTO: I think, Senator, that is accurate. And...but I'm not saying that doing some of that checking, in the end, may not be part of the sorting and coming up with a uniform process. It could be salary and then other elements that you could assign a...or affix a dollar amount to. And as we talked, you know, the retirement system, for the most part, is something that the administrators have in common, so that may not be the biggest variable. So there may be other things that...you know, is there a policy that deals with vacation leave? And there could be some things that are common that could

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be check-boxes, and other things you would need more specificity. [LB470]

SENATOR SULLIVAN: Um-hum, okay. Very good. Senator Davis. [LB470]

SENATOR DAVIS: Mr. Bonaiuto, in the 125 small school districts who's going to do the reporting? [LB470]

JOHN BONAIUTO: Yes, you know I agree already. I think that in the smaller districts you're going to find more commonality, and there's going to be a salary, and there may be a vehicle. It's not going to be as complex, so I agree. [LB470]

SENATOR DAVIS: Well, you know, my point really is, it's that superintendent that's going to do the reporting anyway... [LB470]

JOHN BONAIUTO: Yes. [LB470]

SENATOR DAVIS: ...you know, because that's the way it...there's no middle tier of management in the smallest districts. [LB470]

JOHN BONAIUTO: No. And that's why I think that...and I know when Senator Scheer and I visited...and I told him, I said, we have a couple of issues here; and the advance piece that Senator Seiler asked about was one, and then the stick piece and if there's another way to figure out how to get that reported accurately. And I believe there is and should be. And make the person that's responsible--it's their contract--put that information on the Web site, or make sure it's on the Web site accurately. [LB470]

SENATOR SULLIVAN: Thank you, Mr. Bonaiuto. [LB470]

JOHN BONAIUTO: Thank you. [LB470]

SENATOR SULLIVAN: Any further testimony in opposition? Any neutral testimony on LB470? Senator Scheer, to close. [LB470]

SENATOR SCHEER: Thank you. And I will try to be somewhat brief, but I want to clear a little bit of the fog out of the air here, based on Mr. Bonaiuto's comments. First of all, let's stop and think about a negotiations process. When you hire a superintendent to lead the school district, it is not something that you just come up with the day before. That is a negotiations process that happens long--weeks--before that contract is approved. Everybody is fully aware of what's involved in that contract, at least the first time around. They know what the school district is offering. They know the compensation; they know what the fringe benefits are; they know what other things they're offering. So for it to be a concern that it be listed five days in advance is baloney. Everyone on that school board and the administrative staff already know what is going

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to be offered. The bill, by the way, Senator Seiler, does not say that it can't be changed in the following five days; it just says you have to notify the public of what you think you're going to do. Does that mean it's ultimately that? Not necessarily. But the intent is to let the public know what you're proposing to do. And a school district...the school board should be willing to be able to sit up and say...and defend why they are compensating that individual, in whatever way they are, in a public meeting. That's all we're asking them to do. And the five-day notice, then, transfers to the next year as well. So when they're renewing that contract, the same thing is true. If we're going to change the compensation, if we're going to change the longevity, if we're changing whatever the fringe benefits are, we're notifying the public five days in advance: here is what we're going to do. Don't...you know, for Mr. Bonaiuto to say, well, let's get 'er done first and then we'll try to explain it later, where is the transparency in that? There is none. And, yes, Senator Davis, in some cases the superintendent will be putting that information, but that is the only person that's available in smaller districts to do that. That doesn't make the information any less valuable; it doesn't make it any less valid. If it's the information, it's the information; it's competent. And the stick, my God, what is the stick? The stick only applies if you don't do it. You know, we've got speed limits; and based on the speeding limit, when the policeman pulls you over, he gives you a ticket, you don't get a second chance. In my bill, it's saying, hey, you're speeding, you didn't provide the information; let's try 'er again. Not many policemen give you that second chance; some of them do. But this gives a district additional time and effort to either correct or provide the information. And they don't lose anything; it is just withheld until they provide the public information. That's what transparency is all about, is getting the information to the public in a timely manner and making sure it's distinct and accurate so people know what's going on within their school districts. That's it. This is all about school districts; it's not about ESUs. It's talking about leadership and transparency. And for us to say, well, it's sort of hard to negotiate...you know, school districts adopt their salary schedule once a year. So, realistically, any teacher they hire during the summer, before that person is every approved...that contract is ever approved by the local school district and the school board, we already know what that teacher is going to make. It's already common knowledge; it's right there. So there is really no reason why we shouldn't be able to put the information, when we're hiring a superintendent or renewing that contract, out in front of the public and let them be aware of what's going on. That's transparency. There is a little bit of a stick, but that's to make sure that we have compliance and that the compliance is true and accurate information. That's all I'm after. It's good for superintendents; it's good for school districts; it's good for the public. This is...this is good policy. And I would hope to, and I would urge you to move this out of committee so that we can again discuss this, on the floor. Thank you. [LB470]

SENATOR SULLIVAN: Thank you. Senator Haar. [LB470]

SENATOR HAAR: Again, not having been on a school board, at what point in these kind of negotiations can the board go into executive session, or whatever? [LB470]

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SENATOR SCHEER: You can go into executive session anytime you want to, to talk about personnel; and a contract for a superintendent would be part of that personnel. So you can do the... [LB470]

SENATOR HAAR: Okay, so some of the up-front work can be done in... [LB470]

SENATOR SCHEER: Yeah, it, almost exclusively, is always done in that manner. [LB470]

SENATOR HAAR: Yeah. [LB470]

SENATOR SULLIVAN: Senator Seiler. [LB470]

SENATOR SEILER: The only part...I agree with you on the stick. The only part I disagree with you on is the "five days prior." And I've negotiated contracts right up till midnight before. [LB470]

SENATOR SCHEER: And...and...and... [LB470]

SENATOR SEILER: And so... [LB470]

SENATOR SCHEER: And, Senator, all that simply... [LB470]

SENATOR SEILER: And that's why I would say publish after it's approved. I don't disagree with your publishing, but publish it after both sides have agreed to it. [LB470]

SENATOR SCHEER: Well, but in a... [LB470]

SENATOR SEILER: Because you haven't necessarily agreed to it. [LB470]

SENATOR SCHEER: You haven't agreed to it...but my thought is this, Senator, that part of transparency is informing the public of what you're going to do, not necessarily always letting them know what you did do. And I think the public gets discouraged when things already have taken place and there's absolutely nothing they can do about it. They don't...they don't, you know, once that person is already hired, they can go the next month and they can talk till they're blue in the face, but it really has no effect on what's happened. This is an attempt to try to get the public involved in their local activities, in their local board activities. And I'm going to tell you, I was on our local board for well over 20 years, and as much as we want to say this is a huge problem, I could count on one hand the number of times people came to a school board to talk about the superintendent's compensation; because I'm going to tell you, if you've got a good superintendent and he's...he or she is doing a great job, even a good job, people

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are tickled pink; you don't hear complaints. The only time you hear complaints is probably when somebody has had to do some things, locally in a district, that don't find favor with them. And sometimes that's not their fault, because sometimes districts have to shrink their size; sometimes you have to do things to keep a district afloat that are not necessarily popular...public-popular decisions. But that's why you have a board; they're the ones that have to back that superintendent and make sure that they keep that person around when they are doing the right things. But it still should be public knowledge what we're compensating them. [LB470]

SENATOR SULLIVAN: Thank you, Senator, but isn't that the responsibility, then, of the board to hire the superintendent? And to open up that contract five days before you've ended negotiations and made the decision simply then kind of sidesteps the board and says, okay, this is going to be the general public's decision to make this. [LB470]

SENATOR SCHEER: Absolutely not. The public does not get a chance to vote on that. The public does not vote on any contract for any superintendent. That is truly the board of education's determination. All I'm getting at is to have an informed population, an informed electorate, they have to have facts to know what they're talking about. And you usually try to talk about things before they happen, not after they happen. That's all I'm trying to accomplish here. If we're going to have an open and honest discussion about an individual taking that position, it ought to happen before the fact, not after the fact. That's all this is trying to do. [LB470]

SENATOR SULLIVAN: Senator Davis. [LB470]

SENATOR DAVIS: A couple points, Senator Scheer, and I applaud your concept; I think it's a good one, but if you're still negotiating and you're going to publish what you're going to offer, aren't you taking some of the ability to negotiate out of the picture when you say, well, this is what we're offering? [LB470]

SENATOR SCHEER: Well, I would...my opinion of that would be, no. And I will tell you that in my term on the school board I either...it was either three or four different superintendents that were hired while I was on the board. And not one instance that I'm aware of were the negotiations not completed...and let's remember...let me finish that thought...completed well in advance of five days; because what happens when you go out to select a new superintendent, you have all these interviews, and at some point in time we decide Kate's the person; that's who we're going to hire. Then the negotiations start--we haven't had a board meeting; we haven't approved it--now we are sitting down with that individual negotiating the terms of that agreement. And as Senator Haar asked, what part of that is in open meetings? That isn't in an open meeting; that is in a closed meeting. All of those things are done in a closed session; you don't negotiate in public. But I will tell you, before any person accepts that, to even be put on the agenda for approval, the negotiations is done. [LB470]

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SENATOR SEILER: If that's true, then the five days doesn't matter. [LB470]

SENATOR SCHEER: Absolutely it does. [LB470]

SENATOR SEILER: But if you're not done... [LB470]

SENATOR SCHEER: I would say...I...but if... [LB470]

SENATOR SEILER: ...and then this is amending the contract. [LB470]

SENATOR SCHEER: Let me put it this way, Senator. If that's not done five days before the meeting, it's not going to be on the agenda for that meeting, because you've got more problems than just that. [LB470]

SENATOR SEILER: Yeah. That's what... [LB470]

SENATOR SCHEER: And during any normal negotiations, that superintendent has already come to an agreement with that local school district and that board on the compensation and any other benefits well beyond five days. They are not putting their name out there, neither is the board, if they aren't sure that they have a deal with that prospective superintendent. And that's not just in the last five days. [LB470]

SENATOR DAVIS: Senator Scheer, a couple questions. You're negotiating in an executive session situation... [LB470]

SENATOR SCHEER: Yes. [LB470]

SENATOR DAVIS: ...and you're coming out of executive session; you're going to say, this is what we're going to offer. [LB470]

SENATOR SCHEER: Um-hum. [LB470]

SENATOR DAVIS: That's the decision that you're making. That's a motion... [LB470]

SENATOR SCHEER: Um-hum. [LB470]

SENATOR DAVIS: ...that has to be a motion. [LB470]

SENATOR SCHEER: Correct. [LB470]

SENATOR DAVIS: So you're going to have to come out of executive session to a meeting and say, we're offering this, we've got to post it. Is that how you're going to do

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it? [LB470]

SENATOR SCHEER: No, not at all. Not at all. At... [LB470]

SENATOR DAVIS: But you can't make a decision in executive session. [LB470]

SENATOR SCHEER: No, no, no. No, I am not asking to make a decision. Under normal circumstances, you are in an executive session, you have talked about negotiations, there is back-and-forth. The candidate says, "I want \$100,000, I want a car, I want this in fringe benefits, and I want my dues paid to the local Rotary and to the local country club." Okay. All those are now part of whatever you agreed. You aren't voting in a closed session, but you're all talking. You're all...from the conversation, everyone knows where everyone is at. Now you may say, "Well, gosh, I just, you know, I've got to tell you, I can't live with that; you know, this is something that I might agree with." That conversation goes on. There is not a vote made, but you also know that there's probably a meeting of the minds. And at some point in time there is that meeting of the minds when you have a final package that you're ready to present and propose at a regular session in an open meeting that will have all the context of that. And that decision on that package is done well before five days. I am not necessarily, Senator Seiler, I'm not stuck on five days. You want to put it 48 hours... [LB470]

SENATOR SEILER: No, no. [LB470]

SENATOR SCHEER: ...or two days, I don't really care. But there is a finite point when those negotiations are done and it is a settled process. [LB470]

SENATOR SEILER: And at that point I'd...maybe you've got it in there; I'm looking off your summary. [LB470]

SENATOR SCHEER: Um-hum. [LB470]

SENATOR SEILER: Instead of saying "contract" or future "amendments," to put in there the "final contract." [LB470]

SENATOR SCHEER: I am amenable to that; I'm not concerned with that. [LB470]

SENATOR SULLIVAN: Just keep in mind that we'll reserve some... [LB470]

SENATOR SCHEER: Sure. [LB470]

SENATOR SEILER: Right. [LB470]

SENATOR SULLIVAN: ...of this for Executive Session... [LB470]

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SENATOR SCHEER: Sure. [LB470]

SENATOR SULLIVAN: ...discussion, but... [LB470]

SENATOR SEILER: Then I have no problem with what you're talking about... [LB470]

SENATOR SCHEER: Okay, we'll be glad to work with you on that. [LB470]

SENATOR SEILER: ...if you had "final contract" in there. [LB470]

SENATOR SCHEER: I will be glad to work with you. [LB470]

SENATOR SULLIVAN: Senator Davis. [LB470]

SENATOR DAVIS: I'm still kind of mulling over this issue, but we can talk about that... [LB470]

SENATOR SCHEER: Okay. [LB470]

SENATOR DAVIS: ...at another point. But, you know, I will tell you, in a small school system, in a lot of them and in my own in particular, a lot of times the superintendent contract is on the agenda, and there's been no discussion before; we go into executive session, and the superintendent comes in, and the deal is done... [LB470]

SENATOR SCHEER: Well... [LB470]

SENATOR DAVIS: ...and we go out...we make a motion to come out. So, you know... [LB470]

SENATOR SCHEER: I, you know... [LB470]

SENATOR DAVIS: ...that's the way a lot of it is done in the small schools. And I just am laying that out there. You don't need to respond to that. But, I guess, to talk about the stick part of it, and this again probably applies more to small schools. But there are new superintendents that come in...are, maybe, incompetent or misinformed superintendents that come in, and maybe they don't get the thing posted in a timely manner. And it really, I guess, the penalization of the district... [LB470]

SENATOR SCHEER: But... [LB470]

SENATOR DAVIS: ...for a mistake made by an individual is a concern to me. [LB470]

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SENATOR SCHEER: But, Senator Davis, they are not penalized. Bear in mind, if it is not reported, a person messes up, he or she is a new one, didn't even know the rules exists. A notice comes from the department saying: We have not received this yet; do you need assistance in filling it out; have you sent it; we just didn't receive it. It is not a penalty. They are prodded along. The only time that a penalty ever takes place: if they refuse to provide the information. That's the only time that there's a penalty. [LB470]

SENATOR DAVIS: Or because they're incompetent or for some other reason you don't get it done. [LB470]

SENATOR SCHEER: Well, maybe, but... [LB470]

SENATOR DAVIS: It happens; it does happen. [LB470]

SENATOR SCHEER: ...but, well, maybe, but they would have been asked on several occasions to provide that. So it would not come out of the blue. [LB470]

SENATOR SULLIVAN: Okay. Thank you very much, Senator Scheer. [LB470]

SENATOR SCHEER: Thank you very much. [LB470]

SENATOR SULLIVAN: Um-hum. This closes the hearing on LB470. Let's take a five-minute break, please. [LB470]

BREAK

SENATOR SULLIVAN: Would you rather wait or do you want us start, Senator Cook? [LB262]

SENATOR COOK: I'll start. [LB262]

SENATOR SULLIVAN: Yes, we'll resume the public hearing... [LB262]

SENATOR COOK: There will probably be lots of questions from... [LB262]

SENATOR SULLIVAN: Okay, we'll resume the public hearing and the bill at hand is LB262. Senator Cook. [LB262]

SENATOR COOK: Thank you, Madam Chair. Fellow members of the Education Committee, I am state Senator Tanya Cook, T-a-n-y-a C-o-o-k, represent the 13th Legislative District and I appear before you as the introducer of LB262. The intent of LB262 is to, number one, recognize the importance of sharing student data, records, and information among school districts, educational service units, learning communities,

and the State Department of Education as vital to advancing education in Nebraska; and two, to direct the Nebraska State Department of Education to adopt and promulgate rules and regulations providing for and requiring the uniform sharing of student data, records, and information among school districts, educational service units, learning communities to the greatest extent allowable under federal law. I introduced LB262 to begin the discussion about how amended federal policy related to FERPA or the Family Educational Rights and Privacy Act, creates an opportunity for Nebraska policymakers to access educational data. Access to this information will help us and other concerned entities to review and analyze student performance in Nebraska. LB262 will also bring our state statute in line with federal Family Educational Rights and Privacy Act, also known as FERPA. The U.S. Department of Education has noted the ambiguity that was created by previous FERPA interpretations and inconsistent guidance among the states. The U.S. Department of Education made changes to FERPA regulations to address these issues. The new regulations broadened access to state and local data systems, balanced privacy protections for students with these educational means, and strengthened the enforcement of FERPA. This bill would give the state the authority to make sure the school districts comply with updated FERPA regulations and share information in a standardized way. Access to more consistent student data for policymakers and interested parties is balanced with a preserved sanctity of the privacy rights of individual students and their families. Currently, there is no statewide standard for interpretation of FERPA. Lacking a statewide standard could be creating confusion and hardship for entities looking to gain insight into the health and effectiveness of Nebraska's public school system. I hope the following list piques your sincere interest in the policy outlined in LB262. Here is what is allowed under FERPA: first, evaluating or auditing state and local programs and implementing school and district accountability; monitoring and analyzing assessment, enrollment, and graduation data; sharing student records from a student's prior school with the student's new or prospective school; maintaining a teacher identification system that links teachers and students and disclosing that information to the extent consistent with FERPA authorized disclosures. Funding public schools is one of the few constitutional requirements of this institution. A reciprocal obligation exists to gauge the impact of our support of those public schools. Without statewide standards for the interpretation of FERPA, Nebraska is missing out on an opportunity to have workable data as allowed under federal law. Anne Herman, Ph.D., will testify today. She is vice president of Analytics Performance and Accountability for the United Way of the Midlands. She will be able to give authoritative testimony about how data allowed under FERPA can assist interested institutions in analyzing the effectiveness of public school and other investments in our state's youth. She has a technical expertise in the area and will be able to answer any technical questions you may have. I appreciate your thoughtful consideration of this proposal and ask for your support of the advancement of LB262. Thank you. [LB262]

SENATOR SULLIVAN: Thank you, Senator Cook. You indicated that FERPA at the federal level has...and you listed some of the features of it, broadened access. [LB262]

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SENATOR COOK: Yes. [LB262]

SENATOR SULLIVAN: But you also said they've strengthened enforcement. What have they done in that respect? [LB262]

SENATOR COOK: Well, I have a handout, it's several pages long, to give you an example of some of the things that they've done. Essentially, they've clarified what the statute said on the federal level all along, because, apparently, in the past they had issued directives and letters which were inconsistent. So, picking out one very specifically, I can't do that for you now. Perhaps Anne can; and then after I would be happy to close. [LB262]

SENATOR SULLIVAN: Okay, very good. Any other questions for Senator Cook? Senator Haar. [LB262]

SENATOR HAAR: Thank you. Not to put you on the spot, but do you know what FERPA stands for? Is it F-E-R-P-A? [LB262]

SENATOR COOK: Correct. [LB262]

SENATOR HAAR: Okay. [LB262]

SENATOR COOK: I understand it to stand for Family Educational Rights and Privacy Act. It's a federal law like HIPAA, but for educational information. [LB262]

SENATOR HAAR: Okay, good. I was kind of surprised when I looked at the fiscal note that it's relatively small. Would this require, do you know, that school districts change their data systems, because that could become a very large... [LB262]

SENATOR COOK: This proposal, LB262, does not require that. It is merely asking them...asking the State Board of Education to promulgate rules and regs for the sharing of the information. It doesn't really get into...for example, hardware, software, interpreting in that fashion. [LB262]

SENATOR HAAR: Okay, thank you. [LB262]

SENATOR SULLIVAN: So if the State Board of Education is promulgating the rules and regulations, does this...does FERPA extend beyond the K-12, or is it just K-12? [LB262]

SENATOR COOK: K-12. [LB262]

SENATOR SULLIVAN: Okay, all right. Anyone else? Okay, thank you. [LB262]

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SENATOR COOK: Thank you. [LB262]

SENATOR SULLIVAN: We'll now hear proponent testimony. Welcome. [LB262]

ANNE HERMAN: Hello, thank you. Good afternoon, or should I say evening, Madam Chair Sullivan, and members of the Education Committee. As Senator Cook mentioned, my name is Dr. Anne Herman, A-n-n-e H-e-r-m-a-n. I'm the senior vice president of Accountability Analytics and Performance at the United Way Midlands in Omaha, Nebraska. And I'm here to offer my support for the bill, LB262. I just wanted to reiterate that it would be really beneficial to have a uniform and accurate interpretation of the FERPA act. If you would like me to, I can tell you what it means again. But to serve as the starting point for school districts, community organizations, and other parties who are trying to work together to benefit children, FERPA was enacted, as Senator Cook said, for the principal purpose of protecting the student record privacy. But multiple FERPA provisions reflect a legislative intent to accommodate the use of records for other educational needs such as evaluation, planning, change in...evaluating the research impact of education practices. Having an accepted statewide interpretation of FERPA would be an important tool to allow for the maximizing and the ability for school districts, educational service units, learning communities, and other community organizations to work together. So with that I'll entertain any questions you may have. [LB262]

SENATOR SULLIVAN: Senator Scheer. [LB262]

SENATOR SCHEER: Thank you, Madam Chairman. What...I understand districts, ESUs, and so forth, but what would the community organizations that you would envision utilizing the information and how would they utilize that? [LB262]

ANNE HERMAN: Well, I can't speak for all, but I can give you an example of the work that I do. I work primarily with organizations and agencies that are what you would call educational support. So maybe they operate an after-school club in one of the public schools; some may be mentoring agencies, etcetera. And there's a real need for the work that I'm doing to help them make sure that they have an impact to help students achieve at school, and also to help student attendance. And so I've only worked with one public school who has been a partner and is currently a partner. But I can foresee that many of the other public schools may have different ways of allowing for this work to happen. And in the way that...in the organizations that I partner with and represent, with signed parent permission we are allowed individualized access to student records to evaluate, again, the effectiveness of the school supports or school support programs. So that's how I can foresee the bill being beneficial to community organizations. [LB262]

SENATOR SCHEER: But if you have this...if you already have a signed form from the

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parent that would allow the disclosure of the information, how does that...what does this bill do differently than you already would have access to that information? [LB262]

ANNE HERMAN: Well, that's a great question. But I would answer that school districts at current have the ability to say what fields they will and won't share based on their individual interpretations of FERPA. A statewide understanding would allow for school districts to have the freedom to say, okay, these are the fields that we're allowing to have access with the signed parental permission, and these are the fields that are not. There are other provisions for FERPA, not that I work with, but that do allow for nonparental permission to be given for those student records. And that's in, for example, in the health and human services field. [LB262]

SENATOR SCHEER: So you're really not...what you're looking for is the ability to have consistent information links available to other agencies and regardless what that might be, but at least then they're always going to be the same based on what that definitional item is. Am I understanding you correctly then? [LB262]

ANNE HERMAN: My support for this bill comes from I see a real need for a statewide interpretation of the FERPA legislation. Right now it is a district by district, and even I think within districts you would find people that have different interpretations of the federal law. With some clarification that was enacted more recently, as well as clarification that has been enacted along the way, I think the state of Nebraska has an opportunity to help really lift the burden on the school districts for them to each individually have to interpret the intention of the law and be able to make the sharing of information whether it be for policymakers like yourself or whether it be for community partners, etcetera, a little bit more easy because we start at the same understanding of the law. [LB262]

SENATOR SCHEER: Okay. And so, again, just clarifying, for example, in a school district you may...you have two elementary buildings so you request information from one principal and the same information for another child in a different building with a different principal even though they're the same district, they perhaps give you different information on their own...based on their interpretation of the rules. Is that what, is that sort of what the problem is? [LB262]

ANNE HERMAN: I would believe that it would be more likely that the differences would be district by district. [LB262]

SENATOR SCHEER: It could be district/district, but it could be building/building. [LB262]

ANNE HERMAN: Right, I don't... [LB262]

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SENATOR SCHEER: But, okay, so we'll...district A and district B not completely different; no commonality, in other words. [LB262]

ANNE HERMAN: There could be, correct, right. [LB262]

SENATOR SCHEER: Okay, thank you. Thank you, Madam. [LB262]

SENATOR SULLIVAN: Senator Kolowski. [LB262]

SENATOR KOLOWSKI: Thank you, Madam Chair. I totally concur with you with the learning community stand in the Omaha area. We, in our first three years of operation, we probably had more difficulty with the FERPA interpretations than anything else as we were required to report to this committee our data analysis. If we had 11 districts and the State Department of Education, we had 12 interpretations, different interpretations for the most part. And that was the biggest hurdle to overcome when you're trying to get consistent data to show growth of students. It was...we're in a much better place now, thanks to the work of the Department of Education. And I hope we will be in a better place with something like this potential law coming about. So thank you very much. [LB262]

ANNE HERMAN: Sure, thank you. [LB262]

SENATOR SULLIVAN: Senator Haar. [LB262]

SENATOR HAAR: Thank you. The Family Educational Rights and Privacy Act, glad I got it, okay. So, to me this sounds like step one. If we have consistent definitions, but then step two is going to have to be, and again I worked with computers for too long not to ask this question, but then we're going to have to make definitions consistent across different computer systems. And so isn't it possible some school district isn't even storing certain information that would be required by these common definitions? [LB262]

ANNE HERMAN: Well, I would speak to...and I'll defer to my colleague from the Board of Education, each year all of the school districts are required to report to the State Board of Education. And they do report in a standardized way. [LB262]

SENATOR HAAR: Okay. [LB262]

ANNE HERMAN: So that's already been defined. So now, I've not worked in any of the school districts in the state, but I have a strong belief that they do store and maintain information in different ways. But at one point in the year, they are required to standardize and use the definition provided by our State Board of Education. So I don't think that...I think there could be improvements yet, but I do think that there is an opportunity to leverage some work that has already been done by the State Board of

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Education in their annual reporting process. [LB262]

SENATOR HAAR: Thank you. [LB262]

ANNE HERMAN: Sure. [LB262]

SENATOR SULLIVAN: Any other questions? Thank you very much, Dr. Herman. [LB262]

ANNE HERMAN: Thank you. [LB262]

SENATOR SULLIVAN: Any other testimony in a proponent? [LB262]

JOHN BONAIUTO: Senator Sullivan, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, registered lobbyist for the Nebraska Association of School Boards, Nebraska Council of School Administrators. We looked at this bill and it appeared to us that it had a very good intent to help districts have a more uniform understanding of how they can share data. I think working with the department, one of the things that the School Boards Association and the Council of School Administrators could do is work with the legal counsels that represent most of these districts that are advising them on their interpretation and what to do and what not to do and try to help make it an easier, more understandable process. My knowledge is very, very shallow in this area, so I have to go with what I believe the senator is trying to do. And I think it's a good thing and with that I'll conclude my testimony. [LB262]

SENATOR SULLIVAN: Any questions for Mr. Bonaiuto? Thank you very much. [LB262]

JOHN BONAIUTO: Thank you, Senator. [LB262]

SENATOR SULLIVAN: Any other proponent testimony? Anyone wanting to speak in opposition? Neutral capacity? [LB262]

BRIAN HALSTEAD: Good afternoon, Senator Sullivan, members of the Education Committee, for the record my name is Brian, B-r-i-a-n, Halstead, H-a-l-s-t-e-a-d. I'm here on behalf of the Department of Education, we're in a neutral capacity. It's kind of fascinating, you started the afternoon with Senator Chambers and his bill, when you look at LB262, and you look at the current statute, 79-2,104,(1) was first enacted as a statute by this Legislature in 1973 by Senator Chambers introduced it. And if you look at the language in (1), it reflects what I would suggest to you was the mentality of the '70s about defining what school districts should have in files and then limiting who it is that has access to that. I kind of refer that to the silo effect. Only these specific people can see this information and nobody else. It's interesting in 1979 this Legislature amended this particular statute and they added in the language that you now find in paragraph

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3(a) of 79-2,104, allowing auditing whether it be by us at the Department of Education or the U.S. Department of Education. And I think that was largely done because FERPA was enacted by the Congress after 1973. It was once again amended, I believe, in 1986 to add the language in (2) about fees, school districts being able to charge fees to produce a copy of the record. And the reference in (b) about FERPA. And how we're adding language in (4) that talks about the sharing of data. So we've kind of gone full circle from where we started originally saying only these named people can see the student records to what FERPA now provides is the sharing of data to help improve instruction and student achievement. And the recognition that not just the named people in (1) have a need to see some of this data. Keeping in mind, the ultimate determiner of what FERPA means is the U.S. Department of Education. It's a federal law; they promulgate the rules and regulations and under our jurisprudence they ultimately make the decision. We at the department can't do that. The U.S. Department of Education ultimately decides what that is. However, I think we can provide greater clarity on the sharing of data. As to whether that's a promulgation of a rule or reg or whether that's you looking at the legislative intent of this section of the statutes to bringing it more in conformity with the current provisions of FERPA about sharing data on those limited purposes where it's needed and where it's appropriate, keep in mind, even when you share data, if the school districts share the data with us at the department, we're still bound by the FERPA confidentiality requirements. I can't give you personally identifiable data. We may be able to produce reports of aggregate amounts that show trends, analysis and all of that, but we're still subject to the same provisions of FERPA. So if a school district shares it with an educational service unit under FERPA, the ESU can't make that individual student record public either. So in the sense of some of this is kind of going full circle, as I said, from, no, no, only these few people, to now trying to get our statute in line with what is needed to share the data. One clarification: FERPA applies to any public educational entity or private entity that takes federal dollars from the U.S. Department of Education. It does apply to postsecondary education in Nebraska. It applies to K-12 education. It would apply to early childhood education if they're taking federal dollars from the U.S. Department of Education. All of our public school districts receive federal funds; they're subject to FERPA. So with that, I'll stop. I'll answer any questions you might have on the bill or the concept. [LB262]

SENATOR SULLIVAN: Thank you, Mr. Halstead. So there's...if the U.S. Department of Education promulgates the rules, they have the trump card, so to speak. And so...and irrespective of what rules and regs might be developed here, if needed, it's still those that have to be followed and those that perhaps are a matter of interpretation still in terms of maybe some of the struggles of sharing the information. Is that correct? [LB262]

BRIAN HALSTEAD: That's accurate. I, as I will tell you, my profession is lawyers. I'm an attorney. You get two attorneys in a room and you can certainly get more than two interpretations of something, depending on your viewpoint,... [LB262]

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SENATOR SULLIVAN: Uh-huh. [LB262]

BRIAN HALSTEAD: ...and that's the training we've had. And some of this has been a learning experience, because several years ago there was a lot of confusion because the U.S. Department of Education was moving in a direction of greater sharing. You also have a number of entities who may not want to share data and they may just say, oh, FERPA prohibits it. Keep in mind FERPA doesn't require the sharing of data; it makes it permissive. You may share data but it does not require the sharing of data. And so sometimes, whether you want to share the data or not may be more of a trust issue than it is a legal issue, although sometimes people may cite, oh, FERPA doesn't allow us to do that, so... [LB262]

SENATOR SULLIVAN: So when Senator Cook mentioned that there are, okay, broadened access but stricter enforcement, the enforcement is really not you have to share this; it's you only have to share this. Is that right? [LB262]

BRIAN HALSTEAD: Well, I think the greater enforcement that the U.S. Department of Education has now is they've clarified a whole number of previous rulings they issued that contradicted previous ones,... [LB262]

SENATOR SULLIVAN: Yeah. [LB262]

BRIAN HALSTEAD: ...which also at the same time caused confusion. They were in the same era of, no, no, just this little group can see this, to, oh no, let's look at this. And now we know that by sharing data amongst educators you can gain greater knowledge, you can gain a different perspective in that regard. So there's numerous provisions of sharing. And the same issue, by the way, is not just going on in FERPA. I am certain if you talk to Senator Ashford, the judicial branch and the child welfare system are sharing more data. Actually we, for the last two years, we're again this year, will provide the academic student information to the Department of Health and Human Services on all of the children who they have the care, custody, and control of. And they did a report last April or May about the results of children, academically and their student achievement, that were state wards. It wasn't a very positive report but it was the first time they painted a picture of the kids they had the care, custody, and control of. [LB262]

SENATOR SULLIVAN: Uh-huh. [LB262]

BRIAN HALSTEAD: I'm sure Senator Ashford and the Chief Justice can talk to you about how they're working to keep kids in the same place; if they're not in the home, keep them in the same school district--and that's hard to do--because they recognize that even the movement has an impact on it. And FERPA now, Congress, on its last day last session, enacted a change to the U.S. Code to provide that those state agencies

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who have the care, custody, and control of a child can access the personally identifiable student information for that. So in the sense of even the Congress has recognized the law they wrote in the 1970s doesn't necessarily fit society today, which means the U.S. Department of Education sometime in the future is probably going to put out some rules to incorporate that provision. But it's continuing along the same line of the need to share the data, so... [LB262]

SENATOR SULLIVAN: Uh-huh. Okay. Thank you. [LB262]

BRIAN HALSTEAD: Sure. [LB262]

SENATOR SULLIVAN: Senator Haar. [LB262]

SENATOR HAAR: Brian, the question I've been asking of other people: Do you feel that this state department working with school districts now have definitions of data so that they can be compared, or is that an ongoing challenge? [LB262]

BRIAN HALSTEAD: Well, it's always an ongoing challenge. One of the things we at the Department of Education received last year was a Statewide Longitudinal Data System Grant from the U.S. Department of Education. A piece of that is a data dictionary that has common terms that everybody uses. That doesn't mean you as a school district can do your data system how you want, but we're all going to try to use the same common terms. We're also going to be building analytical tools so that the data you get, we refer to it as dashboards, like the dashboard on your car. [LB262]

SENATOR HAAR: Sure. [LB262]

BRIAN HALSTEAD: You can see the fuel gauge, you can see this. Well, this will be good indicators you need to look at for student achievement, teacher performance, all of that. So that's part of the grant we're working on. So I think you're seeing more and more the school districts and the service unit, hopefully the Learning Community Coordinating Council all trying to work together to focus on improving student achievement, and that is what all of this is about, is it's not just one person needs to know that. This is information that may be more readily sharable among school districts or ESUs, keeping in mind even when you share it, it's still subject to the confidentiality the FERPA has. [LB262]

SENATOR HAAR: Thank you. [LB262]

SENATOR SULLIVAN: Thank you. Any other questions for Mr. Halstead? Thank you, Brian. [LB262]

BRIAN HALSTEAD: You're welcome. [LB262]

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SENATOR SULLIVAN: Any others in the neutral capacity? Senator Cook to close.  
[LB262]

SENATOR COOK: Thank you, Madam Chair, and thank you, fellow members of the Education Committee. And thank you to the supporters and for the clarification offered by the department. Now that I recognize the potential applicability to my GED bill that we discussed yesterday, this proposal seems even more ideal and, of course, the timing is right for it. Also, to follow up on a conversation that we were having earlier about what the specific guidances are, this document to which I referred to earlier, it's 18 pages long, but a couple of key points in this guidance, which I'd be happy to share with the committee, include information regarding well-established FERPA interpretations, which means the interpretations that they sent before that contradicted one another and that people understood differently. These interpretations include, as Mr. Halstead said, sharing student data that are not personally identifiable; that's permissible. And secondly, even with regard to personally identifiable student information, clearly permissible disclosures without written parent or eligible student consent include the following: evaluating/auditing state and local programs and implementing school and district accountability; monitoring and analyzing assessment, enrollment, and graduation data; sharing student records from a student's prior school with the new or prospective school; redisclosing data for purposes and to recipients that come within FERPA-authorized disclosures; and maintaining a teacher identification system that links teachers and students and disclosing that information to the extent consistent with FERPA-authorized disclosures. And once again, I can make this available to the committee. With that, I would close out my testimony. Thank you. [LB262]

SENATOR SULLIVAN: Okay. Any questions for Senator Cook? Thank you. We will now open the hearing on LB129. Senator Haar. [LB262]

SENATOR HAAR: (Exhibit 1) Chairwoman Sullivan and members of the committee, today I'm going to talk about BELF, the Board of Educational Lands and Funds. And I've been eyeing this penny ever since early this afternoon, and I think we will just give it to the Bureau (sic) of Educational Lands and Funds and they can add it to their treasury. (Laughter) Well, it's really quite simple. But just tell you a little bit of background on what the Bureau (sic) of Educational Lands and Funds is. There are...as you know, the state was granted public lands way back when, I think when the state was formed. And the rental and sale from these properties goes to the schools, and it's evenly divided. You know, you take how many students there are and divide by that number, and that's the distribution. And it's considerable. We'll have testimony in a minute that can give you more detail, but it's in the tens of millions of dollars every year. One of the sheets I gave you is a map showing where people come from, where the districts are. And the second one--and this is what really the bill deals with today--is that many boards receive not just expenses but also a per diem. And this bill, LB129, reinstates a per diem for the board

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members of the Board of Educational Lands and Funds, though they currently do get just, you know, mileage and so on. The per diem of \$40 was removed last year in LB342 as part of the LR542 process to cut expenditures; but, prior to that, there had been a per diem that goes back 30-plus years. The board has asked for per diem to be reinstated at \$50 per day. And the board is required to meet monthly in Lincoln. Current board members come from all around the state, from Crofton, Valentine, Grand Island, Hastings, and Omaha. The fiscal note shows an impact of \$10,227 to cover this. And if you divide that by the amount of money distributed, it's 0.03 percent of the money that's distributed would go into the per diem. I'd just also like to mention briefly that in 2010 we passed LB1014; it's a bill that provides performance pay for teachers based upon collective bargaining...the revenues that come from wind and solar leases. And last year the wind farm in Broken Bow was put into action, and that will be the first place earning some revenues on state school lands that will go to teachers. So with that, I'd answer any questions but will be followed by somebody who can answer all the questions. [LB129]

SENATOR SULLIVAN: Okay. Any questions for Senator Haar? Thank you. [LB129]

SENATOR HAAR: Thank you. [LB129]

SENATOR SULLIVAN: Proponent testimony. [LB129]

SENATOR HAAR: And here is the penny. (Laughter) [LB129]

RICHARD ENDACOTT: Senator Sullivan, members of the committee, my name is Richard Endacott, R-i-c-h-a-r-d E-n-d-a-c-o-t-t. I'm the executive secretary and general counsel to the Nebraska Board of Educational Lands and Funds. It's also known as the "School Lands." I prefer to refer to it as the "School Trust," because it is a trust that the federal government gave this land to, to be managed from the time Nebraska became a state, in 1867, up to the present time. As Senator Haar testified, for the last 30 years, and I went back and looked at this too, there was a per diem for the board for \$40. And that was self-funded. We are completely self-funded; no money comes from the state to fund Board of Education Lands and Funds. In 2011, with the state facing some financial challenges, our board felt that we should do whatever we could to cooperate, and this bill had been put forward. And the board decided not to oppose the bill and to wait until there was some other better time when the state and some of these financial challenges had passed or lessened to come back in and ask for a reinstatement of a per diem. So we did not oppose; the bill passed. And we're hoping that you'll reconsider at this time. I think we'd all agree the state financial condition has improved. Certainly our condition has tremendously improved in the School Lands; we're having some of the best years ever. And I think (inaudible) sum by saying, there are four reasons why I think that this per diem is justified. First of all is the board has a great deal of responsibility. Secondly, the board spends a great deal of time coming from different parts of the state to

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participate in the deliberations of managing this property. Thirdly, as Senator Haar indicated, there is more than adequate precedent for per diems for many boards who do not perform the services that our board does and with nearly the assets and the responsibility that our board has. And, finally, the cost is, again, not to the state; we're self-funded. In the last...since that bill was passed, we've reduced our administrative expenses by \$170,000. So one could say we're asking for \$10,000 to come out of our budget which we have reduced by \$170,000. In regard to the responsibility, as I said, we are a trust. Our board is subject to mandatory fiduciary duty; they must handle this money, these huge amounts of money, and land in a prudent manner. The current number of acres that is being managed by our board is 1,281,000 acres. We have approximately 3,500 individual leases, either agricultural leases or mineral leases. The land is currently worth in excess of \$1 billion. And the expected revenue, gross revenue, this year, depending upon what adjustments, if any, the board makes in its deliberations this Friday in regard to dealing with a drought, will be from \$36 million to \$40 million. So there's a tremendous amount of responsibility. Time...the board is required to attend meetings in Lincoln; none of the board members are from Lincoln; we have excellent attendance. As the senator said, they come from Crofton, Grand Island, Hastings, Valentine, and Omaha. We have never, in the four and a half years I've been there, lacked a quorum. Four out of the five are actively engaged in business and are taking time away from their business to come to participate in the deliberations. The meetings take place at 8:15 in the morning. They last about three hours, and then there's the traveling back from the meeting. In the meetings, we deal with rent, we deal with minerals, we deal with new ventures such as wind and uranium. And for example, this Friday we're going to be dealing with a very serious issue which could result in...decision could result in millions of dollars; and that is, how do we deal with the existing drought in Nebraska. We have not raised rent on our grassland because of this, and now we're questioning whether we need to do something further in regard to dealing with the drought. So that's just an example of the huge issues that our board deals with. The precedent is there, as I say, and the cost of only \$10,000 is minimal. I'd be happy to answer questions. [LB129]

SENATOR SULLIVAN: Thank you, Mr. Endacott. You mentioned that there's over \$1 billion worth of land as an asset base. Do you have any idea what the rental income is off that on an annual basis and what you might be looking for, a possible diminishing of that, because of the drought and not being able to rent it out? [LB129]

RICHARD ENDACOTT: Well, we anticipate that our rental income for the ag land, for oil and gas, for our other ventures, for the wind that Senator Haar referred to is going to be \$36 million to \$40 million. We may have to reduce that some because of the drought, and...but we would anticipate it's going to be \$36 million to \$40 million. Our bonuses on our leases this year...we lease about one every...we've cycled them about one every eight years. We did one-eighth of the leases this year, and the bonuses were \$8 million. That's twice as high as it's ever been. And this is really great news for the schoolkids of

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the state of Nebraska. Our board is dedicated to providing as much income for the schoolkids as possible. The Supreme Court has said we are bound, as a trust, to maximize the income. And I think they're doing that to the fullest extent. [LB129]

SENATOR SULLIVAN: And how much of the annual income, then, is turned around and sent back to school districts? What percentage? [LB129]

RICHARD ENDACOTT: Well, all of the income is distributed to the school districts. [LB129]

SENATOR SULLIVAN: Every year. Okay. [LB129]

RICHARD ENDACOTT: Only when land is sold does it go into the permanent fund, which is then invested by the Nebraska Investment Council. And the income from...and that...the principal is retained by the Investment Council, and only the income, then, is added to what we send to the schools annually. [LB129]

SENATOR SULLIVAN: Um-hum. [LB129]

RICHARD ENDACOTT: So last year it was in the thirties, last year. People ask me, "What is the per pupil allocation?" And it sounds small when you divide it up between the thousands of students in Nebraska. Last year it was \$111 per pupil. This year it's going to be \$129 per pupil; that's quite a substantial increase. And if I can tell just a brief anecdote in closing, we go to a meeting of the Western states, all of whom have similar arrangements with their land; and Texas has, of course, billions of dollars' worth of assets, with oil and land and wind and everything else. And so I got to asking them about how their allocation occurred, and it's basically the same as ours. But even with those billions of dollars of income they get, the per pupil distribution that Texas makes is less than Nebraska. [LB129]

SENATOR SULLIVAN: And, then, as you mentioned, the per diem that you're proposing in this legislation would come out of your cash fund. [LB129]

RICHARD ENDACOTT: It would come out of our cash fund, yes. [LB129]

SENATOR SULLIVAN: Yeah. Right. Okay. All right. [LB129]

RICHARD ENDACOTT: About \$10,000 is what we estimate, based on the time of the people to travel, participate in the meetings, read the agendas, which can run 50-100 pages, and then attend the meetings and then drive back. [LB129]

SENATOR SULLIVAN: Thank you. Any other questions? [LB129]

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SENATOR KOLOWSKI: Just...Madam Chair. [LB129]

SENATOR SULLIVAN: Yes, Senator. [LB129]

SENATOR KOLOWSKI: Thank you, Madam Chair. On the listing of boards that you handed out, these are the expenses per diem for each one of those particular boards, is that correct? [LB129]

RICHARD ENDACOTT: That's a sheet that Senator Haar sent out; I have a similar one. But my understanding is that they get their expenses, like if they stay in a hotel... [LB129]

SENATOR KOLOWSKI: Yes. [LB129]

RICHARD ENDACOTT: ...overnight, or mileage. But this is a per diem for their time. And that's what I tried to compare, apples to apples, in my chart. And his is very similar. [LB129]

SENATOR KOLOWSKI: I believe the NRD one is \$70 a day, just for correction. [LB129]

RICHARD ENDACOTT: Okay. [LB129]

SENATOR KOLOWSKI: Thank you. [LB129]

SENATOR SULLIVAN: Just a clarification. And so your board members currently get mileage and meal expenses and everything else; it's just that they don't get the per diem. [LB129]

RICHARD ENDACOTT: That's correct. [LB129]

SENATOR SULLIVAN: Okay. [LB129]

RICHARD ENDACOTT: Yes. [LB129]

SENATOR SULLIVAN: All right. Very good. Thank you very much. [LB129]

RICHARD ENDACOTT: Thank you. [LB129]

SENATOR SULLIVAN: Good afternoon, Jay. [LB129]

JAY SEARS: (Exhibit 2) Good afternoon, Madam Chair and members of the committee. For the record, I am Jay Sears, J-a-y S-e-a-r-s. And I'm here today representing the 28,000 members of the Nebraska State Education Association. NSEA supports LB129,

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and we thank Senator Haar for bringing the bill forward. And I thank Mr. Endacott for providing the history that I was going to provide. I was trying to think back, and I think maybe Senator Kolowski could tell us when the Land Act came in place; you know, it's been awhile since I've dealt with that. But it doesn't matter; we'll forget that history. Just suffice it to say, NSEA supports what the commissioners of the Board of Lands and Funds does for the state of Nebraska and for the school districts and for the students of Nebraska. One thing I would add that's not in my testimony is, the per pupil allocation every year goes to every school district, equalized and nonequalized. And I'm looking forward to that wind generating lots of dollars in the Broken Bow area so we can get on with talking about performance-based pay that was put into the legislation there. So with that, I'll conclude my testimony and wish you all a good evening. [LB129]

SENATOR SULLIVAN: Thank you, Mr. Sears. Senator Scheer. [LB129]

SENATOR SCHEER: Real quickly, Jay, it's been a couple hours, and I notice you're still citing 28,000 members. Is that still a factual number? [LB129]

JAY SEARS: We might have lost 1 after my testimony... [LB129]

SENATOR SCHEER: Okay. [LB129]

JAY SEARS: ...earlier, I don't know. (Laughter) [LB129]

SENATOR SULLIVAN: Thank you, Mr. Sears. [LB129]

JAY SEARS: Thank you. [LB129]

SENATOR SULLIVAN: Any other proponent testimony? Opponent? Neutral capacity? Senator Haar. [LB129]

SENATOR HAAR: Well, thank you very much. I think it's just a matter of fairness here. And in the interest of full disclosure, I did not include that one penny when I divided...to tell you the 0.03 percent. [LB129]

SENATOR SULLIVAN: (Laugh) Okay, thank you very much. [LB129]

SENATOR HAAR: With that, thank you. [LB129]

SENATOR SULLIVAN: This closes the hearing for today. Do you have a motion to go into Executive Session?

SENATOR KOLOWSKI: So move.

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SENATOR COOK: Second.