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Education Committee
February 01, 2016

[LB1026 LB1064 LB1066]

The Committee on Education met at 1:30 p.m. on Monday, February 1, 2016, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1026, LB1064, and LB1066. Senators present: Kate Sullivan, Chairperson; Rick Kolowski, Vice Chairperson; Roy Baker; Mike Groene; Bob Krist; Adam Morfeld; Patty Pansing Brooks; and David Schnoor. Senators absent: None.

SENATOR SULLIVAN: Welcome to the Education Committee public hearing. I'm Senator Kate Sullivan, Chair of the committee, from District 41. I live in Cedar Rapids. I think nearly a full host of senators here. We'll let them introduce themselves, starting with the Vice Chair of the committee.

SENATOR KOLOWSKI: I'm Rick Kolowski, District 31, in southwest Omaha. Thank you.

SENATOR SCHNOOR: I'm Dave Schnoor, I represent District 15, which is Dodge County.

SENATOR PANSING BROOKS: And I'm Patty Pansing Brooks, Legislative District 28, right here in the heart of Lincoln.

SENATOR BAKER: Roy Baker, District 30, southern Lancaster County, Gage County.

SENATOR GROENE: Senator Mike Groene, Lincoln County.

SENATOR SULLIVAN: And one of the Senators on the committee will be introducing the first bill, and then the other one I'm sure will join us shortly. We have some staff helping us today. To my immediate left is LaMont Rainey, one of the legal counsels. To my far right is Mandy Mizerski, who is the committee clerk, and makes sure that we have a correct recording of the hearing. And then to her left is the other legal counsel for the Education Committee, Tammy Barry. We also have a page helping us today, it's Annie Himes, from Omaha, and she is a student at UNL, majoring in Russian, global studies, and history. We...our work today are three bills: LB1026, LB1064, and LB1066. If you're planning to testify, please pick up a green sheet that is on the table in the back of the room by both entrances. If you do not wish to testify, but would like your name entered into the official record as being present at the hearing, there is a separate form on the table that you can sign for that purpose. Both will be part of the official record of the hearing. Regarding the green sheet, we ask that you fill it out before you come up to testify, please print, and complete the entire form. When you come up to testify, give the sign-in sheet to the committee clerk. If you have handouts, please make sure you have 12 copies to hand out to

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the committee, the pages will do that for you. When you come up to testify, please speak clearly into the microphone, tell us your name, and please spell both your first and last names to ensure we get an accurate record. Perhaps I don't need to remind you of this, but please turn off your cellphones, pagers, or anything else that beeps, so that we can keep our attention on the testifiers. The introducer of the bill will make the initial statement, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. Don't anticipate a lot of testifiers, but we're still going to use the five minute light system today, not for the introducer, but for all testifiers. When the yellow light comes on, that means you have one minute remaining, and when the red light is on, you need to wrap up. So I think...we appreciate everyone that's here to be part of this public hearing, and we look forward to listening to all of you. So without further ado, we will go to the first bill: LB1026. Welcome.

SENATOR MORFELD: Thank you, Senator Sullivan, members of the Education Committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f-e-l-d, representing the "fighting" 46th Legislative District, here today to introduce LB1026. LB1026 seeks to modernize statutory responsibilities of the Department of Education, in order to provide support and leadership in the area of educational technology, and the use of electronic tools in Nebraska schools and classrooms. Programs for learning are increasingly available through the internet, and this bill, in part, would assist schools in determining the safest and best tools available for the classroom. Language is also updated to more correctly identify the use of digital information. As technology continues to change, it is important that schools continue as well. The goal of this bill is to help all Nebraska students succeed in an increasingly digital world. LB1026 creates the position of and provides duties for the PK-12 chief integration officer to lead the work of the Educational Technology Center, within the Department of Education, and to help coordinate the senators' statewide efforts. There are a number of requirements listed in LB1026 for the department, including developing a statewide instructional improvement system that supports personal learning for all students, which would include: one, virtual educator standards; meta tag standards; open education resources library; a digital books library; a digital learning teacher certification process; and integrated instructional resources connected to an education data dashboard system. There are a number of definitions that I think would be good to go over in this bill. First, digital learning object means any electronic item, including but not limited to questions, text, prose, puzzles, assessments, pictures, audio, video that can be individually selected and manipulated to support learning. Education data dashboard means a virtual digital display in the form of charts, graphs, and other information that assists in monitoring performance of educational outcomes. Meta tag means an identification of key work associated with information about a web page, that is used to help a search engine find topics. Software as a service means the delivery method to digital services that provides access to the entire set of programs, procedures, and related documentation associated with a computer system and functions remotely through the internet. The Nebraska Department of Education is here today to go into more detail on the reasons why they wanted this bill introduced. I urge your

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consideration of LB1026. I would be happy to answer any of your questions, and there will be more people behind me that can answer the more technical questions as well. Thank you.
[LB1026]

SENATOR SULLIVAN: Thank you, Senator Morfeld. So in terms of adding any additional monetary support, is it for an additional staff person or a consultant? [LB1026]

SENATOR MORFELD: My understanding from the Department of Education and from the fiscal note is that this is just actually not an additional staff person, but funding to provide for implementation of all of these different services and needs. So I'm assuming it's more consulting.
[LB1026]

SENATOR SULLIVAN: All right. Very good. [LB1026]

SENATOR MORFELD: But the commissioner should be able to answer that more fully than me.
[LB1026]

SENATOR SULLIVAN: All right, thank you. Senator Krist. [LB1026]

SENATOR KRIST: In the fiscal note you show expenditures in the 2016, 2017 of \$50,000, and then there's a mention in 2016, 2017 estimates to achieve this plan documentation are...and then it gives a couple of examples. And there's a half-million dollars from what is currently the Textbook Loan Program. Is that...am I to assume that the Textbook Loan Program funds would be in place because you're going to redefine those products that are going to be available to also go into the Textbook Loan Program? You're not...there's no intention of taking the Textbook Loan Program away? [LB1026]

SENATOR MORFELD: I think the Department of Education would be in a better position to answer that, Senator. [LB1026]

SENATOR KRIST: Okay. [LB1026]

SENATOR SULLIVAN: Any other questions? Senator Schnoor. [LB1026]

SENATOR SCHNOOR: I did have some questions. But I guess it would probably...the Department of Education would be better to answer this. In particular, it says that the position of

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PK-12 chief integration officer is created. So that...and that kind of in a way may contradict what you said, but we'll let them clarify it. [LB1026]

SENATOR MORFELD: Yeah, and they can clarify. But it's also my understanding that there might be some shuffling around of resources and some other things within the Department of Education. [LB1026]

SENATOR SCHNOOR: Okay. [LB1026]

SENATOR MORFELD: That's my understanding. That's why it's my understanding that there's not going to be a new position created. Because that's what the commissioner told me. [LB1026]

SENATOR SCHNOOR: We'll find out in a few minutes. [LB1026]

SENATOR MORFELD: We will. He told me wrong five minutes ago then, you know, we'll have a talk. [LB1026]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB1026]

SENATOR PANSING BROOKS: Thank you, Madam Chair. I'm just trying to check on the language in 16 through 20 on page 2, about private dollars...I presume it's dollars to private, denominational, parochial, and exempt schools. So I'm just trying to understand what you're thinking about that. Is this to provide technology support to all schools in Nebraska? Private, public, anything? [LB1026]

SENATOR MORFELD: So yeah, Senator...and again, Commissioner Blomstedt would be able to talk about this a little bit more, but I am...this issue in particular, this would be providing open source. So these types of resources would, from my understanding, be available to Nebraskans of all ages, whether they're private school, K-12, or you're an adult and you want to go in and find a little bit more about it. It will be available to everyone, so it will be open source. [LB1026]

SENATOR PANSING BROOKS: Okay. I guess I don't understand open source. Maybe somebody... [LB1026]

SENATOR MORFELD: So open source just means it's available to everybody, that you would be able to go to the Department of Education website and open it up. There's no password, it's paid for by the taxpayers, and anybody can use it. [LB1026]

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SENATOR PANSING BROOKS: Okay. That sounds good, thank you. [LB1026]

SENATOR SULLIVAN: Any other questions? Senator Kolowski. [LB1026]

SENATOR KOLOWSKI: This may be another question, Senator Morfeld, that we'll turn to the Ed Department for... [LB1026]

SENATOR MORFELD: I hope you guys have some questions for them after this, otherwise they may be a little disappointed. [LB1026]

SENATOR KOLOWSKI: The tie-in to the e-issues across the state could be or should be very strong with this, I would imagine. And also, educational TV--Nebraska Ed TV, is there discussion on how that would link in, as far as a resource being used? Or has that been talked about? [LB1026]

SENATOR MORFELD: I have not talked about that specifically, but I would imagine that it would be easily tied in with these types of resources. So I would hope so. [LB1026]

SENATOR KOLOWSKI: Okay. And the online high school services as well, for the courses available at the university? [LB1026]

SENATOR MORFELD: I believe that that would also be available, but again, the commissioner would probably be able to elaborate more. [LB1026]

SENATOR KOLOWSKI: Thank you very much. [LB1026]

SENATOR SULLIVAN: Any other questions? Okay, thank you. [LB1026]

SENATOR MORFELD: Thank you very much. [LB1026]

SENATOR SULLIVAN: Welcome. [LB1026]

MATT BLOMSTEDT: Thank you. And I'm Matt Blomstedt, B-l-o-m-s-t-e-d-t. I am the commissioner of education for the state of Nebraska, and it's really my pleasure to be able to do that. I thank Senator Morfeld for introducing this bill, and I'll talk you through a little of the kind of the thinking of the logic. This kind of goes to several different topics that have been...we've brought from the Department of Ed in front of Appropriations Committee in the past. We've had

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conversations about how we're going to support our systems across the state, from everything from data systems to technology, and figuring out how we do that. So I really was hoping this bill would spur some of the very types of questions and conversation that you have already mentioned. What I will back up a little bit and say, as you might recall, some of my past included working as the ESU Coordinating Council executive director. Part of that role and responsibility was helping to coordinate services statewide, to ensure that all schools had access to certain services, including digital resources and materials. And one of the interesting challenges of that is basically, as we've established, the ESU Coordinating Council, the ESUs generally, and even in the Department of Education, the way that this has historically worked is go out and convince school districts to do the same thing together. And that will become more efficient than actually building a system that they can use. And the reality is building a system that they can use actually takes us steps further ahead in my view, for the long run. So the department has undergone several different aspects of that. Some of that's in the fiscal note: the data systems, the conversations about content systems, and how we ultimately organize whether it's course work and other things that could be used for schools statewide, and definitely thinking through those dynamics of partnerships and where that becomes available. The other reality that I faced in the ESU Coordinating Council role, was ESU served parochial schools on occasion, based on their request. They have to pay for those services generally as a whole, but not all ESUs would provide those, necessarily, across the whole state as well. And so we ran into the concepts and issues of trying to provide services, and then again you had to go organize everyone to provide the same service in order to get that accomplished. I frankly believed it was really important that the Department of Education start to play a bigger role in that. Looking through the statute, and in particular this statute, somewhat reminiscent of that Super Bowl commercial a couple years ago, where it's the phone call in the Radio Shack store, where it says the 1980s have called and they would like their store back. I feel as if we're not quite current to where we need to be, as far as providing leadership in these various areas. This bill doesn't do all that, nor do I really expect that it would do all of that, but I wanted to be able to have a conversation with the Education Committee. Looking forward, how are we going to accomplish that type of service and support for our schools? The other reality for us is looking through what our schools are now demanding and asking for, coming up with ways that we actually begin to modernize our systems. And I think it shows up in the fiscal note itself, but I started to think of a concept that I would call services in lieu of aid. And I don't know if in lieu of aid is always a really pleasant word, but this notion of how do we really start to provide services to all of our schools, all of our students in a very different way? So this is really an opportunity to explore some of those concepts with you. The other part of this is I hosted what I called a commissioner symposium on digital resources, and we invited the NET folks, we invited the Nebraska Library Commission, we invited certainly ESUs, we invited others that were at the University of Nebraska, in fact...well they...University of Nebraska High School, used to be independent study high school, and others for a conversation around this last summer. The reality is there are a lot folks that want to do this work, and we're going to have find ways to be able to provide that work collaboratively. And so

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again, this conversation gives us an opportunity to start to look at those possibilities. We do have work going on where we're trying to include such resources and such conversations in our strategic planning that the state board is undertaking as well. And so we anticipate that we would bring that information together and be able to propose something, you know, probably more comprehensive than this. But really, with the mindset that we're addressing the content of the materials for all students across the state. Somewhat to the point, the Library Commission has that certain responsibility, they have books that are provided for the whole state. How do we work with the Library Commission to be able to accomplish that. How do we work perhaps with others in post-secondary education to think about the systems that we could bring together. And then ultimately, how do we really work to make sure ESUs and the department and school districts are able to share resources that seem to be purchased together. I can tell you one quick story before the light turns red. When I was providing and looking at how we provided services for our smaller schools, say in the Panhandle, versus our larger schools in the eastern part of the state, we had to find that subscription costs might be as much as \$10 in one place per student user, and \$0.30 in another. And so when we think about providing leadership to aggregate those costs and to think about how we could do that more effectively, that was part of the issue as well. It's red, so I'll stop. [LB1026]

SENATOR SULLIVAN: Thank you. [LB1026]

MATT BLOMSTEDT: I knew there would be questions, so. [LB1026]

SENATOR SULLIVAN: Thank you, Commissioner Blomstedt. So all of this activity that you've talked about, is the Educational Technology Center within the department kind of the hub for all of this? [LB1026]

MATT BLOMSTEDT: Yeah, well, we looked at was there was always some certain language that provided us some direction. And some of this language I would say was to modernize what we thought was really being done. There are software and service agreements out there that schools are collaborating with the reissues, and even in our work with the department, that those are important topics that don't really necessarily currently appear. Specifically in the language, it talked about hardware. Well, we're moving to cloud-based services. There's a lot of things I think that needed updating in that language overall. And so, yes, that center already had certain responsibilities, but there wasn't necessarily this type of language that we could find anywhere that would provide additional guidance for the center. [LB1026]

SENATOR SULLIVAN: Okay, thank you. Is there any questions over there? Senator Krist. [LB1026]

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SENATOR KRIST: Just a follow-up. Your own fiscal says that \$.5 million that's currently in the Textbook Loan Program, you and I have had conversations. And it's important to me that the Textbook Loan Program, not just in technical verbiage, but in concept and in statutory intent, continue. And if we can do more with \$.5 million going to subscriptions, you know, I'm all for that. But defining what those products actually are, I find it not congruent with the way the language is currently in the bill. Would you talk to me about that? [LB1026]

MATT BLOMSTEDT: Yeah, I think in part...this one doesn't necessarily, in the bill itself, take up that topic of textbook loan. I think in kind of the review of the fiscal note perspective, trying to give a sense of the types of things that are going on, eventually I would like to get to a point where, if we're doing digital textbooks for instance, that we make sure that we're including subscription pieces with those types of textbooks and that type of content. It also...I was specific about trying to make sure that those digital resources be available for all learners, right. All learners across the state. And I think that's really important as well, that that would be expansion. We're not actually proposing it here to undo the Textbook Loan Program, however, until there's a point in time...in fact, we would like to be able to continue to support that as it is. And perhaps, I think it's even in the technical bill, make sure that we get textbook defined properly, so we included language in there and also think through what's the broader expansion of that definition. That might be able to make sure that it's as modern as possible, given the framework that we have right now. [LB1026]

SENATOR KRIST: So parts of LB1066 address potentially changing verbiage or updating verbiage that will allow us to potentially expand services, using the \$.5 million, without doing away with the "Textbook Loan Program," which probably should be changed to... [LB1026]

MATT BLOMSTEDT: Something broader? [LB1026]

SENATOR KRIST: ...learning tools program, or whatever it might be. Is that your concept? [LB1026]

MATT BLOMSTEDT: Yeah, it is. I think at least conceptually that we would get there. There is still use of textbooks out there, so I wouldn't want to stop doing that necessarily underneath that program until we really felt confident that we had been...explored all the corners of this topic. But there's an important role that I think this concept would play in the kind of future for how we think about educational materials such as textbooks. There's so many other things too, now. [LB1026]

SENATOR KRIST: Thank you. [LB1026]

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SENATOR SULLIVAN: Senator Schnoor. [LB1026]

SENATOR SCHNOOR: Yeah, a couple things. As I am understanding this...well, I guess we can back up. Is this just another position within the Department of Education, or is this another body? What do you (inaudible)? [LB1026]

MATT BLOMSTEDT: So we would...and I think as Senator Morfeld kind of pointed out, we're looking at how we reshape within the department, to make sure that we have the authorities to get certain things done. We don't necessarily have a position that we would call chief integration officer, right? We don't have a position that has that type of responsibility right now, and so shaping and reshaping positions for the long run is really what we're looking at. This being imagined that we have someone that leads it, but...I'll point it out this way, that for a long time at the Department of Education, it used to be that we can't tell schools what to do, so to say. And I don't mean that...you know, the reality is we need to provide leadership, and I would envision a position with this type of title that we could be able to reshape and say that's the role of that person. So I think that titles actually do mean something in folks' work and so that's what that's about. Right now we have a kind of a position that's split multiple ways for the directing some of this work. But it gives us a chance to reshape that and think of that with this vision in mind. [LB1026]

SENATOR SCHNOOR: Okay. And then back to what Senator Krist was talking about, the Textbook Loan Program. Just to clarify, is that the...I think by statute the public/private partnership with the textbook...as currently is being used? [LB1026]

MATT BLOMSTEDT: So the way that that's structured right now is essentially this, that we have a grant application, so to say, by school districts that are able to apply for reimbursement for textbooks that are loaned out through that program. And so that is the up to \$500,000. What we have seen is a decrease in that over time, because the definition of textbook and other things aren't as clear. And so we do want to be able to clarify that there is a broadening of that purpose, so to say, within statute overall. But the reality for that program is parents that are accredited schools, private or parochial schools, can apply for that textbook, or a textbook that the school district would offer in their current setting. So if you're a resident in that school district, but attending a parochial school, you would be able to look at a list of those textbooks, so you can go do that. The schools right now are having to do that essentially on their own. They maintain a library of lendable materials that they are able to send out on an annual basis as students need them. And so each school has that responsibility to do that. I would envision in the future, kind of coming to how can we actually make that program work all of the better by having digital content available in different places as quickly as possible. It's all based on I guess the concept of paper-based things. Textbook companies themselves also have consumables--consumable printed

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materials, and that's been another issue that's kind of popped up as a concern. Well, the definition of textbook, as we interpret it anyway, and I know others might see it differently, but as it's been interpreted, the plain meaning of the word would have to be expanded in our state statute to be able to allow that to expand for the future. [LB1026]

SENATOR SCHNOOR: Okay, thank you. [LB1026]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB1026]

SENATOR PANSING BROOKS: Thank you, Madam Chair. Thank you, Dr. Blomstedt. I was just...as I think I have stated previously, I'm a huge advocate for public dollars going to public schools. That being said, I understand the exception for textbooks, I understand the exception for some of the busing that's done. Who will have control over this? I mean, I can see this expanding to distance-learning education, I can see the great value to what goes on here. The question then is do all of the schools that have access also have the ability to place onto that forum the classes that they want, or the education that they want, or the religious instruction that they want? Who is in control of that forum and that meeting? [LB1026]

MATT BLOMSTEDT: So currently, the ESU Coordinating Council is responsible for brokering the exchange of distance-education courses, and so there's...that actually already exists to a certain extent within that. I don't believe it's prohibited that parochial schools would be able to exchange courses in that, but they have to pay their full freight underneath that environment. That's kind of the legal part of that, that we can't use public dollars necessarily to do that. But they can participate in something where there's no...where they pay the full cost, basically of that participation. So ESUs for a long time have dealt with that, but not all ESUs dealt with it in the same way. And so you have inconsistencies across the state in how that's handled. What we would like to see is consistency, and if we're going to make a statement that we would like to make sure that these are available for all students. And we do have a responsibility, by the way, at the department, for the accreditation of these schools, or the approval of certain schools that aren't accredited, as well as for homeschoolers. So we maintain that as well. We tended...and had a conversation with the state board...tended to believe that hey look, if materials can be created at scale that would essentially, the cost of that would be negligible or none in that setting, relative to allowing all participants, all students in the state of Nebraska to access those, we think that would be a good thing for the state. Overall, I think that would be beneficial. But there are other issues, and we would have to deal with rules and regulations around those other things that comply with the existing law. [LB1026]

SENATOR PANSING BROOKS: Okay. Well, just for the legislative record, I hope that we'll be vigilant on that, because we don't have tons of public dollars to spend on every school that is

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desired by somebody. So...and I think it's great to support the schools that are able to participate in this way, and especially if it's not at any cost. So that's great, thank you. [LB1026]

MATT BLOMSTEDT: Thanks. [LB1026]

SENATOR SULLIVAN: Senator Kolowski. [LB1026]

SENATOR KOLOWSKI: Thank you, Madam Chair. Commissioner, the boost to distance-learning is just phenomenal...that could happen with this. And the democratization, I guess I would call it, of curriculum and information access is across the board to every student, as you described, in the state and every school in the state, that would be available. This is a great leveler. A student at the biggest high school in the state or the smallest school, anyone in the state would have the access to the same kind of materials. And the opportunities for those kids if they are in a far west school at the present time, would be equal to anyone else in the state anywhere else. Is that...am I describing what you're thinking or you've been working with and talking about in that context? [LB1026]

MATT BLOMSTEDT: Yeah, so we've thought about a lot of different possibilities out there. First of all, schools are spending resources right now on a lot of these types of technologies. Thinking through this, how we could do that more effectively over time is a big part of it. And it is leveling in the sense of all schools don't have access to all the same things. Certain types of services cost a lot of money. We...I've worked for years actually with NET around coming up with kind of the virtual video library conversations, making sure that's in place. PBS has, you know, really good resources and materials, but there are other things that have those resources and materials. Right now, for instance, there's a company called Learn360, that the ESUCC works with to make sure that there's video access for a lot of those materials, so schools use those across the state. But there seems to be little pockets of activity instead of one true vision to pull these elements together to make sure those things get done and actually make sure that they get used. Because the other danger of certain things is you might provide something, if it's not well known, it doesn't even get used. And so we're thinking about the nature of kind of what we'd almost call an app store, right? I mean, that you know where to go get the resources from a school perspective, you go and access those, you have the permissions to access those, whatever those might be set up to be, and you're able to share those resources together, so. [LB1026]

SENATOR KOLOWSKI: The additional help to home bound students would be tremendous anywhere in the state, no matter what the size of the district or the town they come from. And that would be...and every district has students with those needs. And that's another adjunct benefit, I think. [LB1026]

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MATT BLOMSTEDT: Yeah, and it's definitely...you'll see schools using those types of technologies right now as well. Trying to think about how we make those as robust as possible for the least cost possible, you know, across the state, I think becomes really important. [LB1026]

SENATOR KOLOWSKI: Excellent, thank you. [LB1026]

SENATOR SULLIVAN: Senator Groene. [LB1026]

SENATOR GROENE: Thank you, Madam Chairman. You said earlier the cloud...all you're talking about is bringing stuff off the cloud. You're not talking technology. To me, technology is this. You're talking about software content, not really the technology (inaudible). [LB1026]

MATT BLOMSTEDT: Or the interaction between those things. Yeah, exactly. [LB1026]

SENATOR GROENE: Yeah. So you're talking the content. But any small school district can pull anything off the cloud. You're talking about funneling that information through the Department of Education and choosing the content that would be available? [LB1026]

MATT BLOMSTEDT: Hoping to be able to organize contracts around that content that they are currently using. [LB1026]

SENATOR GROENE: So you would...we would pay--this department head would pay the fees for this content? [LB1026]

MATT BLOMSTEDT: It could work out that way. There's certain free content out there already. There's certain...you know, I mean (inaudible). [LB1026]

SENATOR GROENE: But they have access to it now by just getting on the computer and finding it, right? [LB1026]

MATT BLOMSTEDT: Some of it they do. Not necessarily all. It depends on what type of content it happens to be. And then you think about course content and other things that might be able to be provided. But you're right, they're doing certain things right now, some of it is free. They are organizing, I would anticipate teachers always do that. [LB1026]

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SENATOR GROENE: But right now, this department head has...not regulation, but what do you call it? Certain levels of what...on math what you expect, on English...you came out with...what's the terminology for... [LB1026]

MATT BLOMSTEDT: Standards around those. [LB1026]

SENATOR GROENE: Standards, all right, for that. But then, the local school board decides what textbook, how they reach those standards. [LB1026]

MATT BLOMSTEDT: Right. [LB1026]

SENATOR GROENE: What the content of that textbook is. [LB1026]

MATT BLOMSTEDT: Yes. [LB1026]

SENATOR GROENE: But my fear is that you're going to control that. You're going to say, go to this...our website, and these are the things we pre approved and checked out for your content. And you're taking some local control away by funneling it through the state. Now, I don't understand why that's necessary when technology and the content is available to everybody right now. And that local school, that local teacher can decide how to get to your standards. That's my fear here. [LB1026]

MATT BLOMSTEDT: Yeah, so I'll try to allay your fears. It may or might not work, so I'll try this. But the reality is that even with ESUs and others, it's really just providing a resource that schools are picking and using from. And so the benefit is that schools can know what other schools are using, and they can actually talk with other teachers about the content and that. It's not our intention to go down that path. We had that conversation with the state board. In fact, we've drawn a pretty solid line how we do standards, and we don't prescribe curriculum. But we do have schools asking our ESUs, asking the department, asking NET, asking others to collaborate, to make sure that they get access to those materials that they see in other places. It's somewhat limited by subscription costs and other things. So when I talked about the \$10 cost per student, versus a \$0.30, so in some places it's cost-prohibitive for a school to access that material, because they wouldn't... [LB1026]

SENATOR GROENE: But then you're telling me the state would... [LB1026]

MATT BLOMSTEDT: Well... [LB1026]

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SENATOR GROENE: ...pay that access fee and put it on your website. Is that what you're saying? [LB1026]

MATT BLOMSTEDT: Well, then we would make sure that we got the best cost. So if we can get it at scale for \$0.30, I'd rather have the school pay \$0.30 for that. [LB1026]

SENATOR GROENE: But they would reimburse you? [LB1026]

MATT BLOMSTEDT: Right. It could be. I don't know, we could come up with a different model. That's happening right now kind of across models of collaboration between schools right now, that they would try to work together to do that. [LB1026]

SENATOR GROENE: But would you try to limit access? [LB1026]

MATT BLOMSTEDT: No. [LB1026]

SENATOR GROENE: By saying the educational business is selling their...and you say no, we're not going to put your contact information. We don't think it fits our standards of what we believe statewide. My fear is that everybody will start going here and then it will be limited to what you filter at the state level. [LB1026]

MATT BLOMSTEDT: It's not our intent, yeah. [LB1026]

SENATOR GROENE: Someone at the state level decided that this should be on our library of content. [LB1026]

MATT BLOMSTEDT: So it would be similar to a library--a public library in the city. Somebody has to pick the materials that they purchase to put there, but it doesn't restrict folks from going to other places to get materials. [LB1026]

SENATOR GROENE: But what's so neat about the cloud, gives you no more restrictions? What's your... [LB1026]

MATT BLOMSTEDT: Except for cost. I mean, I'll tell you there is cost there, so. [LB1026]

SENATOR GROENE: Thank you. [LB1026]

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SENATOR SULLIVAN: Any other questions for the commissioner? Thank you for your testimony. [LB1026]

MATT BLOMSTEDT: Hey, thank you. [LB1026]

SENATOR SULLIVAN: Any other proponent testimony? Welcome. [LB1026]

JAY SEARS: (Exhibit 1) Thank you. Good afternoon, Madam Chair, members of the Education Committee. For the record, I'm Jay Sears, J-a-y S-e-a-r-s, and I represent the educators of the Nebraska State Education Association. NSEA does support LB1026. And I've got some written information there that kind of repeats all the information that you've already heard. What I'd like to address is having spent most of my professional life watching the state board of education and working with the Department of Education, and listening to Matt and his vision about what's going on in education and how the department should be a support for educators and for school districts, I think that the Department of Education is the right group to lead the collaboration around kind of standardizing what's out there for us, so that we can have good contracts for all schools districts, make things available, and support educators in the process, instead of going through a checklist of yes, you have it, no, you don't, that's too bad. So again, I'll conclude my testimony with the strategic planning process that the department is undertaking and the work that they've done with the ESUs and school districts, and as they work to change their vision about how they support education in the state of Nebraska, I think the department is the right group to start this process. So I thank you very much. [LB1026]

SENATOR SULLIVAN: Thank you, Mr. Sears. Any questions for him? Thank you for your testimony. Any other proponent testimony on LB1026? Anyone wishing to speak in opposition? Welcome. [LB1026]

SHERI RICKERT: Good afternoon, Madam Chair, members of the Education Committee. My name is Sheri Rickert, S-h-e-r-i R-i-c-k-e-r-t, and I'm the policy director and general counsel for the Nebraska Catholic Conference, which represents the mutual interests of the Catholic bishops serving the Archdiocese of Omaha, and the Diocese of Lincoln and Grand Island. This includes over 26,000 students who are educated in Catholic schools throughout Nebraska. I'm here to speak in opposition to LB1026. The bill itself does not mention the Textbook Loan Program, but the program is implicated as evidenced by the fiscal note. As a brief background, the Textbook Loan Program was established by statute to provide private school students with access to the textbooks used by public school students in the same district to the extent moneys are appropriated by the Legislature specifically for that purpose. This program benefits students and their families, not Catholic or other private schools. The Nebraska Catholic Conference certainly does not oppose the Nebraska Department of Education's desire to provide educational

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technology to every interested party throughout the state, however, we vigorously oppose the department's apparent intention to do away with the Textbook Loan Program, and use the funding currently designated by the Legislature for that purpose to try to pursue its technology objectives. You'll note this seems to contradict what the commissioner just said. I'm happy to go into more detail about this during the Q and A if you like. The fiscal note, after referencing the department's inability to convince either the federal or state government to exceed to several technology funding requests, notes the possibility of using state aid resources to help provide support to modernize, secure, and sustain digital educational systems which are currently in development. The department's plan proposes a concept of services in lieu of aid, which the commissioner just commented, and needs to be fleshed out, that would enable use of future aid resources. The fiscal note then goes on to indicate the department sees this plan as the opportunity to "modernize the Textbook Loan Program," and the appropriation for the Textbook Loan Program as one of the resources to engage a contractor to pursue its technology, planning, and strategy. The Commissioner of Education and members of the board of education have previously conceded to the Nebraska Catholic Conference of the need to update the Textbook Loan Program, and the department's technological ambitions are two separate issues. The department's efforts to relate the two are fundamentally an effort we believe to use the Textbook Loan Program as a funding source for this project, that may have little or no benefit for the private school students who currently benefit from the Textbook Loan Program. In the interest of time, I will simply summarize our particular concerns with any effort to subsume the Textbook Loan Program under this technology initiative. One, that neither the Nebraska Catholic Conference, nor to our knowledge, any representative of Catholic school students have been contacted by the department for input as to whether and how this initiative may be of benefit to our students. Secondly, the initiative speaks of technology-supported learning tools in educational settings that include parochial schools. As Senator Pansing Brooks has accurately noted, with any kind of public benefit, including a subsidy to parochial schools, there come up constitutional issues. Third, there's no assurance that local school boards have or will buy into this NDE led initiative. The statutory provision for the Textbook Loan Program gives private school students access to the same educational materials as are used in the local school district. Private school students should continue to have access to those resources under the Textbook Loan Program. In addition to questions as to whether and how its partners will buy into this initiative, NDE also has had difficulty obtaining funding. The fiscal note indicates that LB1026 will have "a significant fiscal impact." Therefore, there are major questions as to whether the initiative, as envisioned currently, is politically or financially viable over the long term. Finally, the Legislature has appropriated \$465,500 each year, for the past several years, for the Textbook Loan Program. This amount is about .05 percent compared to the state aid designated for the public school system, and is about all that taxpayers who choose to send their children to private schools receive in exchange for their education tax dollars. This program needs to be retained, we would argue even expanded, for the benefit of private school children. Therefore, I sincerely urge the committee to report LB1026 out of committee, only if it is stipulated that the initiative

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presented therein would not currently or in the future take away funding from the Textbook Loan Program. And I'd be happy to answer any questions. [LB1026]

SENATOR SULLIVAN: Thank you, Ms. Rickert. Senator Krist. [LB1026]

SENATOR KRIST: I asked for an AG Opinion on the Textbook Loan Program, pretty much at the request of a couple parties. After the requests were in, were you asked to consult at all on the subject matter in this? [LB1026]

SHERI RICKERT: No, I was not. [LB1026]

SENATOR KRIST: Okay. And I'm aware that the department had a lot of input in terms of how this is interpreted, and for that I'm just going to say that the AG's Opinion differs from my personal opinion, but I'm not the Attorney General in the state of Nebraska. I think clearly, your comment is...we need to heed, because currently in statute there is a Textbook Loan Program. And the interpretation of what an idget (phonetic) or a gidget (phonetic) is needs to be defined I think before we start messing around with the statutes or the intent of the legislation. No matter what side of this argument you're on, the commissioner has said over and over again he represents every child who is educated in the state of Nebraska, both publicly and privately. So I can assure you that that's part of my agenda is to make sure that textbook--if definition needs to be revised, it can be and should be within the context of a couple of these bills. I mean, it wasn't many years ago we still had a statute on the book that said you couldn't come into a town unless someone was carrying a lantern in front of you. Obviously, laws are made, words are used, words mean a lot, they mean everything. So I thank you for your testimony, and I will pursue the matter of the definition of what is is at a later date. Thank you. [LB1026]

SENATOR SULLIVAN: Ms. Rickert, did you say in your testimony the amount that's appropriated? [LB1026]

SHERI RICKERT: Yes, it's been \$465,500 per year for the past several years. [LB1026]

SENATOR SULLIVAN: And so that has been fully used for the Textbook Loan Program. Is that...is that the case? [LB1026]

SHERI RICKERT: It has not been fully used for areas that it would take a while to explain. But yes, that is exclusively for the Textbook Loan Program. [LB1026]

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SENATOR SULLIVAN: Can you give me a little bit of an idea of why it hasn't been fully used?
[LB1026]

SHERI RICKERT: Well, we believe a big reason is because of the way the department currently is defining textbook, which goes into the issue that will come up with respect to LB1066. Under that provision of 79-734.02, that provision authorizes school boards to purchase and loan textbooks for both all public school students and then for private school students in accordance with the Textbook Loan Program, and the conditions that are stipulated later in that section. We would interpret that, just since it uses the same term, and also the later provision in that section, that if textbooks are available to public school students in a district, those same materials should be available to private school students. The department has decided their interpretation is that that term, while it includes electronic books, electronic bundles, currently electronic and hard book packages that publishers are increasingly selling, and what are called work texts, writing work texts that are issued over a subscription of six years instead of the hard-bound textbooks. Those they allow and are giving to public schools in Nebraska, but those are not being allowed to private school students under the Textbook Loan Program. So therefore, every year when parents go in to get books under Textbook Loan Program, the list of materials from the local school district that are available to them is becoming increasingly shorter and shorter, because public school students are using fewer and fewer of the hard-bound textbooks, as would be defined and limited in LB1066. [LB1026]

SENATOR SULLIVAN: But then...did I understand you that maybe you have a different opinion from perhaps what I heard the commissioner saying that he has no intention of doing away with the Textbook Loan Program, but perhaps in this day and age there needs to be new definitions that lead to then additional clarification via statute. [LB1026]

SHERI RICKERT: I would agree with that, except the department has had no problem providing those expanded materials under the exact same term to public school students currently, and has not determined it necessary to define that term in statute for purposes of public school students. It's only now that we, and I think others have been raising this issue with them, that they are pushing back and saying oh no, for the purposes of private school students, we need to have a definition. But that gets into a lot of other technical issues that I'll be basing when we get to LB1066. [LB1026]

SENATOR SULLIVAN: Thank you. Senator Baker. [LB1026]

SENATOR BAKER: Thank you, Senator Sullivan. I'm sorry, I didn't write your name down.
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SHERI RICKERT: That's fine. Sheri Rickert. [LB1026]

SENATOR BAKER: Okay. Ms. Rickert, you know, it seems to be a definite trend to schools to get away from textbooks and to have...you know, they've gone to one to one, they've got classroom sets of Chromebooks, so that rather than purchasing textbooks or not purchasing textbooks anymore, if they can get modern update content in things like history, social studies, that when you buy textbooks, they're out of date at the time. You know, they're published and get to your school. But I understand everything you said, and I hear and understand why you said those things. Would you not also want to be able to someday do the same and not use textbooks and use the online sources? [LB1026]

SHERI RICKERT: Oh, absolutely. In fact, we've been trying to talk to the department since July about updating the program. Back in 2008, the department revised Rule 4, which are the regulations that implement Section 79-734.02. And they specifically amended the definition of textbook at that time to include electronic media, and to exclude what they call consumables. Before that, consumables were not excluded. So our discussions with them was we were able to address this by regulation back in 2008, that those regulations are clearly out of date at this point, can't we just have another hearing and update those regulations. Because our schools are increasingly wanting and needing those materials and should have access to them under the Textbook Loan Program. And we've been hitting a brick wall so far. [LB1026]

SENATOR BAKER: Okay. Can you summarize for me in one or two sentences why it is you don't like this bill? [LB1026]

SHERI RICKERT: Because...largely because of the fiscal note, but also the problems we've been having trying to have Textbook Loan Program addressed in the regulations. Bottom line, we think the department does not like the Textbook Loan Program, and we're very concerned that they really would like to do away with it, and possibly use that funding for this other project. [LB1026]

SENATOR BAKER: Thank you. [LB1026]

SENATOR SULLIVAN: Senator Groene. [LB1026]

SENATOR GROENE: Thank you, Chairman. Where in the legislation...is the Textbook Loan Program even mentioned in the legislation itself? [LB1026]

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SHERI RICKERT: No, it's not. It's only in the fiscal note. But it's the way it's presented in the fiscal note that's particularly concerning to us. [LB1026]

SENATOR GROENE: That's what I'm wondering. If whoever wrote this fiscal note was led to add that to the fiscal note by the Department of Education. Otherwise, I don't know why anybody in the fiscal office would bring that up and integrate it into...where it's not mentioned in the bill itself. So I'm trying to figure out where...so you might have a conspiracy theory there that might have a little bit of reality to it. Anyway, thank you. [LB1026]

SENATOR SULLIVAN: Senator Schnoor. [LB1026]

SENATOR SCHNOOR: Thank you. It seems like we're talking more about the Textbook Loan Program than anything, but you did bring up a point that I would like you...I guess, why I need to ask the question, is you...the roughly half million dollars that's appropriated every year, you feel that's not being used for that anyway. Can you... [LB1026]

SHERI RICKERT: It's not being used to the extent that we think the school children should have access to it, precisely because the department is so restrictively defining textbook under Textbook Loan Program. It's expansive for purposes--Section 79-734.02, for purposes of public school students, but it's very limited in terms of applying it to the private school students who are put under the Textbook Loan Program. And under that provision, the private school students can only access those materials that are available to the public school students in the same district. So if you have that finite set of "textbooks" that are available for public school students, but those increasingly expand with modern technology and forms and subscriptions for consumables, but you don't allow those for the private school students, then eventually what's available for private school students becomes very limited. Some of our private school people who work on Textbook Loan Program informed me specifically this year, that they were not able to use the moneys that they thought they should have been able to, simply because when they went to look at the list, the parents went to look at the list of materials, there were so few things that most of them they could not use at this point. [LB1026]

SENATOR SCHNOOR: Okay, thank you. [LB1026]

SENATOR GROENE: Can I ask one more? [LB1026]

SENATOR SULLIVAN: Senator Groene. [LB1026]

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SENATOR GROENE: Thank you, Chairman. So are you saying that if you are living in Hyannis and you were a homeschooler, you can only access the same thing that's used in the public school...you said that district? [LB1026]

SHERI RICKERT: I should clarify that. Under the Textbook Loan Program, Section 79-734.02, it's only for private school students. Currently, homeschoolers are not allowed to participate in that program. But for private school students, that's correct. By definition... [LB1026]

SENATOR GROENE: So my local St. Pat's High School can only access textbooks...wouldn't it be better...here in this bill they want to make it statewide access to electronic courses. I'm curious why they don't want to make state...would it make it better if we said any textbook used in the state in any school district could be accessed? Make that Textbook Loan Program better? [LB1026]

SHERI RICKERT: I should qualify first, that while we have really no opinion in terms of the technological project that the department is undertaking here, our superintendent's to my knowledge have not had conversations with NDE, and so we don't have a position on that yet. But to the extent that it impacts the Textbook Loan Program, we understand why that is set up. So that it only allows private school students the same access as the public school students. Because, you know, a public school student would say well, it's not fair the private school students are having access to more textbooks, more educational materials than we have. Our argument is we need to have access to the same materials that they have, not a restricted--an overly restricted list of those, as NDE is currently interpreting it. [LB1026]

SENATOR GROENE: But you're telling me if that local North Platte High School, that's my district, has that textbook, then St. Pat's could use it. So there's no...are you telling me there's a restriction that only certain ones they use at North Platte Public School is available? [LB1026]

SHERI RICKERT: Well, the Department of Education currently for purposes of Section 79-734.02 is saying that public school students can have access for example, to electronic digital media, to bundles of electronic and hard copy materials, and to what are called these consumable worktexts that are replacing some of the hardbound textbooks. They are saying public school students can have those under the term textbook, but the private school students cannot under the Textbook Loan Program. So there also I should add, that they're saying that they have...we brought up that argument with them, and they said oh no, there's other provisions, other statutory provisions that allow us to provide those materials to public school students. We have asked for citations to those, they provided them, and so far we don't agree that any of those provide authorization for these other materials. [LB1026]

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SENATOR GROENE: So you're not after more hard cover books? [LB1026]

SHERI RICKERT: No. [LB1026]

SENATOR GROENE: You're after the access to the technology. [LB1026]

SHERI RICKERT: Same materials that the public school students are being provided in the same district. [LB1026]

SENATOR GROENE: Under the Textbook Loan Program? [LB1026]

SHERI RICKERT: That's right. [LB1026]

SENATOR GROENE: Thank you, now I understand. [LB1026]

SENATOR SULLIVAN: Senator Kolowski. [LB1026]

SENATOR KOLOWSKI: Thank you, Madam Chair. Ms. Rickert, kind of two...one a comment, and then a question. Textbook manufacturers have shrunk considerably. Over my career I saw it go from, as an example, social studies materials might have been produced by 20, 25 different companies, and now it'd down to just a handful. And it's extremely controlled. They sell...they produce, because of the big states that massive buy...the Texas locations, and other places across the country. So that's been a condensation of textbook material over time. And then on your comments, what's next that will be asked for? Because I've seen biology textbooks, human physiology textbooks, all drafting, different things in industrial technology, even in family consumer sciences, all start coming with discs for access. Do your students have the access to play those, or will the next question be we also need a laptop or whatever else for every student? Because it's a progression that you wouldn't use that textbook, because it's integrated directly to the discs that come with the chapters on every one of those books. So where does that stop? Help me understand what you're asking for and where that goes. [LB1026]

SHERI RICKERT: Section 79-734.02 only applies...it says "textbooks." It does not include equipment and supplies, which are addressed in the first paragraph of that same section. So that is not included. Things like laptops, the hardware, things to play...the hard tech...the hard equipment we talked about before are not part of Textbook Loan Program, and we're not asking for those for our students. [LB1026]

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SENATOR KOLOWSKI: But should you even ask for that textbook then, because it's integrated within the entire textbook to use those discs and have that online access for the students to see the samples and examples of what they're looking at? That textbook would be eliminated, because you don't have the laptops for the kids. [LB1026]

SHERI RICKERT: I guess we're arguing that if public school students are allowed those electronic materials, those programs, the software, if you will, under the term textbook, and we have not yet been informed of any other statutory provision that currently would allow them to be authorized to be provided with those materials. So our inference is that those are being provided currently under the broad term textbook. And if that's the case with public school students, then we believe, under that same provision--a fair reading of that statutory provision, means that they should also be available to private school students under the program. [LB1026]

SENATOR KOLOWSKI: So if they need a laptop, that would also come with it? [LB1026]

SHERI RICKERT: No, no. They would have to have their own. [LB1026]

SENATOR KOLOWSKI: No, I'm extending that, because what you just talked around was you can't use that particular textbook. It would not be good to use or usable in a regular school, without having the delivery system. To plug in every student getting a laptop, as they do in many schools around the state, that's part of what they get by attending school there. So the listing of what you would have available would be non-laptop driven materials or programs. [LB1026]

SHERI RICKERT: But I think the assumption there is that students don't have those...that kind of equipment anyway, but they actually do in most of our schools. They are getting licenses to the extent that many schools are trying to get this...they're finding donors and other contributors to try to get it for these students. Argument is the Legislature's providing that funding up to \$495,500 a year, and to that extent, private school students should be able to access those through licenses and other materials. Obviously, if they don't have the equipment, they wouldn't be able to access and it wouldn't be there. But no, we would not say that simply because the laptop doesn't come with it, they don't get the textbook. That provision in 79-734 does not say textbooks, and equipment and supplies for private school students...or for public school students, it only says textbooks. So that one also infers that they may need equipment or something else that's provided through another statutory authorization for public school students. [LB1026]

SENATOR KOLOWSKI: Thank you. [LB1026]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB1026]

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SENATOR PANSING BROOKS: Thank you, Madam Chair. Okay, I'm just trying to clarify again. I'm sorry that I'm having trouble understanding just a little bit of what. So are you coming here to oppose this bill because the textbook system is currently not working? [LB1026]

SHERI RICKERT: No. We're opposing the bill, because in the fiscal note, and from conversations we've had with the Department of Ed, we're concerned that there is an intention to try to use the funding currently going to the Textbook Loan Program for this technological modernization. And as I stated in my comments, we're opposing the bill unless it's made explicit that the funding for this will not come from the Textbook Loan Program. [LB1026]

SENATOR PANSING BROOKS: Okay, but you understand that all schools are under this giant transition right now, so right? We're moving pretty much away from textbooks. I think that everybody is pretty much agreed that another 10 years, I think textbooks will be a dream of publishers past, so... [LB1026]

SHERI RICKERT: Oh, absolutely. I agree. And like I said, we don't disagree with the department going ahead with this statewide initiative. We do have a problem with them usurping the funding for Textbook Loan Program in order to get it jump-started. That's not its purpose, that's our argument. [LB1026]

SENATOR PANSING BROOKS: Thank you. [LB1026]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. Any others wishing to speak in opposition to LB1026? Anyone wishing to speak in a neutral capacity? Senator Morfeld. [LB1026]

SENATOR MORFELD: Well, I was going to waive, because of the impending...our "snowmageddon" here, but with opposition testimony like that, you just got to come up and respond. You know, I think it's...number one, there's no conspiracy to get rid of the textbook program. And in fact, we made sure, as Senator Pansing Brooks pointed out, that parochial and private schools were actually included, so that they could use these resources in order to benefit their own students as well. And quite frankly, you know, for the sake of quality education, I hope that no public and private schools are using physical textbooks within the next few years. I mean, if you look or even listen to NPR, even the major textbook companies are saying we're going to stop publishing textbooks within the next few years. So if anything, this bill is ensuring...and you can look at it for yourself on page 2, lines 20...or excuse me, 17 to 20. We include private and parochial schools on purpose, to make sure that these resources are used. There's not going to be any effort on my part to get rid of the textbook program. And quite frankly, there's nothing in the bill that says that. There's a note in the fiscal note that notes that, you know, that could be taken

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into consideration, in terms of the current textbook program could be supplemented or increased in value by this legislation that would provide for resources for both public and private schools. With that. [LB1026]

SENATOR SULLIVAN: Senator Krist. [LB1026]

SENATOR KRIST: Senator Morfeld, I don't have a conspiracy theorist bone in my body. I don't think you're trying to get rid of the Textbook Loan Program, I am only emphasizing that with definitions that are archaic and have hung around, there seems to be a movement that prohibits currently what's being allowed to go...if you look at the original statutes, and I think Ms. Rickert was articulate about the way she brought it up. What brings it to my attention is the legislative fiscal analyst, which is the only one we're legally obligated to look at, makes no mention of alternately using money that is in a "Textbook Loan Program." The department's fiscal note opens up the Pandora's Box and says, you know what, we've got this other half-million dollars out here that we probably could use to offset cost. And that's the way I read that. So to make legislative intent and record of it, the day they start dipping into the \$500,000 roughly that they're getting, is the day that that whole program and that statute needs to be readdressed. Otherwise, that would be against the law. So I'm confident, having talked to the commissioner and to his deputy that that's not their intent, but this is like cart horse. I have your dream--no kid is thumbing through a book that doesn't want to see how dad learned, you know, in 10 years, or 5 years, or whatever. But I think to be true to those that came before us, we either need to change the law moving forward or we need to respect what's there. And I quite frankly think those definitions really need to be updated. And I thank you for bringing this bill, because it spots a huge light on the fact that...Senator Kolowski's analogy, although from an educator's perspective, I think makes sense, from my perspective, give me that textbook with those discs in it. I'll take care of the kid having a computer to use in terms of going forward. It says nothing about hardware. What it says is what kind of learning material...and that's when I had my meeting with the commissioner it was very clear. I said, you know, help us find that term. Your bill on the Microsoft, for example... [LB1026]

SENATOR MORFELD: Yep. [LB1026]

SENATOR KRIST: ...help us find that term that enables all kids, to a certain extent, not spending public dollars on anything else but public education, but within this concept. Help us find that term that enables you get that out of there. And you heard in my comments earlier, just to make a note of it, if we do this and we go down this road, we probably can provide even more services for that half-million dollars to those kids, because it's a hell of lot less expensive to spend subscription money as opposed to hardcore. Thanks for bringing it, I just wanted to make a note of that. [LB1026]

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SENATOR MORFELD: Certainly. And I think we're on the same page. And I think this bill actually opens up more resources for private and parochial schools, which is why I'm confused as to why they're opposed. Thank you. [LB1026]

SENATOR SULLIVAN: Senator Groene. [LB1026]

SENATOR GROENE: Thank you, Chairman. But when you brought this bill, this is the first you heard about Textbook Loan Program, probably, because you have just seen the fiscal... [LB1026]

SENATOR MORFELD: Oh, no, I've heard about the Textbook Loan Program, but... [LB1026]

SENATOR GROENE: But I mean, usually a fiscal note only shows up a day or two before the bill. [LB1026]

SENATOR MORFELD: Yeah. No, I didn't see it yet. [LB1026]

SENATOR GROENE: Yeah. And in relationship to your bill, this wasn't your intent at all? [LB1026]

SENATOR MORFELD: No, and I think that even with the fiscal note there, it's not the intent. It's just bringing up the different resources that bring to bear. [LB1026]

SENATOR GROENE: And as far as the text...Senator Kolowski's comment was you give me a book, you don't have to buy my desk. [LB1026]

SENATOR MORFELD: Yeah. [LB1026]

SENATOR GROENE: It's just like, if you give me the book, you don't have to buy my computer. The computer to me isn't closer to the desk and the light above. But anyway, that's just a different view. But no, I have no conspiracy theory, that was just a joke. [LB1026]

SENATOR MORFELD: I know you have a few conspiracy theories, sir. [LB1026]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB1026]

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SENATOR PANSING BROOKS: Thank you, Madam Chair. Thank you, Senator Morfeld. I just want it clear for the record, because it's been brought up. Just...if you look at the line 11, and it talks about to establish and support digital academic content, textbooks, learning objects. Learning objects is what concerns me a bit, just in case somebody at some point thinks that means a computer. It does go down, on line 30, to say what digital learning objects means, and it says puzzles, assessments, pictures, audio, or video. Well, the only medium that I know at this point is some sort of computer that would present that audio or video streaming. And then I don't really understand why that can be individually selected and manipulated to support we're having meetings as it relates to video, other than a computer. So I guess I just want to clarify that you do not intend that this means that we start buying computers for every child in the state at this point...the state. Is that correct, or do you? [LB1026]

SENATOR MORFELD: I don't have any intent for that at this time, Senator. [LB1026]

SENATOR PANSING BROOKS: Okay. [LB1026]

SENATOR MORFELD: We can certainly work on the definitions and clarify that, though. [LB1026]

SENATOR PANSING BROOKS: Yeah. I just...I mean that's...and I think you're right that the textbooks...this doesn't change the textbook language at all in my opinion, anything that I am reading, so. [LB1026]

SENATOR MORFELD: No, and that's why I wanted to come up here and clarify. I just felt like that came out of right field. [LB1026]

SENATOR PANSING BROOKS: Yeah. The fact that you broadened this for all students across Nebraska is clear. [LB1026]

SENATOR MORFELD: Yeah. [LB1026]

SENATOR PANSING BROOKS: And I can see why. And people should be grateful that it does expand digital learning to all students across the state. So, thank you. [LB1026]

SENATOR MORFELD: Thank you. And now that we've clarified, I hope the Catholic Conference will send a letter in support. [LB1026]

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SENATOR SULLIVAN: Thank you, Senator Morfeld. [LB1026]

SENATOR MORFELD: Thank you. [LB1026]

SENATOR KOLOWSKI: Next, we'll turn to LB1064. Senator Sullivan, thank you. [LB1064]

SENATOR SULLIVAN: Thank you, Senator Kolowski and members of the Education Committee. My name is Kate Sullivan, K-a-t-e S-u-l-l-i-v-a-n, from District 41 and from Cedar Rapids, Nebraska. LB1064 addresses two issues affecting students. The measure would first provide requirements for setting the capacity for special education programs and services, with regard to option enrollment. The second component would modify the Public Elementary and Secondary Student Fee Authorization Act. The modifications would provide for strict interpretation of the act to minimize student fees and maximize equitable access, change the authorization for donations, and make the submission of student fee policies to the Department of Education and accreditation requirement. Before I explain some of the details, I wanted to just give you a little background as to why I have brought these ideas to you. My office, by virtue of my position being Chair of the Education Committee, we get a lot of questions, concerns, issues brought to us. They can come from superintendents, they can come from patrons, they can come from parents, and that really is how LB1064 came about. We look at these issues, we try to respond to their questions, but sometimes, in the analysis of some of the topics brought before us, we decide that perhaps it rises to the level of taking a look at changes in statutes. And that's why I've brought LB1064 to you today. So first of all, to tell you a little bit more about the first portion: option enrollment for special education. It provides requirements for setting the capacity of special education programs and services with regard to option enrollment. The district can set standards with respect to its capacity to accept option students, that's a given. Those have to do with capacity with regard to class size, grade level, school building, those aren't going to be impacted by this bill at all. Districts can also set capacity standards regarding special education option students. None of those standards for capacity have anything to do with cost, and therein lies some of the problems that we've had, and some of the concerns that have been brought to us. So what we say in LB1064 is that this capacity for special education option students cannot be set lower than the level where the addition of the new student, be it a resident student or an option student, would cause the allowable excess cost per student for the programmer service to increase by more than 15 percent. Now remember, first of all, what allowable excess cost per student represents. Those costs are the cost for a special education service that goes beyond those costs associated with students who don't have a disability. And if you recall last week in our Education Committee hearing, we had quite a discussion on special education. And it's those allowable excess costs that we heard about are what is used to determine what school districts will be reimbursed. Now I can talk all I want about why I brought this bill, or the circumstances that precipitated it, but after I get done, eventually you're going to hear sort of what I call a real world example from a parent with a child. And they went to option in to a school district, and

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some of the challenges that they have, because that child qualifies for special education services. So without going into any more detail...I mean, and certainly I would be more than willing to answer questions after I'm done with this introduction, but I just wanted to give you a heads up that you will be hearing sort of what I call a real life example. The other component of LB1064 has to do with student fees. And it's not so much significant changes, but rather a reminder and clarification of what I call the legal way to impose student fees, being very cognizant of our constitution, Article 7, Section 1, that provides for the free education of children ages 5 to 21 in the common schools. And to that end, we propose to add a new section to the Student Fee Act, that would require the Fee Act to be strictly interpreted and construed to minimize student fees and maximize educational access to free instruction, as required by our constitution. Now I want to remind you that certainly schools are authorized, according to the Student Fees Act, to issue requirements for fees. They can provide for fees for the following purposes: participation in extracurricular activities; admission fees and transportation charges for spectators attending extracurricular activities; postsecondary education cost; transportation, pursuant to Section 79-241, 79-605, and 79-611; copies of student files or records, pursuant to Section 79-2,104; reimbursement to the school district or educational service unit for school district or educational service unit property lost or damaged by the student; before and after school or pre-kindergarten services offered, pursuant to Section 79-1104; summer school or night school; parking; and breakfast and lunch programs. Those are what a school district can charge fees for right now. The other thing that LB1064 would do, would clarify a little bit about who would accept or request donations, and this is also in the Student Fee Act. Specifically we're saying in LB1064, that it's the governing board, or the school board in this case, that can accept the donation, and then it would put the request level on the principal and the teacher. Now you might say, well, what's the difference? Well, I guess in thinking through this, in changing it, it's the teacher and the principal, boots on the ground, so to speak, who see the need to...we need to ask for donations to cover this program. So they would be given the authorization under this to be the requesters, so to speak, and then it's the school board that receives the donation. Minor, if you will, but as you well know, words mean something. And last of all, and this perhaps is causing some consternation, the Student Fee Act currently now says that a district must have a policy regarding student fees, and that it be published in the student handbook. LB1064 also requires that the policy be submitted annually to the Department of Education, and failure to do so, a district shall lose its accreditation. As I said, this is causing some consternation. But I want to remind you of a couple of things. First of all, there are other things in rule 10, for which a district could lose its accreditation for not filing a report on time. And secondly, the department, if...and hopefully Senator Baker might have some real world experience to this, although he probably got all of his reports in on time, but that if you fail to do so, you're going to get a call from the department reminding you to do that. And then secondly, there is an appeal process. So those are the things that are included in LB1064. I know you are going to hear some opinions, probably both ways, but I stand by what I felt were some concerns that were worthy enough to look at

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statutes under which they're concerning, and for us to talk about possibly making some changes to them. So at this point, I'll field some questions. [LB1064]

SENATOR KOLOWSKI: Thank you very much. Any questions for the senator? Senator Krist, please. [LB1064]

SENATOR KRIST: Just a quickie. Why 15 percent? [LB1064]

SENATOR SULLIVAN: Totally arbitrary. [LB1064]

SENATOR KRIST: Okay. [LB1064]

SENATOR SULLIVAN: I mean, and so I'm willing to hopefully hear some reaction. I mean, we had to pick a number. It shouldn't have been so low that it wouldn't have made a difference, so high that it's, you know, really out of line. So that's how we came up with 15 percent. [LB1064]

SENATOR KRIST: Thank you. [LB1064]

SENATOR KOLOWSKI: Senator Baker, please. [LB1064]

SENATOR BAKER: Thank you, Senator Kolowski. Senator Sullivan, I'll start first with the student fees changes. You know, I was a superintendent when this was implemented. And you know, from that date forward, we had our annual hearing as required. We, you know, presented the fees if there were any changes, and it was always in the student handbook. So are you believing there are people who are not doing that? [LB1064]

SENATOR SULLIVAN: We wouldn't have...okay, as I said, we field concerns. And it's maybe not so much that it wasn't in the handbook, but maybe a liberal interpretation of what they can charge fees for and not charge fees for. [LB1064]

SENATOR BAKER: Okay. So, you know, you were a school board member, right? At one time? Do you remember ever hearing Todd Whitaker? Probably every educator in the state, current board members, and administrators, and a lot of staff members heard of Todd Whitaker. Todd Whitaker talks about hey, you know, if you're an administrator, and you've got a couple teachers coming in late, you don't chew out your entire faculty. You don't send out a harsh memo, that you better watch what time you're getting to work, or else. You go talk to the people who are being late. So also, the same way within a class, you know, with classroom discipline. If you get one

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kid acting up, you don't chew out the whole class, you go to the person who is acting up. You indicated there's people who call your office, since you're Chair of the Education Committee. Did you refer that to the Department of Education? [LB1064]

SENATOR SULLIVAN: Oh, we always do. We always have dialogue with the department. [LB1064]

SENATOR BAKER: Okay. So that seems to me a logical thing. My third point on that is that I spent most of my career in Nebraska, but I did spend nine years in Iowa. And when I returned to Nebraska, Doug Christensen was the commissioner, and I told Doug that...you know, I'm not used to being threatened for everything. Because there's always...it seems like every piece of legislation is that if you don't do this, you're going to lose state aid or that type of thing. Nine years in Iowa, never got threatened that way once. I don't think it's necessary. If someone is out of compliance, notify the state department, they talk to the people to see if in fact someone is offending, not living up to some rule. I just don't like these types of statements in there...you do this or else. It's like a theory x proposition that people are not going to do the right thing unless you hammer--you hold a hammer over their head. And I don't like it. The other part, moving on to the special ed capacity. We were in a situation when I was at Norris, that there were times when we couldn't accept option enrollments in certain grades because we're at capacity. You know, you can't make up numbers. You know, your capacity is a given, your projected enrollments can't be dummy numbers. You know, you have to...or else you won't...you'll fail if someone appeals it. You have to demonstrate that those things are made up of real numbers. Special ed programs, as you indicated, is a separate category where you can set capacity. You know, there's been previous testimony at Education Committee hearings that special ed is not funded very well. That came up with Senator Davis' bill, you know, the promises that were made were never kept as far as a level that your special ed expenses are actually reimbursed. So you're on a shoestring budget with special ed, in that you don't take on more than you can manage. Because if you do, that generally means you have to hire another teacher, another para, whatever the situation they call for. Probably not for speech therapy, you know, but for other types of handicapping conditions. Yes, it seems to me that this puts you through a lot of contortions, when you know darn well that you can't...your special ed programs, that's all you can handle right now. And that's what I would end up telling you. So thank you. [LB1064]

SENATOR SULLIVAN: Thank you, Senator Baker. Would you mind if I respond to that? [LB1064]

SENATOR BAKER: Please. [LB1064]

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SENATOR SULLIVAN: Okay, thank you. Well, first of all, regarding the student fees, I don't think that there are a lot of people being what I would call bad actors, who are abusing it. But if something is in statute versus just in rules and regulations...to me, if it's in statute, it rises to a certain level of importance. And if it does, then there probably should be consequences attached to it. Now, as I said earlier, it appears to me, in conversation with the department, there is adequate leeway, in terms of informing them that they've missed the deadline. They have a chance to respond, and so all is forgiven, let's go on about our business. If they don't, there's an appeal process. So there's adequate stop gaps along the way, so there's that. Secondly, with regard to the special education component, I want to tell you what my overarching feeling was in introducing this. And that's to try to strike a balance between equitable access to school...to a child that wants to option in to a district, and recognizing fully the challenges that a district has meeting their federal requirements for special education. So some of this, as I said to Senator Krist, the 15 percent--yes, it was arbitrary. Is there something better? Maybe, but a student should not be denied just for the mere fact of saying cost. We need to dig a little deeper on this. [LB1064]

SENATOR BAKER: And may I respond? You know, a school district, like what I was familiar with, build it and they will come. So if you get a reputation of doing a great job with special ed kids, then what you're suggesting gives freedom to the school district that surround them saying you don't really have to have a very good special ed program. Saying, just go option into Norris, or option into wherever. So I don't think that's a good thing either. [LB1064]

SENATOR SULLIVAN: Well, and as you can see, we're going to have a lot of different opinions about this, and that's healthy. And I anticipated that, you know, that's why when you bring up issues, you're going to get information that's helpful to us in our deliberations. [LB1064]

SENATOR KOLOWSKI: Senator Groene, please. [LB1064]

SENATOR GROENE: Thank you, Chairman. First, on that option, I don't follow it completely, so this might be a stupid question. If I was a superintendent, I'd say, uh-oh, 15 percent, so I'm going to set my capacity at 85 percent now, of what I could do, because I'm probably going to get an extra student, and so then I'm at the budget I can really afford. Now, could they do that? [LB1064]

SENATOR SULLIVAN: Well, you have to substantiate it by your actual costs. You can't just arbitrarily set it there. You have to... [LB1064]

SENATOR GROENE: You have to accept every student in your district that has a special needs, right? [LB1064]

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SENATOR SULLIVAN: Yes, yes. [LB1064]

SENATOR GROENE: This is about students optioning in. [LB1064]

SENATOR SULLIVAN: Yes, yes. [LB1064]

SENATOR GROENE: So the money they get is just the regular option money. Any added cost to the special education is on that school district, right? But nobody's denying access to special education, they can stay in the district they're in, right, and they will get it? All right. As to the fees, I don't understand what...I didn't, clearly here why we need this bill. Are there some people not putting the fees in their handbooks? Not clearly? [LB1064]

SENATOR SULLIVAN: I don't know that it's so much that as it appeared to me that there was either a more liberal interpretation of what schools can charge for. And they probably do put it in their handbook, but it clearly in statute says what they legally can charge a fee for. [LB1064]

SENATOR GROENE: So the reason you want them to send it to the Department of Education is they can look at those fees and then get back to the school district, say we don't believe this fits under the statutes. That's why you want to go...you want a clearing house, basically. [LB1064]

SENATOR SULLIVAN: Basically. [LB1064]

SENATOR GROENE: All right, thank you. [LB1064]

SENATOR KOLOWSKI: Senator Schnoor, please. [LB1064]

SENATOR SCHNOOR: I guess let's talk student fees first. If...that is an optional program, correct? [LB1064]

SENATOR SULLIVAN: The fees? [LB1064]

SENATOR SCHNOOR: Yeah, you don't have to charge fees. [LB1064]

SENATOR SULLIVAN: Right, right. [LB1064]

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SENATOR SCHNOOR: But yet, you still have to have a hearing to say that our fees are zero, which seems rather odd. But, I mean, that's what the statute is. So right now, the fees are...it's authorized by the school board, implemented by the administration essentially, correct? And you're saying this should also be authorized by the teachers, to say this is what we need fees for? [LB1064]

SENATOR SULLIVAN: The board would authorize the teacher and the principal to make the request for a donation. See, we're really talking about two different things. We're talking about donations here that are also included in the Student Fee Act. So whatever fees you're charging over here, that's fine. But say you want to accept some donation...and all I'm changing there is sort of the process. And I'm saying right now in the statute it says the school board can request the donation. I'm saying teacher, principal, boots on the ground, you know what you need the donation for. The school board will authorize you to make the request, but then it will be the school board that accepts the donation. It seems...it's very minor. But just terminology more than anything. [LB1064]

SENATOR SCHNOOR: Okay, now back to the option program. In a smaller school, where one student...the addition of one student can make a big difference in staffing, what do you do if somebody wants to option in, it's a special ed student, and requires a district hire...the only way they're going to be able to do it is hire another teacher? [LB1064]

SENATOR SULLIVAN: They could very well exceed their above the 15 percent above the allowable excess cost. And so therefore, they would have met their capacity, they couldn't accept any more. [LB1064]

SENATOR SCHNOOR: What is not working now, that is... [LB1064]

SENATOR SULLIVAN: You will hear an example. [LB1064]

SENATOR SCHNOOR: Okay. [LB1064]

SENATOR SULLIVAN: Rather, I think it's better...I mean certainly afterwards I can answer any questions, but I think it's better to hear that real world example. [LB1064]

SENATOR SCHNOOR: Okay, thank you. [LB1064]

SENATOR KOLOWSKI: Any other questions, please? [LB1064]

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SENATOR PANSING BROOKS: I'll wait until we hear more. [LB1064]

SENATOR KOLOWSKI: Senator, did you have contact with practicing educators, or anyone from NCSA, or NSEA, or school board associations in discussions on this? [LB1064]

SENATOR SULLIVAN: Not a lot. A couple. But I had really hoped that that...well, obviously that's the purpose of the public hearing, to hear some of these things. [LB1064]

SENATOR KOLOWSKI: Thank you. Yes. [LB1064]

SENATOR PANSING BROOKS: I guess what I'm interested in is...so the larger the district, the less chance that you can get reimbursement for the high-need learner? Is that correct? Because it seems like...the line that says it would cause the allowable excess cost per student for the program or service to increase by more than 15 percent. Can you explain that to me? It seems like if you've got a bigger district, it's much harder to move that needle. Isn't that correct? [LB1064]

SENATOR SULLIVAN: Well, not necessarily, because you have your...even in large districts, you've got the cost that it takes to educate any student. And then you have your excess costs, that are represented by your special education program. That's what we're dealing with in LB1064. So then in establishing your capacity to accept additional students, you have these allowable excess costs, which would be over and above what it costs to take care of students that don't have that disability. And that's how you're going to determine your capacity. If adding the service staff or whatever to meet the needs of that special education student that wants to option in takes you 15 percent or more above those allowable excess costs, then you are at capacity. Now, one could say for a larger school district it's harder to reach that, well, you've got perhaps greater access to a variety of services. [LB1064]

SENATOR PANSING BROOKS: So say that it's \$10,000 per student per year, so you have to look at the aggregate numbers before you can move that? It's got to go up 15 percent for all students in a way? Or is that how it's... [LB1064]

SENATOR SULLIVAN: For the program. For the total special education program. [LB1064]

SENATOR PANSING BROOKS: Oh, for the kids within that program itself? [LB1064]

SENATOR SULLIVAN: For the special education...the services provided. [LB1064]

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SENATOR PANSING BROOKS: And right now, what's happening? Just...can you explain it to me right now? Right now it just is going up or down according to needs, and as the program changes in one year, it's a little bit more, because you've got more students, and another year it's lower? [LB1064]

SENATOR SULLIVAN: Well, no, I think the issue is school districts can set their standards for capacity of a program for...to determine whether or not to accept an option student. Class size, building, grade level, and special education...in the situation you will hear, it was simply can't accept you because of cost. We're fine tuning that and saying well, what is your standard within the cost. Okay? [LB1064]

SENATOR PANSING BROOKS: Okay, thank you. [LB1064]

SENATOR KOLOWSKI: Thank you, Senator Sullivan. We will now move on to proponents for this bill. Would you please come forward? Good afternoon. [LB1064]

GARY SHADA: (Exhibit 1) Good afternoon. Thank you, Senator Kolowski and the Education Committee. I am Gary Shada, G-a-r-y S-h-a-d-a, from Pierce, Nebraska, and I am the real life, real world example that Senator Sullivan referenced to. I am here today to support Senator Kate Sullivan's LB1064. I have been in contact with Senator Sullivan's office since early October, in regards to a situation my family has found itself in. My wife and I had found a house--a different house, a house that we only imagined that we'd be able to have one day. The size of it, the layout, its location on an acreage, is what we've been waiting for. The one drawback, it was outside of the school district that our kids currently attend by one mile. I thought, no problem, we will just option our kids into the district. Families have been and will continue to do this with some frequency. My initial concern was would the district school buses travel outside of the district to transport school children. I asked the district superintendent, and he said yes, for a minimal charge. He then asked if I was asking for myself or someone else. I let him know I was asking for my wife and I. Imagine my shock when he showed up at my classroom later that day. Yes, I teach in the district that we are wanting to option our kids into. I've been doing so for the last 22 years, which is why we want them to attend this district. And he informs me that since my daughter has Down's Syndrome and is considered a special needs student, the district would deny her option enrollment. This is when I start placing phone calls to various government agencies like the Nebraska Department of Education, to find out what my options were. I made contact with a number of different people, all of whom were extremely helpful. I also decided to call Senator Sullivan's office, because as I dug deeper, it started to become more evident to me that money is the primary factor as to why the state's policy, and the policy that many school districts across the state have adopted, read the way they do. With more inquiries via phone calls and emails, I came to discover additional information, in which I learned how much money a

district receives if their net option enrollment students coming in is greater than those who option out. I also learned how much a school district's education expenditures would or could be reimbursed. Like so many other areas of society, a stigma has been placed on students with special needs or students who have an IEP. That stigma is it will cost a district more money to educate them than students who do not have special needs or an IEP. In some cases this may be true, but in many cases it is not. And based upon the fact that schools can get special education expenses reimbursed and can receive more funding if their net option is positive, which means that this extra expense is oftentimes minimal at most. I will admit I did foster some ill will towards my superintendent and district, but as time went on, I realized they are only doing what the system allows. My wife and I were also very surprised when we filled out our option enrollment application, to see that one of the first items of information that the parents were asked to fill out is does the student require special education services. As parents with a child that has special needs, my wife and I found this rather offensive. The day that my daughter was born was an extreme day, like it would be for any parents. My wife and I had our baby girl. She could dress her up in her pink outfits and lacy, frilly dresses, and I could be the overprotective father. Then we found out, realized that our little angel has Down's Syndrome. When I learned this, my first reaction was sitting on the couch of the room, placing my hands on my face, and crying. As a teacher, you know how hard it is, you know how hard kids can be on each other, and that's if they're not special needs. When you have a child that has special needs, and they have physical traits that are identifiable, you feel as if a huge bullseye has been placed on them. I was so concerned how she would be accepted by her peers and others. Little did I realize, it's not her peers who see her as different, it's the public school system. In this country, it is illegal for any individual to be denied many rights or jobs because of race, ethnicity, religion, gender, or sexual orientation. However, a child can be denied option enrollment into a public school because of a special need. And just so you know, my wife and I would change absolutely nothing, when it comes to our daughter. She has taught us more in her four short years of life, then we ever could have learned elsewhere, when it comes to individuals with special needs. She has made us better people. [LB1064]

SENATOR KOLOWSKI: Thank you very much, Mr. Shada, for your testimony. And do you have any questions, please, for him? Yes, Senator. [LB1064]

SENATOR KRIST: Do I understand that your daughter was never enrolled in the school? When you moved though, that's where your son is enrolled at present? [LB1064]

GARY SHADA: Correct. [LB1064]

SENATOR KRIST: And you're a teacher in that school system? [LB1064]

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GARY SHADA: Correct. [LB1064]

GARY SHADA: I guess she is enrolled, but she's enrolled in preschool. But I know the Department of Education does not cover preschool, it's only K-12. [LB1064]

SENATOR KRIST: These kinds of decisions forced us as a family to put my daughter into a private school. That and the lack of continuity, in terms of transferring kids from special needs classroom to special needs classroom in the metropolitan area. You're absolutely right, we don't treat people with special needs with the dignity that they should be treated. And I'm new to this committee, but I'm not new to being a parent of a special needs child. That doesn't mean anything to you right now, except that I will do whatever I can to make sure that some provision is made. I don't know what that is, but bringing it to public light can't do anything but good things at this point. God love you. [LB1064]

GARY SHADA: Thank you. [LB1064]

SENATOR KOLOWSKI: Senator Schnoor, please. [LB1064]

SENATOR SCHNOOR: Just to clarify, just so I can understand your situation better, you obviously moved...I'm assuming bought a house. But judging by what you said, you wanted to take your child to a different school district other than where you were located? [LB1064]

GARY SHADA: No. We...our house is located in a different school district then where we currently are now, and we like to keep them in that district--the district that I teach in, the district where my son goes to school, and the district where she currently attends preschool is where we would like for her to continue to stay. [LB1064]

SENATOR SCHNOOR: Okay. And that district where you teach...you live in another district, you're bringing her back to your district where you teach, and they won't accept... [LB1064]

GARY SHADA: They...correct. When we filled out the option application papers, my son was accepted, my daughter was denied. [LB1064]

SENATOR SCHNOOR: Okay. All right, thank you. Thank you for clarifying that. [LB1064]

GARY SHADA: Thank you very much. [LB1064]

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SENATOR KOLOWSKI: Mr. Groene. Senator, please. [LB1064]

SENATOR GROENE: Thank you, Vice Chairman. So you lived in the district clearly, and your child went there, your boy. [LB1064]

GARY SHADA: Yes. [LB1064]

SENATOR GROENE: Then you moved out of the district. [LB1064]

GARY SHADA: In the beginning of December. [LB1064]

SENATOR GROENE: And because you drive back and forth, that makes sense you want to take your kids with you. But it's preschool? Are you applying for when they go to kindergarten next year, and they turned you down. [LB1064]

GARY SHADA: Correct. [LB1064]

SENATOR GROENE: All right. It's not the preschool, presently, it's the kindergarten next year (inaudible). [LB1064]

GARY SHADA: Correct. It's for the 2016-2017 school year. [LB1064]

SENATOR GROENE: And they turned you down. [LB1064]

GARY SHADA: Correct. [LB1064]

SENATOR GROENE: Because they maxed out on their capacity or... [LB1064]

GARY SHADA: That was one of the reasons that they gave. They did list capacity on the application. However, when I sent a letter to the superintendent asking for more specifics, there were several places where it did mention that accepting her as an option student with special needs would cause exceptional or significant expense to the district. [LB1064]

SENATOR GROENE: Is there...I know that Pierce area, I used to work up there, north of there. But...so all of them towns are about the same size, so I don't know what district...don't need to

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know, but I got a pretty good idea. Do they currently have a Down's Syndrome student in the system? [LB1064]

GARY SHADA: The district that we moved into? [LB1064]

SENATOR GROENE: No, the one you want to stay in. [LB1064]

GARY SHADA: The one that we are in. They do not have any children with Down's Syndrome. However, we have had a number of children that I guess have been the responsibility of the district until they were 21, because of the special needs that they do have. [LB1064]

SENATOR GROENE: So they would have staff on hand that could handle your daughter, or would they have to hire staff? Is that their concern? [LB1064]

GARY SHADA: Their...when my daughter started preschool, they did not have to hire anyone to be her para. [LB1064]

SENATOR GROENE: They had somebody on staff that could. [LB1064]

GARY SHADA: They had someone there. [LB1064]

SENATOR GROENE: And they could in the kindergarten. I'm just trying to figure out the cost. It could be even more than 15 percent if they got to add staff. [LB1064]

GARY SHADA: Like I said, they did not have to add anyone when we were in the district and she started preschool. [LB1064]

SENATOR GROENE: You don't know about when she gets into kindergarten? [LB1064]

GARY SHADA: No, I don't. [LB1064]

SENATOR GROENE: All right. I'm just looking at reasoning why they would have rejected. Thank you. [LB1064]

GARY SHADA: You're welcome. [LB1064]

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SENATOR KOLOWSKI: Mr. Shada, again, just for clarification. You did buy that house, you moved outside of the district? [LB1064]

GARY SHADA: Yes, we did. [LB1064]

SENATOR KOLOWSKI: Then you optioned for your son and daughter to attend the district you work in? [LB1064]

GARY SHADA: Correct. [LB1064]

SENATOR KOLOWSKI: And your son was accepted, but your daughter was not? [LB1064]

GARY SHADA: Correct. [LB1064]

SENATOR KOLOWSKI: Thank you. One way I've seen some districts work around this on the side, it does exist in different places, is that if you're working in that district, your child automatically has a chance...is accepted into that district. That exists in certain districts around the state. [LB1064]

GARY SHADA: And I've considered going to the board and asking them if they would consider adopting that as a new policy. As far as I know, it's a very unique situation. In the 22 years I've been in the district, this situation has never come up. [LB1064]

SENATOR KOLOWSKI: Thank you. Senator Schnoor. [LB1064]

SENATOR SCHNOOR: That leads me to another question. Have you...I mean, I understand the difficulty you're going through, but have you gone through the chain of command in that local school district to try and rectify this situation? [LB1064]

GARY SHADA: Yes, I have. I've met with the superintendent on a couple different occasions. I called one school board member and had a...explained the situation. Of course being in a small school district, I've taught a number...well, I've taught all the kids that serve on our school board, and he was very receptive, and we had a very good conversation. I then called another school board member, and the moment that I told him why I was...the purpose of the phone call, he stopped me right there and said that the district has already in the past denied a student with special needs, and if they were to accept my daughter, the district would be sued. And that was as far as the conversation went. [LB1064]

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SENATOR SCHNOOR: Okay. And then what is the level of disability of your child? Is it...you know, because there's...you know, with Down's Syndrome, there can be different levels of their disability. [LB1064]

GARY SHADA: Sure. [LB1064]

SENATOR SCHNOOR: Is this something that her disability is so extreme that it causes them, you know, concern, or more staffing, or to hire another teacher? Or can you answer that? [LB1064]

GARY SHADA: She does...in preschool, she does have a para that does one to one with her. But she is not with her the entire time. There are certain times where the para is with her and other times when the para is not. And we have, as far as I know, K-12, probably about 2 or 3 other students currently, that have a one to one para with them. And just so you know, we have filed an appeal with the Nebraska Department of Education. We have gotten a letter, in regards to that appeal, and we are just waiting to know when we need to travel back down to Lincoln for that appeal to be heard. [LB1064]

SENATOR SCHNOOR: Okay. And then, you know, if you...how long have you taught there? [LB1064]

GARY SHADA: This is my 22nd year. [LB1064]

SENATOR SCHNOOR: Okay, so you would know, generally, what the level of requirement is for staffing, even for special education. So do you feel this is putting an undue burden on the school district? [LB1064]

GARY SHADA: I...you know, really do not, granted I'm probably a little biased in that. But because of the fact that she's only four, and she does have some developmental delays, it's very tough to say once she starts to progress more, how quickly she is going to progress. I can't say that in the time that I've been there we have had several students that have probably been on a level even below her, but they have stayed in the district. The district that we moved to, there is a family, and their children do option in to our district. They have a daughter that has Down's Syndrome, who is older. Now, she went to school at the Eastern Learning Center in Norfolk. Now, is that because that district couldn't provide for her, or that's just what the family wanted to do, I don't know. But knowing the students that our district have been able to provide for in the past, and being as familiar with the staff as we are, and knowing the job that they do, that is why I would like to have our daughter attend that district. [LB1064]

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SENATOR SCHNOOR: Okay, thank you. [LB1064]

GARY SHADA: You're welcome. [LB1064]

SENATOR KOLOWSKI: Any other questions, please? Well, Mr. Shada, as a former high school principal, and having had the most severely handicapped students in the Millard District in my school, at the high school level, I certainly understand and empathize with what you're going through, and how special those kids are. And things that you need to supply them with, that kind of teaching environment is extremely critical and crucial for the success and growth of those students. And they do have opportunities to grow, sometimes slightly, but over time it does make a big difference with the kind of teachers you have. But this exemplifies the case of Senator Davis' bill a week ago, or in the last two weeks, that we had was a need for our special ed funding to get beyond the early 50s--52, 53 percent level that we're at at the current time, and get it back to the 80 percent where it belongs. It's our obligation, it's our right, it's our responsibility. And I hope we can do something with stories like your situation, your family, and others that we'll be able to meet that obligation in the future, better than we have now. Thank you. [LB1064]

GARY SHADA: Thank you very much. [LB1064]

SENATOR KOLOWSKI: Any additional proponents, please? [LB1064]

BRIAN HALSTEAD: Good afternoon. My name is Brian Halstead, B-r-i-a-n H-a-l-s-t-e-a-d. I'm with the Department of Education. I'm here...the state board is supportive of Senator Sullivan's bill to provide greater options to parents and to also clarify the Student Fee Act, to make it clear as to what's expected of school districts, and what fees are and are not allowed. So I'm just going to stop there and see if you have any questions. [LB1064]

SENATOR KOLOWSKI: Any questions, please? Senator Schnoor. [LB1064]

SENATOR SCHNOOR: In reference to what the previous gentleman was just talking about, is there a large...I mean, I understand any and every district could have a problem in any situation, but is this a widespread problem you feel that we have in our public school system in Nebraska, in reference to special needs students? [LB1064]

BRIAN HALSTEAD: Senator, I don't know that I can quantify that or tell you. We have 245 school districts. They range from the largest: Douglas County School District number 1, over 50,000 students; to a school district that has less than 100. So there is a huge range of variables, numbers, locations, all of those play into it. Many of you know the challenges that are out there,

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especially when you get to less populated parts of the state. Finding qualified people who want to serve children, regardless of how we want to classify them. The state board hears appeals on option enrollment cases, and they are adamant that they want to remove any barriers to parents' ability to use that program, that they don't feel are appropriate. And that's why this bill, the last bill today also has some minor changes to the option enrollment statute, to help give parents more use of that program. And the board supports that. [LB1064]

SENATOR KOLOWSKI: Senator. [LB1064]

SENATOR GROENE: Thank you, Senator. But you can see, to Senator Baker's point earlier, this is one of those exceptions to the rules that burns at your heart. I mean, because of practicality, the parents go to that school district, drive everyday their child. But you can see probably why we have what we have now is because of that shopping. That reputation is built by a school district for a certain handicap, and then people want to option into it and causing huge shifts to cost. Is that not why the regulations are as they are now? [LB1064]

BRIAN HALSTEAD: Well, option enrollment is a program this Legislature established and set the perimeters and statutes for it. The only role the board has is on appeal of those cases. We don't promulgate rules or regs (inaudible). [LB1064]

SENATOR GROENE: I understand. But you can see why they put those limits on there. [LB1064]

BRIAN HALSTEAD: Oh, absolutely. [LB1064]

SENATOR GROENE: Because of that situation. [LB1064]

BRIAN HALSTEAD: Well, there are...truly, when this program started in 1989, there were concerns. We had over 800 school districts at that time. Our world has changed since then. We find that parents are more mobile today, because we have better highway systems. We have staff at the department who live in Central City and drive to work everyday and go home. We have parents in our society that are far more mobile. [LB1064]

SENATOR GROENE: So you're answering the question, yes, there's a reason for these limits that we put. [LB1064]

BRIAN HALSTEAD: But we also need to recognize that as time goes by, the reasons for those limits in the past may need to be adjusted to fit the current needs. And I understand that with

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special education...I was up here last week on Senator Davis' bill, where it indicated it would cost \$125 million to get back to the 80 percent excess cost reimbursement. And I told you, we didn't just get into that issue in one year. That's been accumulating over the years. And I think from the board's perspective, they trust parents to make the best decisions for their children. Some of us may disagree with parents on their decisions in that regard, but they feel anything you can do to add a little more flexibility...they didn't exactly read the bill for the precise language or whatever. Maybe the language needs to be changed, that's clearly your decisions to make on option enrollment. [LB1064]

SENATOR GROENE: To the fees, do you get complaints? [LB1064]

BRIAN HALSTEAD: We get complaints about fees from various... [LB1064]

SENATOR GROENE: Do you look at them and send a letter now to the school board that said we don't believe your fee... [LB1064]

BRIAN HALSTEAD: Well, because if you look at those statutes, the department has absolutely no role in the Student Fee Act. [LB1064]

SENATOR GROENE: You get complaints, but... [LB1064]

BRIAN HALSTEAD: We only get them and we redirect people back to, well you need to talk to them. [LB1064]

SENATOR GROENE: To the school board. [LB1064]

BRIAN HALSTEAD: Anecdotally, we hear cases all the time. And usually, it's a case of somebody forgot to read the statutes or think through what they were doing. But obviously again, if there's any greater clarity you can put in that act, as to what's expected of schools, and districts, and the personnel, that would be helpful to all. Sometimes it's not easy defining all of the details as to what a fee is for or not, and that...you know, and school administrators, I'm sure they get calls and oh man, what did the teacher send home with the kid? Oh, you can't say required, you can ask. Sometimes, it's just not thinking it through. So, you know, as to this specific language Senator Sullivan has in the bill, look at it...anything you can do to clarify that, so we're not here having to address it. Maybe the approach is not the right...I'm not here to comment on that. If you want the department to get the department to get the policies, and the schedules, and everything from the school districts, we can do that--that doesn't cost any more, fiscally, to the state's budget, if that is helpful. At the moment, I have no idea what the school district policies

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are on fees in Nebraska, because there's no role for the department in that. The Legislature didn't assign a role to the department on student fees. [LB1064]

SENATOR GROENE: Thanks. [LB1064]

SENATOR KOLOWSKI: Senator Baker, please. [LB1064]

SENATOR BAKER: Thank you, Senator Kolowski. Mr. Halstead, have you ever been involved in a hearing to dispute a denied option request? [LB1064]

BRIAN HALSTEAD: No. What we do at the department, other staff handle those appeals of those cases. That's not something I've handled. [LB1064]

SENATOR BAKER: Okay. All right. So do you feel like you have a good understanding how that works? [LB1064]

BRIAN HALSTEAD: The process for appeals, absolutely. Yeah. [LB1064]

SENATOR BAKER: All right. So I've been in one where our kindergarten was at capacity. It was a regular ed student we denied and it was an appeal hearing. We eventually prevailed, because our numbers were real. But would it be your understanding that if we said all right, I know this family, the other kids have gone to my school, we'll let you in...once you did not abide by your own standards, anybody could come in? [LB1064]

BRIAN HALSTEAD: One gets into the problem, if you've set a standard, and then you start waiving it. [LB1064]

SENATOR BAKER: And so there could have been 100 more. If you were trying to be a good person (inaudible). [LB1064]

BRIAN HALSTEAD: Right. And I understand the capacity issue is not a simple one to define for a school or a district. [LB1064]

SENATOR BAKER: No. [LB1064]

BRIAN HALSTEAD: And we're not here to have an arbitrary or a statewide definition on that. [LB1064]

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SENATOR BAKER: The other thing, the other point...going back to the earlier conversations. You know, the option enrollment laws change sometimes. Originally, if you were a sibling of a student, then you could go, but then that was removed. [LB1064]

BRIAN HALSTEAD: The automatic exception of siblings was qualified several years ago, it's no longer automatic. [LB1064]

SENATOR BAKER: It isn't. It was also... [LB1064]

BRIAN HALSTEAD: But it is a consideration that boards can utilize. [LB1064]

SENATOR BAKER: It would also be true, just because, you know, the example of this gentleman. Just because you teach in a school, you cannot get any special...there's nothing in option enrollment regulation that says you can make an exception for someone who teaches in your school, correct? [LB1064]

BRIAN HALSTEAD: Senator Baker, since he says he's filed an appeal with the state board of education, I'm not going to offer any information on that at this point in time, that wouldn't be appropriate. [LB1064]

SENATOR BAKER: Thank you. [LB1064]

SENATOR KOLOWSKI: Senator Krist, please. [LB1064]

SENATOR KRIST: Brian, there's a process in place in some school districts where you contract a special needs... [LB1064]

BRIAN HALSTEAD: Statutes do permit the contracting between school districts or other providers to serve students, absolutely. [LB1064]

SENATOR KRIST: So what we have here is a school district that doesn't want any future liability, so they're drawing a line in the sand and saying we're not going to take you, therefore, we're not going to have this discussion. Where he's living, he could register and we have to accept that child in that school, right? [LB1064]

BRIAN HALSTEAD: Under the statutes, where the child resides, the school district is required to enroll the child free of charge, yes. That's the current law. [LB1064]

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SENATOR KRIST: So one way or another, we're going to pay for that special needs child to be in a public school of the state for free? So now, in the essence of a person who is an employee, been there for 20-plus years, wants to have his family together in one school district, what do we need the law to say? That school district needs to pay for it either there or there, the price is the same? [LB1064]

BRIAN HALSTEAD: Senator... [LB1064]

SENATOR KRIST: You don't want to comment because it's...yeah, I got it. [LB1064]

BRIAN HALSTEAD: You got me in a bad spot. But I think there are probably ways in which you can make the language and modify it so that you truly do reflect, if in fact, it is doing something that is not already in place. As opposed to capacity for however it's defined now. It's not a real simple concept, because what's a capacity of a fourth grade classroom is not uniform across this state. Some of that is dependent on a whole number of factors. So, you know, in the sense of... [LB1064]

SENATOR KRIST: You're a lawyer, so I'm going to use your terminology. It's almost capricious, and at this point, so arbitrary to make that discussion and to put that first question in there--does the student require special needs, because the next question says: do they have the IEP process? Which to me is pretty much the same. [LB1064]

BRIAN HALSTEAD: Right. [LB1064]

SENATOR KRIST: It's a double-edged question, so you go no, no, no, and the answer is no and you're gone. We're going to pay for his daughter. And I just think that the smart people need to figure out how that's going to happen without setting an arbitrary number of 15 percent. Because no matter where that child is, whether it's \$150,000 a year, we're going to pay for that child to be there. [LB1064]

BRIAN HALSTEAD: We're all going to pay for the education of that child regardless, you're absolutely correct. [LB1064]

SENATOR KRIST: And we should. [LB1064]

BRIAN HALSTEAD: Absolutely. And it may also be in a private setting in that regard, too. Because the special ed funding does follow the child if they're in a private school. [LB1064]

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SENATOR KRIST: Which does happen. [LB1064]

BRIAN HALSTEAD: Absolutely. Absolutely. [LB1064]

SENATOR KOLOWSKI: Senator Baker, please. [LB1064]

SENATOR BAKER: Thank you. Mr. Halstead, you're familiar that school districts every year have to set the standards for acceptance or rejection of option enrollment students? [LB1064]

BRIAN HALSTEAD: The statute requires that they do in fact have their standards for that, absolutely. [LB1064]

SENATOR BAKER: And are you familiar? Can you visualize that form? [LB1064]

BRIAN HALSTEAD: I... [LB1064]

SENATOR BAKER: There's elementary grades, there's high school grades, and then there's special ed, by program, where you have to establish your capacity, projected enrollment in each of those programs. [LB1064]

BRIAN HALSTEAD: I suspect that is what a school district goes through, absolutely. [LB1064]

SENATOR BAKER: That is true. Therefore, having that on the form would be necessary, would it not? For that to be identified, if there was in fact a special ed student applying? [LB1064]

BRIAN HALSTEAD: I know why it's on the form, so that there's information there for everybody to understand what's going on, yes. [LB1064]

SENATOR BAKER: And specifically for setting the standards for acceptance or rejection? [LB1064]

BRIAN HALSTEAD: Sure. I mean, I believe that's why that's there. [LB1064]

SENATOR BAKER: Yes. Thank you. [LB1064]

BRIAN HALSTEAD: So that you have that to look at your criteria. [LB1064]

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SENATOR KOLOWSKI: Senator Groene, please. [LB1064]

SENATOR GROENE: Thank you. As for the definition of all have to pay for this. If you're in an unequalized district, and you have this special needs student come in with a high cost, you only get paid so much for special needs. We just said with Senator Davis' bill it's only covered 20 to what, 50 percent? So not all that...the citizens of that district will pay more...maybe that mill levee will go up, for the added cost. And if you're in an equalized district, you only can gain so much money from your property tax at a \$1.05, plus your equalized aid. Bringing in more special needs is going to loop that pool of money across the whole student body of what each student spent on it, is that not right? So the definition of all in the state have to pay for this special needs student that options in is not exactly correct. It's that district that's going to pay. [LB1064]

BRIAN HALSTEAD: Well, Senator... [LB1064]

SENATOR GROENE: The citizens of that district pay more property tax or dilute their overall. [LB1064]

BRIAN HALSTEAD: My statement about all means that all Nebraskans pay in some manner, shape, or form for the education of all of the students in Nebraska. As to whether that's equally done, is an entirely different situation. And if we do not do a good job in educating the children, there are other areas in which I am paying and you're paying for something to be done to help the individual if they're no longer in the education... [LB1064]

SENATOR GROENE: That's not the question here. If they stayed in district they're in, the child will be educated. So, I mean, that's not the issue here, of denying access. It's who pays, which district? That's what we're debating here. [LB1064]

BRIAN HALSTEAD: And that may ultimately be the decision the Legislature has to make, because the Legislature is the one ultimately who fines the education system in the state. And that's clearly not an easy job to do, I recognize that, sir. [LB1064]

SENATOR KOLOWSKI: Senator Schnoor, please. [LB1064]

SENATOR SCHNOOR: A child with a disability, they aren't...they reside in a school district, doesn't necessarily mean that's where they're going to be taught. The disability could be such that that school is fully incapable of taking care of that child, correct? [LB1064]

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BRIAN HALSTEAD: The school district in that setting would...it still has the responsibility for the child. [LB1064]

SENATOR SCHNOOR: Right. [LB1064]

BRIAN HALSTEAD: They may contract or find other providers who will do that work for them. So in that regard, yes, the child may receive an education in a different setting, or someone else may come in to do that, because of the district lacking the staff. That's certainly possible under the laws. [LB1064]

SENATOR SCHNOOR: But it will always be, to a certain degree, the financial responsibility of that school district where you reside. [LB1064]

BRIAN HALSTEAD: If that's where the child is residing and going to school, yes, absolutely. [LB1064]

SENATOR SCHNOOR: But yet, you could reside in that school district and they could actually be going at a group home in Omaha, and the school district is still responsible for a large majority of the bill? It could be the school district and Health and Human Services. [LB1064]

BRIAN HALSTEAD: Yeah, there's a separate budget that you have to appropriate to pay for the state ward's education cost, which isn't a small number, either. And unfortunately, when one looks at the number of foster kids, there are some who would say it's disproportionately special ed kids that are in the foster homes. And we haven't necessarily done a great job with those children, either. But I know you're all working on that too, just like we are at the department. It's not...I'm not here to tell you this is simple. And you all know that it's not simple. [LB1064]

SENATOR SCHNOOR: Okay. [LB1064]

BRIAN HALSTEAD: And I guess the state board's point was any equity you can do for the parents in those situations, please do so. [LB1064]

SENATOR KOLOWSKI: Senator Baker. [LB1064]

SENATOR BAKER: Thank you. Mr. Halstead, you're familiar with the language of this bill, whether or not you were involved in helping draft it in material. But you're familiar with the language of the bill? [LB1064]

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BRIAN HALSTEAD: Well, I did read it, but if you're going to ask me to recite it back to you right now, I'm going to struggle. [LB1064]

SENATOR BAKER: I'm not. I'm not. All right, here's my question. [LB1064]

BRIAN HALSTEAD: Sure. [LB1064]

SENATOR BAKER: All right, so the decision on one child is whether or not increase the excess cost by more than 15 percent. Is it a child by child decision? Say you had 50 requests, is it child by child or a conglomerate of all the... [LB1064]

BRIAN HALSTEAD: Well, I looked at that language too, Senator, and I think Senator Sullivan, when I heard her introduction, she was talking about the whole special ed program was that, not child by child. [LB1064]

SENATOR BAKER: Okay. [LB1064]

BRIAN HALSTEAD: But that may need better clarity as to how you go about calculating that, and since this can occur at any point throughout a calendar year, what's the year of the excess cost calculation you're utilizing in that regard? Because depending on where the situation occurs, because option enrollment can occur throughout the whole school year if districts want to waive deadlines, it also can occur because children and families move. So that number is always a fluctuating number as to if the child moves into a school district today, well, the excess cost of last year isn't necessarily as accurate as it is now. [LB1064]

SENATOR BAKER: It would be an important distinction whether it's child by child or in total, because if it were child by child, it's 14 percent on this one, 14 percent on the next one, 14 percent on the next one. Pretty soon, it's quite a bit. [LB1064]

BRIAN HALSTEAD: You may want to clarify exactly, if that language is in there, how it is you're expecting people to look at it, so we're all going to the same data source and the same time frame to do that, absolutely. [LB1064]

SENATOR KOLOWSKI: Brian, one last question. Special ed funds, are they always a year in arrears? Is that (inaudible)? [LB1064]

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BRIAN HALSTEAD: The state's general fund reimbursement to school districts for special education is a year in arrears reimbursement of the eligible excess cost. [LB1064]

SENATOR KOLOWSKI: Okay. [LB1064]

BRIAN HALSTEAD: So yes, and that also is defined by a statute, that it's a year in arrears. [LB1064]

SENATOR KOLOWSKI: Thank you. Any other questions, please? Thank you very much. Additional proponents, please? Good afternoon. Welcome. [LB1064]

VIRGINIA MOON: Thank you. My name is Virginia Moon, M-o-o-n. I'm here from NCSA to testify in support of LB1064. You might wonder why, because no school administrator ever wants to be told what they have to do, and be threatened, as you spoke of, Senator Baker. But we're here...primarily the committee talked about this...and our support for this bill is because of the strong support from school administrators to have that free access to education, which includes all the richness of the co-curricular activities, activities programs, the athletic programs, all of those. And we support strongly the legislation behind this original fee policy, and it's important enough for us to go through whatever hoops are necessary to see to it that students across Nebraska have access to all of the richness of the schools in Nebraska, not just what they can afford. I do think that what has happened a little bit with the fee policy is as we've been into it a little while, we see competitive programs like band, and cheerleading, and some of those programs like that that require a lot of costumes and things like that to...they get so competitive they need more and more money to run those programs and be competitive. And so sometimes I think in exuberance, the fund-raising has outreached the fees that we can manage. I have an example: I have a granddaughter in an out of state. The fee for being in marching band is \$575 per year, that's just marching band, plus fund-raising--the boosters to raise \$140,000 a year to run that program, because they are so competitive. And so we just...we do not want students to get in a situation where they feel like they can't participate, or they can't take art, or they can't take a dual credit, or they can't do some of those things because the cost of some of those programs are prohibitive. So we support this LB1064 because of that. In the area of special education, I think that NCSA will support that if it helps to clarify how we set those fees. It is a worry for all of us, because one special ed student can certainly take us over our 2.5 percent spending level in a small district. And you're absolutely right, Senator Groene, it's who pays, not necessarily how much, because the cost doesn't change very much from district to district. But how we define capacity for special ed students in option enrollment is always a question. I think every school district struggles with it, because if you don't have it, if you have to increase that cost, you have to take it from somewhere. Most of us aren't very over...we don't over-staff special education. As a matter of fact, our special education staff are always screaming that we wish we had more staff

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to get that done. And so one student, or in a larger district, 10, 15, 20 students, could make a huge difference in that budget. If you don't have it, you're going to have to take it from regular ed to do those extra costs. So with that, I'll be happy to answer any questions. [LB1064]

SENATOR KOLOWSKI: Senator Krist. [LB1064]

SENATOR KRIST: Thanks for coming. Simple question. If the family in question goes to...and they want to go to district a, superintendent and school board have basically at this point don't want the liability. They go to district b, where they live, they have to accept that child. If district a talks to district b, and it doesn't make any difference, as long as that child is educated, are there any...having been an acting superintendent, is there anything that you can tell me that will enable them to come to a contract negotiation? Because they're going to have to pay for this child anyway, as long as it's at least...it is not more expensive, can they reach that contract agreement without our help? [LB1064]

VIRGINIA MOON: They could, but the student would have to go to their home district...where they live district, and that district would have to agree to contract back with the other district. Could they do it, yes. Would they do it, maybe not, because the precedent it sets. And one of the things that does happen, and I know this...I'm sure there are none. But let's just say it would be conceivable that if I had a program that wasn't too good, I could encourage a lot of students to option to the neighboring district for special education. Therefore, my taxpayers wouldn't have to pay for special education. But because people are optioning over to the other program, that particular district is going to get stuck with a huge budget increase. [LB1064]

SENATOR KRIST: I don't think...I think you're missing the point. [LB1064]

VIRGINIA MOON: Right. [LB1064]

SENATOR KRIST: District b is going to be stuck with that budget, that child's education, and let's just say that number is \$20,000 a year. They're going to have to educate the child. And they, at some point enter a contractual arrangement with district a...and they transfer the money over. Can you do that now, without our help? [LB1064]

VIRGINIA MOON: It could probably be done. But once you do it once, you'd have to be willing to do it for every special education student going forward. [LB1064]

SENATOR KRIST: Well, you're not required to do that now. Not according to this form. [LB1064]

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VIRGINIA MOON: No, but once you do it, you've set a precedent for every other. [LB1064]

SENATOR KRIST: Well, I would respectfully disagree. Just to say we are basically contracting this student out with this school district, and the next time I ask to do that for the same amount of money, you can say no. And that means the student is coming back to this side. And I guess that's the level of my question. Do you need help? Do you need for us to put a vehicle in place whereby equalized or unequalized is your responsibility to educate the child, that cost is x, it's agreed upon between the two school districts? Therefore... [LB1064]

VIRGINIA MOON: So the home school district always pays, option or no option? [LB1064]

SENATOR KRIST: Right. The same way that in the contractual arrangements in the metropolitan area, between OPS and several private providers. The contract is the contract and the home school district still owes. [LB1064]

VIRGINIA MOON: And there certainly are those programs...when I was in Ralston, Ralston was the hearing impaired program for a number of districts. And the other districts contracted in, not only in the area, but from long distances away, you know? So that capacity of that...the mechanism is there to do it. [LB1064]

SENATOR KRIST: Okay. Thank you. [LB1064]

SENATOR KOLOWSKI: Other questions, please? Senator Groene. [LB1064]

SENATOR GROENE: Thank you, Vice Chairman. To get us back to what Senator Baker said, if you started raising this capacity, and you're giving loopholes around it, there are some school districts that really work hard to do their special...to take care of their students. When you start letting more people, because they find out, shop for the best programs, won't it discourage those districts from expanding and making the best special needs program they have for their students. Because the cost could just skyrocket on them if we start allowing everybody to move in. I just keep...I have friends who members of their family have moved to Elkhorn because of their autism program. But they moved there, took jobs there, because of that. [LB1064]

VIRGINIA MOON: Yes. [LB1064]

SENATOR GROENE: Pay taxes there. Couldn't we do more harm to good programs, by expanding this capacity, than what we do good? [LB1064]

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VIRGINIA MOON: You know, I believe that every district does their very best to do the best for their special ed students. I think that where you find the resistance...and you're absolutely right. Once you have a program that has a reputation for being the very best, people want it. [LB1064]

SENATOR GROENE: Let's say it's just one special needs area. [LB1064]

VIRGINIA MOON: Yeah, that's right. But it's such a delicate balance, because there are so many levy limits, so many budget limits, so many all kinds of limits, that whether you want to or not, accepting that student may have an impact on all the other students, or on many of the other students. And so that's why districts are so cautious about that. And it may be because they have an excellent program, it may simply be because of where a person is living. And it's really hard to move a student, especially a special needs student, you know? The student in question...if the family in question had a fifth grader and you move one mile outside the district, it would be really hard to move that student, with all their relationships, and all their routines and things like that. I understand the parent's philosophy about that, and how much you want to stay. I also understand it from the district's perspective, when you're having to balance the budget with so many limitations. And you're absolutely right, yes. [LB1064]

SENATOR GROENE: But these smaller districts, you have a student that has a certain handicap, anger management, whatever, they set up a huge expense for that one student. The school district next to them says, well, all of a sudden we have one that's...theirs in the fourth grade already, and we have one come up, and we have none of this in place. We encourage you to option your student to this district, because it already has this program. I can see that happening very easily too, could you? [LB1064]

VIRGINIA MOON: It could happen. [LB1064]

SENATOR GROENE: Thank you. [LB1064]

SENATOR KOLOWSKI: Additional questions, please? Anyone? Thank you, Dr. Moon. [LB1064]

VIRGINIA MOON: Thank you. [LB1064]

SENATOR KOLOWSKI: (Exhibit 2) Any additional proponents for this bill? (Inaudible) Opponents, please? I'm sorry? We have one additional proponent, Greg Barnes, STANCE: Schools Taking Action for Nebraska Children's Education. And that's it for those. Yes, ma'am. You are opponent? [LB1064]

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JENNIFER FUNDUS: Opponent, yes. [LB1064]

SENATOR KOLOWSKI: Thank you very much. Please state your name. [LB1064]

JENNIFER FUNDUS: Dear Senator Sullivan and board members of the committee, my name is Jennifer Fundus, J-e-n-n-i-f-e-r, last name F-u-n-d-u-s. I am a special education director, and I'm representing Lincoln Public Schools. LPS is testifying not in opposition to the intent of LB1064, but the vague definition of program in the bill, and the problem it will cause. Lincoln Public Schools serves over 6,300 students who are verified with a disability every year. According to rule 51, LPS's annual budget is over \$58 million. In order for a single student's entry into our system to cause the district to reach the capacity as defined in LB1064, the cost associated with that student must exceed approximately \$8 million. This amount would be equivalent of a student require 141 full time teachers and every single day of the year. On the most recent special education claim, LPS spent \$8,100 in allowable excess per student for 5,900 students. To increase per student allowable excess cost by 15 percent or \$1,200 of the total allowable excess cost, we would need to increase \$7.1 million. While it's understandable that this is important for all students to enroll as option enrollment into other districts, the 15 percent capacity guidelines is not reachable by many large districts, like Lincoln Public Schools. As a result, it doesn't meet its purpose or realistic capacity limit. Thank you, and I would be happy to answer any of your questions. [LB1064]

SENATOR KOLOWSKI: Thank you, Ms. Fundus. Any questions for this opponent? Yes, Senator? [LB1064]

SENATOR PANSING BROOKS: So can you just...so that's basically speaking to what my question was earlier, that you would have...on a very large district, it would take so much to move that needle. [LB1064]

JENNIFER FUNDUS: Correct. [LB1064]

SENATOR PANSING BROOKS: That it would be really basically burdensome. Is that correct? [LB1064]

JENNIFER FUNDUS: That's correct, yes. [LB1064]

SENATOR PANSING BROOKS: And what was the \$8,100? What did you say about the \$8,100? [LB1064]

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JENNIFER FUNDUS: Last year for our claim, our special education claim, we were spending about \$8,100 per student for special education. And that was last year's estimated of 5,900 students. [LB1064]

SENATOR PANSING BROOKS: Okay. I guess I'm interested because it was my understanding that when you look at the cost per student across the state, I thought LPS was at about \$10,000 per student. [LB1064]

JENNIFER FUNDUS: For special education last year--this year we have increased, but last year we were sitting right a little bit over that \$8,000. [LB1064]

SENATOR PANSING BROOKS: All students... [LB1064]

JENNIFER FUNDUS: And that does not include...no, that's for special education. And that does not include our federal funds, that's only our general funds. So IDEA, our federal funds, are separate from this. [LB1064]

SENATOR PANSING BROOKS: What's the \$10,000 number I know? [LB1064]

JENNIFER FUNDUS: That's including our federal funds. This is only our general education funds. So including state aid... [LB1064]

SENATOR PANSING BROOKS: Okay. So that's how much you get per student? [LB1064]

JENNIFER FUNDUS: That is how much we are spending right now, excluding our federal funds. [LB1064]

SENATOR PANSING BROOKS: Okay, well how much are you spending per student, including your federal funds? [LB1064]

JENNIFER FUNDUS: I'd have to get that information. We only did this based on the general education budget, excluding our federal funds. [LB1064]

SENATOR PANSING BROOKS: Okay, so the \$10,000 number includes federal dollars. [LB1064]

JENNIFER FUNDUS: Yes. [LB1064]

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SENATOR PANSING BROOKS: So here we are comparing apples and oranges, really.
[LB1064]

JENNIFER FUNDUS: Right. Federal dollars is a little bit different than our general fund dollars.
[LB1064]

SENATOR PANSING BROOKS: Okay. Maybe somebody will be able to explain that to me later. [LB1064]

SENATOR KOLOWSKI: Senator Krist, please. [LB1064]

SENATOR KRIST: Give me the number again, just for perspective, what it would take to get 15 percent, you said. [LB1064]

JENNIFER FUNDUS: That would make us...we would need to...to get that we would need to be \$7.1 million, and that's just in our general fund. That excludes our federal IDEA dollars.
[LB1064]

SENATOR KRIST: Okay. So...and then you did hear Senator Sullivan say that the number was not necessarily a scientific number? It was a number that would...do you know what a scientific number might be? [LB1064]

JENNIFER FUNDUS: We can definitely work on that and get that to you. We were playing around with that this morning, and we have some ideas, but we don't...we would like to put some more math behind it, before we throw out a number. [LB1064]

SENATOR KRIST: I think that would be real helpful. But for your district and maybe for Douglas County or OPS, basically, and then maybe a couple of small ones to see what the number actually comes to. If that helps, that would be great. [LB1064]

JENNIFER FUNDUS: Yeah, we can work on that. [LB1064]

SENATOR KRIST: Thank you. [LB1064]

SENATOR KOLOWSKI: Thank you. Any other questions, please? Thank you very much.
[LB1064]

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JENNIFER FUNDUS: Thank you. [LB1064]

SENATOR KOLOWSKI: Additional opponents, please? Welcome, sir. [LB1064]

JOHN BONAIUTO: Thank you, Senator Kolowski, members of the committee. John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, representing the Nebraska Association of School Boards. And I'm going to talk about the second portion of this bill. And the School Board Association's Legislation Committee, they really didn't realize that school boards had a problem with student fees. And for the school boards that talked to me, and there's a number of school board members in town, with the Legislative Issues Conference, they have not been approached by anyone that was unhappy, to their knowledge, with the student fees...or any contact that there was a problem with how student fees were being interpreted, based on the current law. And so...or that the school boards were doing it too liberally, which would be charging more fees, rather than less fees. And so their hope is that if there's a problem, that someone would contact them or contact the Department of Education and say a school board is doing it wrong, and give them a chance to deal with it, before you start to change a law. With that, they also try very, very hard to follow the laws that are passed, to the best of their ability, without being threatened to turn in forms. And the loss of accreditation to a district, they didn't feel was necessary. If they're told to pass a policy, they will pass the policy. And if they're told that they need to put it in a handbook, it will be put in a handbook, and they will send it in to the Department of Education. But they feel that they just need to be told to do that, and would honor the law, which they try to do regularly. And I...this isn't the first statute, the first bill that I've made this comment on. And I know that there are other areas that require boards to do certain things, and if they don't they will lose accreditation or they'll lose state aid, or what have you. But if in this statute you make the change, and they have to turn something into the Department of Ed, the Department of Ed could let the board know whether their policy hasn't been turned in, and get it turned around. And with that, I will conclude my testimony. [LB1064]

SENATOR KOLOWSKI: Thank you, sir. Senator Pansing Brooks, please. [LB1064]

SENATOR PANSING BROOKS: Thank you, Chairman Kolowski. Thank you for coming, Mr. Bonaiuto. I just want...can you tell me, I know most of the people here know what the fees are, but can you give an example of some of the fees, having just had children go through all of LPS? [LB1064]

JOHN BONAIUTO: Well, and this would be for something that would be outside of the regular programs. And I'm looking here at what the Public Elementary and Secondary Student Fee Authorization Act shall be... [LB1064]

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SENATOR PANSING BROOKS: Is it for sports? [LB1064]

JOHN BONAIUTO: It could be, if there was something additional for an extra... [LB1064]

SENATOR PANSING BROOKS: Maybe for cheerleading outfits? I can't figure out what the fees are, because my children were never charged fees. [LB1064]

JOHN BONAIUTO: Well, and that's it. And there are...when you talk about districts doing it strictly or liberally, if there's something that's specialized, that's not part of the regular academic program, there may be a request. And so... [LB1064]

SENATOR PANSING BROOKS: Like buses? [LB1064]

JOHN BONAIUTO: No. Well, it could be a transportation issue, depending on what the transportation was for. But not regular transportation. So it...there are...and on page 4 of the bill, there are a whole list of things that outline that specialized equipment or specialized attire for any of the following purposes. And then it goes through about 9, 10 different things that... [LB1064]

SENATOR PANSING BROOKS: Thank you, I missed that. [LB1064]

JOHN BONAIUTO: No, and that's why I say board members, I really think, try to abide by this. And if there's a problem, they'd just as soon know it. And if there was a contact, then it wasn't from anyone that I had talked to that was on the Legislation Committee. [LB1064]

SENATOR KOLOWSKI: Additional questions, anyone? [LB1064]

SENATOR PANSING BROOKS: Thank you. [LB1064]

JOHN BONAIUTO: Thank you. [LB1064]

SENATOR KOLOWSKI: John, the range of issues or items that might be charged for in the school district varies greatly, doesn't it? [LB1064]

JOHN BONAIUTO: It really does. [LB1064]

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SENATOR KOLOWSKI: A school board setting that policy, setting that limit, whatever it might be for a club organization, sport, whatever else it might be, I mean, there's such a huge variation. I think of swing choirs, I think of bands, I think of musical performing groups, I think of clubs and organizations that do many different things within our schools, but they're also fund-raising and doing other things they might have to do within the boundaries of our district. It's hard to legislate or put into words the exact amount that would be under one particular category, but local control is what it is, and that's people deciding in their individual district, if I am not mistaken on that. [LB1064]

JOHN BONAIUTO: Senator, absolutely. And because...the board feels strongly about the access to free education, with all the things going on in the schools. And if there is something that rubs a parent the wrong way, I would hope that that contact would be made to the school district, to the administration, to the board. The board would just as soon hear about this and make sure, if something is happening in their district that shouldn't be, they would just as soon address it. And not have to be told to address it. And I know sometimes people feel they hate to make the contact, because they don't want to be seen as, you know, problematic or they're worried that something will...you know, there will be retribution, but I mean, I think that in this sense, the boards would like to have the discussion and do it right. [LB1064]

SENATOR KOLOWSKI: Thank you. Any other questions? Thank you very much. Any additional opponents for this bill, LB1064? Any neutral? Welcome, sir. [LB1064]

ROGER BREED: Good afternoon. My name is Roger, R-o-g-e-r, Breed, B-r-e-e-d, I am the executive director of the GNSA. And I'm offering neutral testimony on LB1064 in total agreement with the intent of Senator Sullivan, to both clarify the special ed and the fees concerns, but raising two concerns with regard to the bill as it's written. First, the calculation of allowable excess costs is an ever-changing process. I would liken it to trying to paint a sign on a moving train, when you're fixed in a fixed position. Resident students move in and out of special education programming continuously, students complete services such as speech therapy, and students are evaluated into existing programs, and/or require elevated services in their existing setting. Generally, excess cost cannot be completed until the end of the school fiscal year. Given the time constraints of accepting or rejecting an option enrollment request, without knowing the number of students requiring services in any school district special education program, would make the determination of a 15 percent threshold almost impossible to calculate. And I say that--impossibility, because as any attorney in the room, and including...I would include senator...or Brian Halstead, I think he's an attorney, right, Brian? That if you're going to challenge a denial on option enrollment, you're going to challenge the numbers. If the numbers can't be substantiated, then you're going to be successful in your challenge for that option enrollment denial. And that puts districts in a position of saying, well, open the doors I guess, anybody comes. And the burden then falls, as Senator Groene has pointed out, falls on the resident

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taxpayers of that district. The second concern deals with the fees, and it's in assigning the death penalty, the loss of accreditation, to school districts that fail to submit a district policy. I would contend that that's pretty extreme, and would encourage the committee to moderate the penalty for failure. To submit a change from the word shall to the word may, and allowing the Department of Education to determine a penalty up to and including the loss of accreditation. I think that clarifies what Senator Sullivan said, and I think it still points out to school districts the importance of respecting the fees policy and law. And those are my two thoughts, be glad to respond to any questions. [LB1064]

SENATOR KOLOWSKI: Thank you, Dr. Breed. Any questions for Dr. Breed? Seeing none, thank you very much. [LB1064]

ROGER BREED: Okay. You're not going to ask about my conspiracy, Senator Groene? [LB1064]

SENATOR GROENE: Just looking at the clock. We've got another bill, yet. [LB1064]

SENATOR KOLOWSKI: Any additional neutral statements, please? Seeing none. That...we will now turn to Senator Sullivan closing, please. [LB1064]

SENATOR SULLIVAN: Thank you, Senator. And I hope you can see that these ideas in LB1064 were not brought lightly. That they represent some, I think, legitimate concerns that we need to attend to. That being said, I'm certainly open to the comments that were made today. If we can look at changing some of the things...I know that there is some confusion maybe, and maybe even on my part, with respect to okay, the allowable excess cost per student for the program or service, and how that is defined. I think we...that needs to be clarified, if for no other reason in my own mind, but for all of us. Dr. Breed talked about the timing, I think that's an issue. Another one that wasn't I don't think even brought up in the hearing, but was mentioned to me when I was over at the school board's meeting today, it had something to do with the term program, and the potential impact to ELL programs. So we may need to explore that a little bit. But all that being said, I still stand by the necessity to look at the dimensions represented in LB1064, and thank you for your attention. [LB1064]

SENATOR KOLOWSKI: Any questions for Senator Sullivan? [LB1064]

SENATOR PANSING BROOKS: I have one. [LB1064]

SENATOR KOLOWSKI: Yes, Senator Pansing Brooks. [LB1064]

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SENATOR PANSING BROOKS: Thank you, Senator Kolowski. Thank you, Senator Sullivan. I'm just...and maybe I missed it, because I had to step out, I'm sorry, momentarily, but what are...can you give an example of the extreme fees being charged to people? [LB1064]

SENATOR SULLIVAN: I don't know that it was so much extreme fees, but the potential that maybe there were fees being charged for things that...I think the term I used earlier in my opening was the liberal interpretation of what's meant by some of the things that are indicated in statute. So I'm not pointing the finger, I'm not saying anybody's been a bad actor, but I think this serves as a reminder--look at what's in the statute, look at our responsibility to minimize fees and maximize free education. [LB1064]

SENATOR PANSING BROOKS: Okay, but nothing specific? [LB1064]

SENATOR SULLIVAN: So I can't give you any specific example. [LB1064]

SENATOR PANSING BROOKS: Okay, thank you. [LB1064]

SENATOR KOLOWSKI: Any additional questions? Thank you very much, Senator Sullivan. This ends LB1064. We'll now move on to LB1066, and I'll move the Chairmanship to Senator Baker, just for a minute. And briefly I shall return. Senator Baker, please. [LB1066]

SENATOR BAKER: Thank you, Senator Kolowski. We will now open with LB1066, Senator Sullivan. [LB1066]

SENATOR SULLIVAN: Thank you very much, Senator Baker and members. My name is Kate Sullivan, K-a-t-e S-u-l-l-i-v-a-n, representing District 41 in the Legislature. And I know the hour is getting late, but this is the annual cleanup bill for P-12 education. We've worked closely with the department and have largely followed their suggestions. And there are about 12 details I could defer totally to the department, and will for specific questions, but I want to go through them fairly quickly, just to point out some things that I want to make sure aren't overlooked. So in this LB1066 it deals with the following measures: number 1, to remove an unnecessary term from Step Up to Quality Childcare Act provisions. Senator Campbell and the Department of Health and Human Services brought this clarification to us. It's just a removal of one word and so we work with them on that. Number two, modify exceptions to the general limitation of one option under the Enrollment Option Program and clarify standards for the releasing a student from a district. I underscore what Brian Halstead said. With this change, and also with LB1064, we're just trying to make this whole process more parent friendly. Three, allow school boards to appoint clerks when the secretary is absent. That just simply means that if the elected secretary

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isn't there, they don't have to go to a vote of the people to conduct their board meeting, they can appoint a clerk. Four, provide flexibility regarding the cancellation of bus driver contracts for violations of traffic rules or regulations. Again, providing some more flexibility so that there's not such a hammer. For example, a driver driving a bus with a sticker incorrectly placed should not be cause for firing. So just to give a district a little more flexibility in that. Five, we had a lot of discussion on this with a previous bill, but it's define textbook for purposes of the Textbook Loan Program. And in this, it is adhering to the dictionary definition of a textbook. I will tell you, and can answer questions later on. I first of all, don't see any attempt to get rid of the Textbook Loan Program. Do I think there need to be further definitions, whether it's to textbooks in this digital age, also definitions of loan? But clearly, all of that begs for a separate discussion in a separate bill. Six, modify provisions related to the accountability system. You've heard the commissioner talk about AQuESTT, well that just sort of puts the provisions in line with that. Seven, change the name of the Center for Student Leadership and Extended Learning Act to the Center for Student Leadership and Expanded Learning Act. I would also point out though, in the bill as it...statute as it currently exists, it references specific student organizations. It's probably not wise to do that in statute, so I would recommend, while not in my bill, that we look at that and possibly remove those references. Eight, clarify and harmonize provisions under the Enhancing Excellence in Teaching Program. Nine, clarify the total distribution for option payments and allocated income taxes. That simply puts a dollar amount in statute that what the cap is, so it's just clarifying that. Number 10, change the deadline for eliminating state aid. In this bill, it proposes to make it later, but I also want to tell you there is some concern about moving that date. So that may be something that we're going to have to look at. Number 11, provide for an automatic lump-sum payment of prior year correction, less than \$1,000. School districts can receive...if there is a correction, they can receive those payments in installments, but if it's \$1,000 or less, just provide the automatic payment without putting it in installments. And then 12 and 13, it removes some obsolete provisions from the statutes. For example, a few years ago, I had put in statute that we were offering some grant dollars for schools to reorganize and consolidate. That sun-setted, so that needs to be removed. Also, there's references to the ARRA and Education Job Funds that were made available in 2009 or 2010. Those also are gone, so we're removing those as well. So very quickly, those are the details of the annual cleanup bill from the department. As I said, I'll be glad to answer any questions, but the department will be on hand to offer some clarifications as well. [LB1066]

SENATOR BAKER: Thank you, Senator Sullivan. Just curious, on page 3, on line 24, the line resident is struck. Does that imply some desire to have a person be able to option more than once? [LB1066]

SENATOR SULLIVAN: Well, it's special circumstances. Say for example, the family moved to Timbuktu for a year and left that district and then they wanted to come back. I think it speaks to the circumstances like that. [LB1066]

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SENATOR BAKER: Okay. [LB1066]

SENATOR KOLOWSKI: Senator Krist, please. [LB1066]

SENATOR KRIST: You...Senator Sullivan, you and I had a conversation on the floor and I remarked, because of my naivety on this committee, that there's a whole lot of substitutive issues in this "technical cleanup bill." Which I'm not used to dealing with it that way, but I guess you all are. But specifically...and then I'll pose the question and give you my concern, and then the department can come up and argue that it's not the case. On page 9, line 4, 79-734, item 1, "school boards and boards of education of all classes of school districts shall purchase all textbooks, equipment, and supplies". Now we can delineate what textbook means, equipment means, and supplies mean, but it should be consistent with the use of the textbook in any other part of the provision or the statute. And if I turn to page 10, for the purpose of this section, "textbook means a reusable set of printed sheets of paper that are bound together inside a cover which is used in a course of study in a school by a student, and includes any of the versions of a textbook provided by a publisher or manufacturer under Section 79-734.01." So by defining it this way, how is the school board allowed to buy printed material and provide computer-based material? They basically said that they...textbook for this section means a textbook. [LB1066]

SENATOR SULLIVAN: Right. [LB1066]

SENATOR KRIST: And it allows them no option, even with our public school students, to use, as Senator Kolowski indicated, a textbook with other provisions in it. I think it's an oversight on the department's part technically, because if you're going to define textbook that way, you've just cut off the accessibility of the computer products for others. So I would argue that in making that differentiation here, they're eliminating their own. And that goes back to a discussion we had earlier, which is let's come up with a definition of the material that we need to provide to all school students. [LB1066]

SENATOR SULLIVAN: Well, you're right, and I don't disagree with that at all. It is a matter of definitions, both in textbook, but you carry that a little bit further, perhaps it's a definition of loan as well. And you heard a testifier to a previous bill talk about consumables. How do you loan something with the expectation that you get it back if it's out in the cloud? This is the world we're living in right now. And it needs further clarification and definition, and I think that's a discussion for another bill. [LB1066]

SENATOR KRIST: So it would be edited out of this bill...or amended out of this bill? Because they're going backwards in this bill. [LB1066]

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SENATOR SULLIVAN: I'll let the department speak to that. [LB1066]

SENATOR KRIST: Okay, well I think it is a discussion that needs to happen on this bill, because they are establishing a definition in that section of law. And it doesn't even talk about loan, it uses the word textbook. We're not talking about loaning, we're talking about buying the kids in the public school...I'll ask the department that question. [LB1066]

SENATOR SULLIVAN: Okay, very good. [LB1066]

SENATOR KOLOWSKI: Additional questions for Senator Sullivan, please? Thank you, Senator. Could we now have proponents for this bill come forth? Hello again, Brian. [LB1066]

BRIAN HALSTEAD: Good afternoon, Senator Kolowski, members of the Education Committee. My name is Brian, B-r-i-a-n, last name is Halstead, H-a-l-s-t-e-a-d, I'm with the Department of Education, and we're here in support of LB1066. Senator, I'm just going to go jump right to that definition of textbook. [LB1066]

SENATOR KRIST: Lucky me. [LB1066]

BRIAN HALSTEAD: Yeah, good enough. That is a word we've been trying to find a definition for at the department, and could find no common agreement amongst anybody who was asking. So what you read there, the first part of that sentence, is what I would suggest is the traditional definition of textbook that existed in the 19th and 20th century, about it being on paper that's bound together by a cover and everything else. That's the first part, because we just decided we'll start with the traditional definition. And then I believe it references another statute, 79-734.01. And you need to go read that statute to see what that language says, because it talks about a publisher of textbooks has to provide to school districts the textbooks in any electronic means that exist, which is the broadest we could find that the Legislature used. That statute was enacted in 2002. And what we decided to do was we were just going to use the words of the Legislature to start this discussion. We recognize that that's probably not where it needs to end. So we didn't do it circularly to say a textbook is a textbook. If you look at 79-734.01 and what's included in that, it is broader than the printed version. However, as you can see, we are looking at a statute that first got amended...and this program started with a bill in 1986, and we all know the world has changed greatly since then. The department has absolutely no intentions whatsoever of doing away with this program. There is in fact almost \$450,000 of funds in the department's budget that the Legislature appropriates every year to pay the public school districts for the textbooks that are utilized by students in private, parochial, or denominational schools. So in that regard, we just started with some basics. The state board would love for this Legislature to define the noun textbook so that we all know exactly what it is today you expect the rules and regs of the

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department to promulgate about carrying it out to be. So in that regard, that's the language that's there. It's not perfect. We took what was language that was already in statutes that this Legislature utilized and we stopped there, knowing that you may go down an entirely different road, you may have different ideas. Everywhere we looked in this country for states that had "textbook loan programs," every other state their Legislature defined textbook. Nebraska appears to be the only state that had no definition for it. So we invite you, and we will work with any of you and any other interests on what's the best definition to use for that. Senator Sullivan points out it's a loan program. You don't see it in this bill, but if you look several sections after 79-734.01, is a directive to school districts, boards of education have a responsibility to get back those textbooks from the public school kids they give it to. That doesn't exist for the private, denomination, parochial schools on this one, but that's the whole philosophy this program started with. You will lend something to someone, when they're done with it they hand it back to you, check it back in. And we all know today in this world a lot of the stuff that's used in curriculum never appears on a printed piece of paper, nor is it bound together in anything that would be a textbook. So that's the starting point and we're willing to work with anybody to come up with a common definition. I would like to talk about the moving the date back for the estimate for TEEOSA. That date was set back in 1999. It is in fact necessary that the Governor's Budget Office, the Legislature, have an estimate of what that number is, because you have to build the budget and the Governor has to submit one. And that's not a simple task. What we have found in recent years, the Legislative Fiscal Office has a staff person who has a model, the Governor's Budget Office has a person who has a model. They try to run models as to what they think it's going to cost. What they don't have by November 15 is what school districts spent the previous school fiscal year. And when that statute was written for the November 15 deadline, it was all done on paper. And it usually took us until about February before we knew what spending was the prior year. At the department, we've automated the systems. And this past year, we could provide to the Governor's Budget Office and Legislative Fiscal Office what school spending was for the prior school fiscal year, the day after Thanksgiving. So our idea, if we can move that date back a little bit, we can give them the last data component they need for their model, so you can have a better estimate coming into the session and building the budget. We fully understand the Governor's Office has a huge task of pulling together all of the state agencies, budgets and requests to compile a bill, so we're not adamant it has to be December 15. But we felt we could provide more accurate and better information to all of the partners who deal with this so they can better plan before the session starts as to what TEEOSA actually costs. So that's the reason we were moving that date. You may decide it doesn't need to be moved and we'll work with something that's not quite perfect, then that's fine. And we're willing to work with the Governor's Budget Office and the Legislative Fiscal Office. We were just trying to point out we can do a little bit better than this statute when it was written in 1999. And I'd be more than happy to answer any questions on any other provisions of the bill, if you have questions. [LB1066]

SENATOR KOLOWSKI: Additional questions? Yes... [LB1066]

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SENATOR BAKER: Thank you. [LB1066]

SENATOR KOLOWSKI: ...Senator Baker. [LB1066]

SENATOR BAKER: Thank you, Senator Kolowski. Mr. Halstead, on page 32, line 15, where did that number come from, that \$1,289,817 (sic) that's going to be distributed for option payments? [LB1066]

BRIAN HALSTEAD: One hundred and two million, isn't it, Senator? [LB1066]

SENATOR BAKER: Pardon? [LB1066]

BRIAN HALSTEAD: Is it \$102 or \$112 million? [LB1066]

SENATOR BAKER: Oh, \$102 million. [LB1066]

BRIAN HALSTEAD: That is actually...the language you see there all being stricken out in that bill, it's referencing a law and it's referencing a point in time. All you have right there...that's the actual dollar number, so that you don't have new people coming on board go read the statute. It's like, what does that mean? [LB1066]

SENATOR BAKER: Okay, so... [LB1066]

BRIAN HALSTEAD: It's referencing a dollar point at a time in history, and all we're doing is striking all that language that tells you where you go find out what that number was... [LB1066]

SENATOR BAKER: Okay, so... [LB1066]

BRIAN HALSTEAD: ...by just putting the number right in statute so everybody knows it's the \$102 or \$112 million...whatever it is. [LB1066]

SENATOR BAKER: All right. And that is the number of appropriated... [LB1066]

BRIAN HALSTEAD: That was the number at that point in time in history, so we thought why not just state it in the statute? [LB1066]

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SENATOR BAKER: Okay. Do you know of that how much now goes to that option? How much goes to allocated income tax? [LB1066]

BRIAN HALSTEAD: No, not right now. I am sure I can get you that information. Our model that we put out the first week of the session probably has that in it too, but we can certainly...if you want to know what's now being distributed. [LB1066]

SENATOR BAKER: Thank you. [LB1066]

BRIAN HALSTEAD: We are going to certify state aid on February 16 of this year, so we'll all officially know what that is on that date. But I can get you that number if you want to know. You want to know the actual number this year? [LB1066]

SENATOR BAKER: Yes. [LB1066]

BRIAN HALSTEAD: And that would be for the 2016-2017 school fiscal year? The current? [LB1066]

SENATOR BAKER: Yeah, that would be fine. That would be fine. [LB1066]

BRIAN HALSTEAD: Okay. [LB1066]

SENATOR KOLOWSKI: Okay, additional questions? Senator Groene. [LB1066]

SENATOR GROENE: Thank you, Vice Chairman. Sir, on where it says it would be amended to clarify the definition of Enhanced Excellence in Teaching Program, that's with the lottery money...part of that, right? Is that that program--79-8,137.01? Would it be amended to clarify the definitions for the Enhancing Excellence in Teaching Program? [LB1066]

BRIAN HALSTEAD: That is currently...yes, that is still being funded out of lottery both right now and it will be in the next year. The biennium, yes, that's lottery funding. [LB1066]

SENATOR GROENE: And it's for present students taking up the education as a teacher? [LB1066]

BRIAN HALSTEAD: It could be present and it's also future, because what we're trying in there is to distinguish if you're a first-time recipient of funds on July 1 or after, these are the terms of

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your loan and repayment. If you previously have gotten money out of this program before July 1, these are the terms for your loan repayment and everything. That's what we're trying to get clear there. And we're also...you have a definition in that act for a graduate program, and last session you added on in various places, or if you're getting an endorsement with graduate coursework in a shortage area. And you repeated it like three times in the statute, we thought let's just put it in the definition so it's there, so you just have to say eligible graduate program. Those are the two changes going on in that program that we're proposing in this bill. [LB1066]

SENATOR GROENE: Thanks. And on the loan program textbooks, why even change it? Why don't we just...Senator Krist maybe comes up with a bill next year and says...changes the definition of the program to maybe something like share source of the educational content used in the classroom? Instead of loan, share. [LB1066]

BRIAN HALSTEAD: I...Senator, that's why it's back... [LB1066]

SENATOR GROENE: That covers everything. [LB1066]

BRIAN HALSTEAD: If you want it to be share, then propose that and go forward with that. We're not here to oppose that either, it's just this was a program enacted in 1986, and unfortunately, the technology in how we do business these days...maybe it's not longer a loan in that regard. I do want to make... [LB1066]

SENATOR GROENE: As Senator Sullivan said, you can't loan the cloud. I mean, or something electronically received, but you can share it. [LB1066]

BRIAN HALSTEAD: Well, I am not the expert on the electronic world and digital. [LB1066]

SENATOR GROENE: I'm just looking for a change... [LB1066]

BRIAN HALSTEAD: You can buy subscriptions where someone can access information off of a site, whether it's in the cloud or wherever it is, and that subscription is for a set period of time. And when that time period is up, I can't get into it anymore. So that I could then loan that subscription to somebody else for another set period of time. That would be still loaning, but again... [LB1066]

SENATOR GROENE: I'm thinking the same calendar year in a classroom. [LB1066]

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BRIAN HALSTEAD: And Senator, that's why the state board would prefer for the Legislature to update the program then for us at the department, or lawyers to decide what you meant. It's just better for you to define better what you really meant and we'll go from there. [LB1066]

SENATOR GROENE: Thank you. [LB1066]

BRIAN HALSTEAD: Sure. I do want to make one point clear, because it's been inferred, and maybe it wasn't, but the Department of Education has nothing to do with textbooks that are purchased by school districts in Nebraska. Nothing. They don't get permission from us to buy textbooks, nor do we define what textbooks they can buy. That is not something the department does. The Textbook Loan Program is something we have to administer, and yes, that impacts students in private, denominational, parochial schools who want to get those textbooks from the public school district. But we, through Rule 4, don't regulate what a public school district can purchase for textbooks or create on their own or whatever they're using as textbooks. That is not something the department does. If we were in the state of Texas, where the state board approves all textbooks, that would be a different thing. But we don't want to be in that role, nor do we want to be Texas. So in that regard, I just want to make it clear. Some people seem to think we give school districts some authority to purchase certain textbooks. We don't at the department, we have no say in textbooks in this state. That's a local school district function. The curriculum is at that level, not the department. [LB1066]

SENATOR GROENE: It was asked, but...so you clarified when I hear statements like the state school board doesn't want to get rid of this textbook, you can't get rid of it? [LB1066]

BRIAN HALSTEAD: No, it's in statute. [LB1066]

SENATOR GROENE: Yeah, this body gave you a statute and you have to. [LB1066]

BRIAN HALSTEAD: We're trying to carry it out as best as we can, but we're finding that the lack of defining the word textbook is creating more problems. And we just felt you right here, this committee, sets education policy initially for the Legislature. You need it. [LB1066]

SENATOR GROENE: So that fiscal note we seen was somebody in the fiscal office was assuming something they had no right to assume? That money couldn't be moved around, it is in statute what it had to be used for. [LB1066]

BRIAN HALSTEAD: Absolutely. [LB1066]

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SENATOR GROENE: And it could not be moved. So that whole thing was an error by the fiscal office probably. Or poor wording, probably. [LB1066]

BRIAN HALSTEAD: Well, I don't have the fiscal note in front of me. The staff person who was writing it may have been trying to identify all of the various other places in the budget of the state where money is spent for particular programs, that if it were better coordinated and utilized, it may be more effective and efficiently used for everybody. [LB1066]

SENATOR GROENE: But it would have to take new legislation? [LB1066]

BRIAN HALSTEAD: It would have to take not only you changing the statute, but the Appropriations Committee changing our budget bill as to that. We don't get to move that money around, nor do we want to move that money around. I think the staff person was just trying to identify for you on the committee and everybody--here is programs that are currently funded in separate sources. So the first bill you heard this afternoon, if there was some way to integrate that so that it's better utilized by everyone, that would be a great idea. But the bill doesn't take away textbook loan, nor was that staff person saying we wanted to get rid of textbook loan. We don't want to get rid of textbook loan. [LB1066]

SENATOR GROENE: Or the Department of Education could use it in their interpretation for a different purpose. [LB1066]

BRIAN HALSTEAD: That's exactly right. That's exactly right, Senator. [LB1066]

SENATOR KOLOWSKI: Senator Krist, please? [LB1066]

SENATOR KRIST: No, nevermind. [LB1066]

SENATOR KOLOWSKI: Any other questions for Brian? Thank you, sir. [LB1066]

BRIAN HALSTEAD: Thank you. [LB1066]

SENATOR KOLOWSKI: Additional proponents, please? [LB1066]

JOHN BONAIUTO: (Exhibit 1) Senator Kolowski, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, testifying in support of the tech bill for LB1066. We appreciate Senator Sullivan and the legal counsel working with school boards to correct some outdated

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language in a couple of areas on page 8. One deals with clerk...and the language that I'm handing out--the school boards is offering, that can clarify further the issue with bus drivers, and right now, the language we're changing, shall to may, at the bottom of page 8, line 30, 31. And we would recommend that after notice of hearing by responsible offices of such...after notice of hearing, unless a school district has school bus drivers that are organized and part of a union, which would be a local issue, there is no state due process right for this classification of employees for school districts. So if...and so we don't want that language to stay in if it's unnecessarily confusing. So that...we think it would be clearer with that and then the responsible offices of such taken out. And then it would just read: shall be guilty of breach of contract and such may be cancelled by the school district. And we appreciate this change, because if you have a slick street and a school bus slides into a car and the bus driver is cited, the district has to fire the bus driver. I mean, that's the way the statute reads. And we're not talking about habitual speeders. The district would have to take care of that and it's their responsibility now. But we appreciate the change and clarification. Thank you. [LB1066]

SENATOR KOLOWSKI: Questions for Mr. Bonaiuto? Senator Krist. [LB1066]

SENATOR KRIST: If the interpretation now is that they have to fire them... [LB1066]

JOHN BONAIUTO: Yes, that's correct, Senator. [LB1066]

SENATOR KRIST: ...this is "any person operating a school bus under contract with a school district who fails to comply with any of such traffic rules and regulations," you're saying "shall be guilty of breach of contract, and such contract may be cancelled." It doesn't say anything about the bus driver, it says contract. [LB1066]

JOHN BONAIUTO: I think that was referring back to the bus driver. That was the way I believe the interpretation was. [LB1066]

SENATOR KRIST: Okay, so just for the record then, legal counsel if you could...if the purpose is to make it an option for you to either cancel the contract and not fire the bus driver, then I think we need to say that in that (inaudible). Thank you. [LB1066]

JOHN BONAIUTO: Thank you, Senator, for the question. [LB1066]

SENATOR KOLOWSKI: Other questions? Thank you, sir. [LB1066]

JOHN BONAIUTO: Thank you, Chairman. [LB1066]

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SENATOR KOLOWSKI: Additional proponents? Seeing none. Any opponents, please?
[LB1066]

SHERI RICKERT: Good afternoon, Senator Kolowski and the other members of the Education Committee. My name is Sheri Rickert, S-h-e-r-i R-i-c-k-e-r-t, and I'm the policy director and general counsel for the Nebraska Catholic Conference, which represents the mutual interest of the Catholic bishops serving the Archdiocese of Omaha and the Diocese of Lincoln and Grand Island, and this includes over 26,000 students who are educated in Catholic schools throughout Nebraska. I'm here to speak in opposition to LB1066 and continue the conversation that we started with the earlier bill. I would like to say that we don't like our conspiracy theory, we appreciate the comments that have made by NDE, however, we keep getting evidence that we're right and we can't find any evidence that we're wrong--that the Textbook Loan Program is not a favorite of the department and they would just as soon see it go away. Just background again, for the record, Section 7 would amend Section 79-734.02, which requires school boards to purchase textbooks for all public school students and for private school students to the extent and under the conditions further stipulated in that provision. The Textbook Loan Program does not benefit Catholic schools or any private school. By its terms, the program benefits the students who attend private schools and their families. It is one of the few benefits received by parents who choose to send their children to a private school in exchange for their education tax dollars. I'm here to advocate in the interest of those children. The amendment that's proposed to Section 79-734.02 is ill-advised for several reasons. The first one, that section provides the statutory authorization for school boards to purchase and loan textbooks for both public and private school children. This is one problem we can't seem to connect in communication with the department on this, but by trying to insert the restrictive definition for textbook that it is in that Section 7, as Senator Krist pointed out...and I didn't hear a viable reply to that, they are also restricting what the local school board can purchase at their local public school. Although the purchases for private school children is limited in terms of funding, and private school children can only have those textbooks used by the public school children in the same district, the same term for textbook, and the means of conveyance, purchase, and loan is used in reference to both public and private school children. The amendment in Section 7 would add a very restrictive definition of textbook to that provision and limit the textbooks available to both public and private school children. The textbooks that are currently being given to public school children, including e-books, bundles that include electronic and hard-copy materials and write-in-text work text, that cannot be returned and reused, including under the purchase and loan language for public school children, would be expressly excluded by this definition. Contrary to the assertions that have been made by Mr. Halstead and others in the legal department of the department, they have been unable to identify another statutory provision that authorizes school boards to provide individual public school children with these educational materials. If one were to accept the department's overly broad interpretation of these other provisions, in order to derive that authorization, then those provisions also could be applied to educational materials for private school children, under

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the Textbook Loan Program, and this restrictive definition--any definition in Section 79-734.02, would be unnecessary. Therefore, this amendment arguably would have unintended consequences or be meaningless. It also is possible that the department intends to ignore the text of 79-734.02 and enforce this new definition solely for purposes of denying private school children access to those resources currently provided to public school children that do not fit within this definition. I've also...let's see, I see I'm running out of time. I would like to respond to the comments that were made by Mr. Halstead, but I'm sure I'll run out of time, so instead I will turn it over to you, and ask you during a Q and A if you would like to have clarification of our position on any of those items that were brought up. [LB1066]

SENATOR KOLOWSKI: Thank you very much, ma'am. Questions for Ms. Rickert, please. Senator Groene, please. [LB1066]

SENATOR GROENE: Could you tell me what you wanted to respond to? [LB1066]

SHERI RICKERT: All right, thank you. First of all, his first point that loan doesn't apply, I think he may have misspoken there. I heard him say that loan doesn't apply to the private school students, I think he meant to public school students. I'd invite you to read the text of 79-734, the very opening line says school boards can purchase and loan textbooks, and then it goes on to all public school students and to private school students. So that same loan problem, if it is a problem, it currently applies to public school students, and therefore, we wonder why or under what authorization the school boards currently are able to buy what they consider consumables for public school students. For textbook, they said they had to rely on a dictionary definition. Again, that word textbook applies to public school students. They don't seem to have had that problem coming up with a flexible definition in terms of the materials they are already allowing or that school boards are purchasing for their public school students. The other states, their textbook loan programs don't have a...they do have a definition for textbook in their statute. A big difference between all those other states and Nebraska, Nebraska seems to be unique in that it combines the authorization for public school and private school student authorization in the same statutory provision. So again, if you try to separate them out, you can't, because they are both combined in one sentence and in the same provision. Back in 2008, the department didn't seem to have any problem changing its definition of textbook in terms of its regulations. We're baffled as to why it's a problem now. They're the exact same kinds of issues, with respect to the definition of textbook, that it seems to be it would be easier to do it in regulation. Plus, the fact that it makes it better in regulation is that precisely they pass...things are developing in a way that we don't know--very rapidly. To have to come back to the Legislature every two or three years to look again at a definition just doesn't seem to be very effective or an efficient way, in terms of providing materials to either public or private school students. You mentioned, Senator Groene, that perhaps we could have legislation next year. Again, we've asked the department this, if they want to do that, then under what current authority are they using that's allowing school boards to

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purchase and loan textbooks to all public school students, including all those items that don't fall within what they consider the dictionary current definition of textbook in the statute? [LB1066]

SENATOR GROENE: Thank you. [LB1066]

SHERI RICKERT: Thank you. [LB1066]

SENATOR KOLOWSKI: Any additional questions, please? Seeing none, thank you very much. [LB1066]

SHERI RICKERT: Thank you. [LB1066]

SENATOR KOLOWSKI: Any additional opponents, please? Good afternoon. [LB1066]

MARK L'HEUREUX: Good afternoon, Education Committee. My name is Mark L'Heureux, M-a-r-k L-'H-e-u-r-e-u-x. I am a principal at Christ Schools, here in Lincoln, Nebraska, and am speaking against LB1066. The statute for the Textbook Loan Program, as currently written, authorizes private school students to access the same textbooks as provided to public school students in the same district. This is a proper and equitable means of fulfilling the purpose of the Textbook Loan Program, which by the way, as you know, does not take any moneys from the public school system, but relies solely on separate appropriation. After listening to today, I am happy to hear that this is not a public versus nonpublic issue, but more of in a fairness of provisions for all students, regardless of where they attend, whether public or nonpublic, and the question of why would we want to limit one of our residents and give them less in our education. So thank you for listening to me today, and I would be happy to entertain any questions. [LB1066]

SENATOR KOLOWSKI: Senator, please. [LB1066]

SENATOR SCHNOOR: Mr. L'Heureux, did I get that right? [LB1066]

MARK L'HEUREUX: That's correct. [LB1066]

SENATOR SCHNOOR: I didn't write anything down. [LB1066]

SENATOR PANSING BROOKS: I have it. [LB1066]

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SENATOR SCHNOOR: Okay. All right, you are referring directly...only to the Textbook Loan Program? [LB1066]

MARK L'HEUREUX: That is correct. [LB1066]

SENATOR SCHNOOR: You're saying as it is presently defined, that it works? Is that what I'm understanding? [LB1066]

MARK L'HEUREUX: Correct. As it is defined, it has worked...or it works, but it seems like there is a definition of what is a textbook, in terms of as it relates to an e-book or a bundle, as been stated previously. [LB1066]

SENATOR SCHNOOR: Okay, but as...right now it's working? [LB1066]

MARK L'HEUREUX: Correct. [LB1066]

SENATOR SCHNOOR: Okay, thank you. [LB1066]

SENATOR KOLOWSKI: Any additional questions? Senator Groene, please. [LB1066]

SENATOR GROENE: Thank you, Chairman. Can you, right now...your school apply and get an e-book? [LB1066]

MARK L'HEUREUX: Not under the current statute. [LB1066]

SENATOR GROENE: So it isn't working completely? [LB1066]

MARK L'HEUREUX: Correct. [LB1066]

SENATOR GROENE: All right. And maybe you don't know, but I should have asked the last testifier, but a public school loans to itself....how can that be? It's within the district...present statute says they loan to a public school or a parochial school. How does the school loan to itself within a district? [LB1066]

MARK L'HEUREUX: That's a question for somebody smarter than me. [LB1066]

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SENATOR GROENE: Thank you. [LB1066]

SENATOR KOLOWSKI: Any additional questions? Seeing none, thank you very much. [LB1066]

MARK L'HEUREUX: Thank you. [LB1066]

SENATOR KOLOWSKI: Further opposition? Anyone else, please? Seeing none, anyone in the neutral category? Senator Sullivan to close. [LB1066]

SENATOR SULLIVAN: Thank you, Senator. Senator Groene, in response to you, a student in a public school is loaned those textbooks with the expectation that they turn them in when they're done with it. And... [LB1066]

SENATOR GROENE: But those textbooks aren't paid for by this program? [LB1066]

SENATOR SULLIVAN: No. This is, yes, the annual cleanup bill, but as you can see, there's lots of details. And we heard some issues that need to be addressed, and I'm certainly willing to look at them. So I just appreciate your attention and thank you for all of this. [LB1066]

SENATOR KOLOWSKI: (Exhibit 2) Senator. Also...pardon me, LB1066...Mr. Greg (sic) Oligmueller, state budget administrator, has opposed Section 19 of the bill. This is for the record. [LB1066]

SENATOR SULLIVAN: And that has to do with the change in the date for estimated state agencies. [LB1066]

SENATOR KOLOWSKI: Thank you. Any questions again for Senator Sullivan? Thank you very much. That closes the hearing on LB1066 and the hearing for today. [LB1066]