

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

CLEMENTS: Good afternoon, and welcome to the Appropriations Committee. My name is Rob Clements. I'm from Elmwood and represent Legislative District 2. I serve as Chair of this committee. We will start off by having the members do self-introductions, starting with my far right.

DORN: Senator Myron Dorn, District 30.

VARGAS: Senator Tony Vargas, District 7.

WISHART: Senator Anna Wishart, District 27.

McDONNELL: Mike McDonnell, LD 5, south Omaha.

CLEMENTS: There are senators who aren't here currently, and some senators may come and go during the afternoon, as they may have bills to introduce in other committees. Assisting the committee today is Cori Bierbaum, our committee clerk. To my left is our fiscal analyst, Bill Biven. And our page today is Cameron Lewis, and Ella Schmidt may be coming in later. If you're planning on testifying today, please fill out a green testifier sheet in the back of the room and hand it to the page when you come up to testify. If you will not be testifying but want to go on record as having a position on a bill being heard today, there are yellow sign-in sheets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record after today's hearing. To better facilitate today's hearing, I ask that you abide by the following procedures. Please silence your cell phones. Move to the front chairs to testify when your bill or agency is up. When hearing bills, the order of testimony will be introducer, proponents, opponents, neutral, and closing. When we hear testimony regarding agencies, we will first hear from a representative of the agency, then we will, we will hear testimony from anyone who wishes to speak regarding the agency's budget request. When you come to testify, please spell your first and last name for the record before you testify. Be concise. We request that you limit your testimony to 3 minutes or less. We're expecting quite a few testifiers, and we're requesting 3 minutes today. Written material may be distributed to the committee members as exhibits only while testimony is being offered. Hand them to the page for distribution when you come up to testify. If you have written testimony but do not have 12 copies, please raise your hand now so the page can make copies for you. With that, we will begin today's hearing with LB1008, Senator Walz. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office

Appropriations Committee February 6, 2024

Rough Draft

WALZ: Thank you. What a pleasure to be in front of this committee today. Good afternoon, Chair Clements and members of the Appropriations Committee. My name is Lynne Walz, L-y-n-n-e W-a-l-z, and I represent Legislative District 15, which is made up of Dodge County and Valley. Today I'm introducing LB1008, which appropriates an additional \$45 million to the School Safety and Security Fund for security-related infrastructure projects in schools. Last year, I prioritized LB516, which came from the recommendations of the task force I and the Department of Education put together after the shooting in Uvalde in 2022. That task force was made up of law enforcement officials, city leaders, public and private school educators, and concerned parents, amongst others. One of the recommendations out of this was to help schools fund safety infrastructure projects. If you didn't know, Nebraska is 1 of 4 states that provides no state dollars for school construction. We are all aware of the safety risks that students, teachers, and support staff face in schools, and it's our responsibility to help make sure that they are safe. Last year, we appropriated \$10 million into the School Safety and Security Fund. And since then, the State Board of Education has been working on rules and regulations for this and I'm happy to say that they approved those rules in January. And now we're awaiting the rest of the rules and regulations process. After introducing this bill, I received a lot of communications from schools about just how many projects they're looking at doing. This ranged from the most basic, such as upgrading door locks for every classroom door that can be locked from within a room, to communication devices, to an entryway relocation. We found that the demand is far exceeding the money that we provided. I've also passed around a brief-- a briefing that goes over the background, what this money can be used for, and various other policies that must go hand in hand with infrastructure upgrades to prevent violence in schools. I understand that \$45 million is a large ask, but honestly, this is a realistic need that schools across our state are facing. The \$45 million appropriation was chosen as an accurate estimate of the needs across the state. Last year, we made a serious investment in the safety of our schools, and I really, really appreciate that support. This bill continues that commitment while meeting the needs of our local communities. And I would also-- just want to say that \$45 million was the-- [INAUDIBLE]-- I mean, that, that amount of money is needed to secure our schools, but I'm willing to work with the committee if we want to break it up into the next 4 years, and, and do like a \$10 million, \$10 million, \$10 million. I just want to be able to make sure that we're providing some type of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

funding to go into the safety and security of our schools. And with that, I'll be happy to answer any questions.

CLEMENTS: Senator Armendariz.

ARMENDARIZ: Thank you. Thank you for being here. I did notice, in your notes here, that there could be some ongoing expense to manage some of these systems, you know, possibly a security systems or-- do you anticipate that the Department of Ed would have that? Those funds then, to pay for that ongoing, or would they be coming back here to pay for additional staff members, or have you talked to one of them about it?

WALZ: I haven't talked to them. And hope-- maybe somebody is here that can answer that question.

ARMENDARIZ: OK. Yeah. If they're available for me to ask that.

WALZ: Yeah. Thank you.

ARMENDARIZ: Thank you.

WALZ: That's a good question.

CLEMENTS: Senator Wishart.

WISHART: Thank you, Senator Walz, for being here. So when you say \$45 million is an estimate of the need, where are you getting that estimation from?

WALZ: So the Department of Education did a survey, asking schools what kind of-- what kind of safety/security needs they have. And I think that information also comes in from the applications that they received, from schools, when we first set out this \$10 million. And like I said before, the applications way exceed the amount of the \$10 million that we had appropriated last year.

CLEMENTS: Other questions? Seeing none, thank you.

WALZ: Thank you, Chairman Clements. Appreciate it.

CLEMENTS: Will you stay to close?

WALZ: Sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

CLEMENTS: All right. Now, we welcome proponents for LB1008. Good afternoon.

JOHN SKRETTA: Good afternoon, Chair Clements and Senators, members of the Appropriations Committee. Great to see you. Thanks for convening this hearing today on LB1008. My name is John Skretta. That's J-o-h-n S-k-r-e-t-t-a. I am the administrator at Educational Service Unit 6, headquartered in Milford, serving 16 public school districts with 10 nonpublic members covering a 5-county area. We're headquartered in Milford. And I am here testifying today on behalf of ESU 6, ESUCC, which is the ESU Coordinating Council, NCSA, the Nebraska Council of School Administrators, NRCSA, the Nebraska Rural Community Schools Association, and STANCE, which is the coalition of mid-size school districts, Schools Taking Action for Nebraska Children's Education. There's a handout that's been distributed that asserts our rationale for why supporting LB1008 is a critical, important, and necessary ongoing investment in school security and safety. We want to express our gratitude to Senator Walz, for the ideation and the origination of this, through LB516 and the initial commitment that our Unicameral made of \$10 million. That has been authorized now, in regulation through Rule 58 to be administered by the Nebraska Department of Education. I want to note that we in the education community want to affirm the amazing effort of Jay Martin, our Nebraska Department of Education school safety and security director, in overseeing and facilitating that process. We're asking you today to continue a commitment you initiated last year with that funding for Safe2Help Nebraska in this initial round of safety and security infrastructure grants. As Senator Walz already shared, it's a tall ask. We know that. But it begs the question, which I think is a rhetorical question, I hope. I hope you agree that what investment is more critical and necessary than safety in our schools? In fact, we would assert that it's a logically prior condition in order for learning to occur and for students to succeed. And here's the thing. I don't know about the \$45 million, but I know that if we examine some specific examples, these security and safety investments are not inexpensive. A recent quote from a vetted vendor in our area for one of our mid-sized school districts in ESU 6 to simply have doors and cameras secured was \$210,000. So that's just one small project to assist one district. Tom Venzor, with the Catholic Conference, will testify about the nonpublic perspective on this, but I want to point out and affirm the importance of nonpublic schools, our privates and parochials, being eligible for these grant funds through the partnership efforts of ESUs as the lead applicant on those. In conclusion, I would just repeat that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

prioritizing these investments helps to protect and defend our schools, our students, our teachers, our staffs, our communities. So, thank you very much for considering LB1008.

CLEMENTS: Thank you. Are there questions from the committee? Seeing none, thank you for your testimony.

JOHN SKRETTA: Thank you.

CLEMENTS: Are there additional proponents?

TOM VENZOR: Good afternoon, Chairman Clements and members of the Appropriations Committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the executive director of the Nebraska Catholic Conference. And also, would like to thank Senator Walz for her efforts on school safety funding. Just been a real advocate for this issue, as well as being an advocate for the inclusion of nonpublic schools in this conversation. Jeremy Eckler, when he was with the Catholic Conference, was working very closely with her office as well as that broader community of, of educators to kind of have this conversation on school safety, particularly after the Uvalde shooting and also just, as John Skretta noted, just real thanks for Jay Martin in the NDE. He's been, I think, a real leader on this. And I know an ongoing mantra of his has been that all kids deserve to be safe, regardless of their school, school setting or their educational environment. So for the Catholic schools, we have 112 Catholic schools across the state, which is about 27,000 students. So that's about 80% of the nonpublic school population. And those buildings account for about half of the school buildings in the nonpublic community. The other half are, are across various other denominations or religious affiliations or no religious affiliation in the nonpublic community. So, again, I, I think, what we did last session was just a very good start to what we're going to do in the realm of school safety. But I think, as Dr. Skretta noted, the cost of some of these projects can be pretty high. And with \$10 million on the table and, you know, this many schools, it's, it's going to-- I think it's going to be important and imperative for the Legislature to provide, I think, additional investments in this area. I think for us, in particular, for the non-- for the Catholic schools, you know, we see a lot of our buildings-- and a lot of our buildings are older, so they have, you know, they weren't really made for sort of modern, 2024 standards. So as we look at those buildings and the security features that they might need, whether it's cameras or FOB entryways or hardening of doors and other things, we just see a variety of needs in the school safety front. So we're very thankful

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

for the conversation that's being had on this, and reiterate a lot of the support that was offered earlier. So thank you for your time and your consideration of this request.

CLEMENTS: Thank you. Are there questions from the committee? I had one. They said the \$10 million allocation from last year has just now been set up. Have your nonpublic schools applied for funding from that?

TOM VENZOR: Yeah. And so, the rules and regulations were just recently approved. So, so we finally have something concrete in the, the Department of Education is, you know, working with the application process. So the application process per se hasn't opened up yet, but hopefully that will be-- they were hoping that would have been by now, if I'm understanding right, but hopefully soon we'll be able to apply for those.

CLEMENTS: You do intend to apply for some?

TOM VENZOR: Yeah. Correct. Yep. Yep. And so the way it works for nonpublic schools under the program, is that we would essentially make an application through the ESU. And then the ESU would-- basically, we would contract with them for services that would go to the nonpublic school. So, so as many of you know already, under the State Constitution, appropriations cannot be made directly to a nonpublic school. So that's the way-- that's the reason it was set up that way, so that the-- basically the, the benefit to the nonpublic school is an indirect benefit, which is permissible under the State Constitution. And that's how it's been set up with the ESUs.

CLEMENTS: All right. I had one more question. Is there any-- are there any matching funds required that you know of?

TOM VENZOR: Not under this program. No.

CLEMENTS: You just submit a request for a construction amount.

TOM VENZOR: Correct. Yeah. Um-hum. I think there's like, needs assessments and other things like that. And I-- third parties are going to have to be part of that needs assessment, as well. So it's not going to be, you know, just purely us saying what we need. There'll be an evaluation of those projects.

CLEMENTS: All right. Very good. Seeing no other questions, thank you for your testimony.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

TOM VENZOR: Thank you very much.

CLEMENTS: Are there other proponents for LB1008. Seeing none, are there any opponents? Seeing none, would anybody care to testify in the neutral capacity? Seeing none, Senator Walz, you're welcome to close.

WALZ: Thank you. We wanted to keep it short and sweet for you guys because we know how busy you are. I did not hear anybody answer your question. So I will contact the Department of, of Education and find out that answer--

WISHART: That works.

WALZ: --for you. Just real quickly want to thank the testifiers who came today, appreciate their time. And, again, you know, I would love to be able to work with this committee just to make sure that we are continually, continually setting aside money for this fund. I think our number one priority is, is keeping our kids and our constituents safe and healthy, so would love to work with you. Do you have any questions?

CLEMENTS: Senator Dorn.

DORN: Thank you. And, and I thought earlier, you or somebody said that they had allocated the funds, but I thought Tom said they have not. They, they just only come up with the guidelines.

WALZ: With the allocation.

DORN: So in, in the near term, they will allocate that first \$10 million?

WALZ: Yes. And I'm going to clarify that too. I'm going to have that clarified because I was thinking that some of those funds have been allocated. I do know that the number of applications and the amount of funds that schools applied for did way exceed--

DORN: Exceed? OK.

WALZ: --the \$10 million. So.

CLEMENTS: Yes.

WISHART: And can we get, Senator, just an idea of what that-- how much that exceeded. What was the ask--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

WALZ: Yeah.

WISHART: --in terms of applications for--

WALZ: Yeah.

WISHART: --over the \$10, \$10 million? That would be helpful.

WALZ: Absolutely.

DORN: Yeah.

CLEMENTS: All right. Seeing no other questions, thank you, Senator Walz. Do we have position comments?

WALZ: Thank you.

CLEMENTS: The, the position comments for the record: proponents, 4; opponents, 1; neutral, 0. That concludes LB1008. Next up on our agenda is LB858, Senator Linehan. Welcome.

LINEHAN: Good afternoon, Chairman Clements and members of the Appropriations Committee. I am Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n, and I represent Legislative District 39, which is Elkhorn and Waterloo. Today, I'm introducing LB858. LB-- LB858-- 58 gives additional funding to the Nebraska Department of Education Office of Finance and Administrative Services [SIC]. Specifically, it would help Bryce Wilson, the finance officer of this office, with hiring more personnel. This bill would appropriate about 300-- \$300,000 every year. Currently, the office is short-staffed and needs more personnel. With this funding, this office will be able to better meet the needs in Department of Education, the Legislature, and the Governor's Office. This isn't in my written testimony-- or my written statement here, but I have to tell you, I have depended on Bryce Wilson and his office more than anybody else in government for the last, whatever, 7 years. He is always available, always polite, incredibly competent, and he needs some help. So thank you.

CLEMENTS: Are there questions from the committee? I had one. Do you know how many staff this would cover?

LINEHAN: I think there's people behind me, I'm hoping, that can answer that better. I, I don't know exactly. I mean, this is very complicated. They do all the TEEOSA stuff. And I think what we don't see here is they help all the schools make sure they're meeting all

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

their requirements. So I-- I'm not sure how many, but hopefully, somebody behind me can tell me.

CLEMENTS: The fiscal analyst says it's 2.

LINEHAN: OK.

CLEMENTS: Extra specialists. All right. Thank you. So are there other proponents? Good afternoon.

SEAN MOLLOY: Good afternoon, Chairman Clements and members of the Appropriations Committee. My name is Sean Molloy, and that is spelled S-e-a-n M-o-l-l-o-y, and I serve as superintendent of Fairbury Public Schools. I'm here today to offer testimony from STANCE. STANCE stands for Schools Taking Action for Nebraska's Children's Education, and consists of 18 mid-size school districts, which is free of lobbyists representing nearly 25,000 school children. And this letter is in support of LB858, which would provide additional funds to the Nebraska Department of Education to expand the Office of Finance and Organizational Services. To begin, I would like to express my sincere gratitude to Senator Linehan for introducing this legislation. As a first-year superintendent, I want to express my appreciation for Kevin Lyons, Bryce Wilson, Stephanie DeGroot, Michelle Cartwright, and the entire Finance and Organizational Services departments. The budget process is complicated and includes many nuances, most of which are created by mandated legislation. The FOS department supports superintendents and business managers of school districts across the state, regardless of the time or day of the week. The demand and expectations of the FOS department are substantial. They provide service to districts of all sizes and needs. From July 1, 2023 until present, I have heavily relied on their support. Although budgets were submitted in September, that does not lessen the amount of support the FOS department provides. As recent as last week, I spoke to the department regarding the appropriate use of different funds under current statute. Again, this is an example of the outstanding support and service they provide in order to ensure school districts are in compliance and meeting the ever-changing mandates, it is crucial to provide additional funding. Furthermore, much of the currently proposed legislation may result in school districts navigating substantial budgetary changes which will put more strain on the FSS department. They will not be able to sustain their current level of support unless additional funding is provided. LB8-- LB858 would ensure the FOS department can maintain and expand the services they provide to school districts across the state of Nebraska. STANCE ia a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

proponent of LB858, and asks the committee to forward this bill. Thank you.

CLEMENTS: All right. Any questions from the committee? Seeing none, thank you for your testimony.

SEAN MOLLOY: Yeah. Yeah. Thank you for your time.

CLEMENTS: Are there other proponents? Good afternoon.

CORY WORRELL: Good afternoon, Chairman Clements and members of the Appropriations Committee. My name is Cory Worrell, C-o-r-y W-o-r-r-e-l-l, and I'm the superintendent of schools in district 145, which is Waverly. We are also offering testimony today from STANCE, as well. And we're here today to offer support of LB5-- of LB858, which would appropriate money to the Nebraska Department of Education's Finance and Administration Service [SIC] Department. The appropriation of funds in LB858 would provide funding to NDE's Department of Education Finance and Administrative Services [SIC] Department, which would benefit many people. First off, it would allow NDE the additional capacity to look at state funding and determine if Nebraska's funding system should be modified or changed when reviewed in light of additional metrics, other state school finance policies and efficiencies that could be gained through added information. At this time, NDE currently has only 5 people in the finance department, which does not provide enough capacity to take on any additional research in addition to the required work they are already doing. Second, it allows NDE to dig deeper into how districts get results with limit-- with limited resources. There are districts that have strong student achievement results that have limited state resources. Are there efficiencies that could be identified for these districts that could benefit all of our school districts in Nebraska? By allocating more money to NDE for these new positions, it would allow them time to research and to find out what has worked in other districts across Nebraska. Right now, they do not have the time or the personnel to do this. Also, how, how should these schools that are designated priority schools in Nebraska be funded? By hiring additional staff, this question might be one that's given more time and attention. And ultimately, funding for these districts may be used more effectively. The role of the Finance and Administrative Services Department [SIC] at the Nebraska Department of Education is one of the information gathering places for all of our state senators, State Board of Ed members, and superintendents, to name a few. At this time, the number of staff members in this office is not adequate to find

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

answers to questions that are posed to them. Every legislative session, more information is sought from this office. They simply need the staffing to keep up with the requests that can benefit our state. The positions this allocation money-- of money could afford should help to bring about more efficiencies with school finance in Nebraska. Thank you for your time.

CLEMENTS: Thank you. Are there questions from the committee? Senator Dorn.

DORN: Thank you, Senator Clements, and thank you for being here. And I guess mine, maybe somebody else has asked, asked to answer my question, too. Why has this department only had 5 employees all along, I guess. Why isn't that a greater number? Because when I look at the year-end numbers, Department of Education has almost 600 employees.

CORY WORRELL: Right. Well, I think the specific-- I don't have an answer to that. I don't work for NDE. I think, for the, the department, though, that most people are talking about, similar to what Mr. Molloy said, there is only a handful of people that work in that office where Bryce Wilson works. Bryce is the, the member there that I think a lot of our state senators reach out to, our superintendents, our business managers. But I think that office only has 5 staff members, right around that number. But long-term, I can't [INAUDIBLE].

DORN: But my question is why only 5, I guess.

CORY WORRELL: Yeah.

DORN: Up, up to this point, why only that many, I guess. And hopefully, some other people will, will also help answer that. Thank you for sharing.

CORY WORRELL: You bet.

CLEMENTS: Other questions? Seeing none, thank you, Superintendent Worrell.

CORY WORRELL: OK. Thank you.

CLEMENTS: Are there additional proponents? Seeing none, is there anyone here in opposition? Seeing none, is-- would anyone care to testify in the neutral capacity? Seeing none, Senator Linehan, please come to close.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

LINEHAN: I'm only closing-- I think I know the answer, Senator Dorn, to your question. I think this has been talked about for 5 years, but we just never got it done.

DORN: OK.

LINEHAN: And then, I'm--

DORN: Thank you.

LINEHAN: --answering other questions.

CLEMENTS: Other questions? I, I see it's, it's adding 2 staff. How did you decide on that, on the 2 staff for the request?

LINEHAN: I actually didn't decide. I asked them what they needed. And I think it's-- if I know from my experience with working with Bryce Wilson, it's not a-- it's not an exa-- it's-- what's the word? Exa-- I can't say it. I've got cold medicine going on. He's not asking for more than he needs. He's very-- he's a farm kid, grew up in Bennington. He's--

CLEMENTS: Bennett.

LINEHAN: Bennett. Right. Thank you. See? Drugs. So, I just know that, as the superintendent said, I can call him on a Sun-- well, I try to text him if it's on the weekend, but he's always available, night, day, weekends.

CLEMENTS: Well-- so-- that was mainly-- I was hoping that it was from the department that they identified the need. And that's what I wanted to know.

LINEHAN: Yes.

CLEMENTS: Thank you. Any other questions? Seeing none, thank you, Senator Linehan. Do we have position comments for this bill? Position comments for the record on LB858, proponents, 2; opponents, 1; neutral, 0. That concludes LB858. And that will bring us to LB1402, Senator Linehan.

LINEHAN: Good afternoon, again. I'm still Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n. And I have a pile of handouts here. Nebraskans believe in school choice. We have 244 different school districts, 7 of which are located in Douglas County alone. They include OPS, Millard,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

Elkhorn, Ralston, Westside, DC West, and Bennington. Many Nebraskans purchase home in school districts of their choice. Real estate advertisements frequently mention the school district that a home is located in, such as Elkhorn, Millard, and Westside. Of course, to choose this option, you have to have the means to afford a home in these districts. Another 24,000 students access school choice through public school option enrollment, of which the state funds at over \$100 million per year. For instance, Westside is 33% option students. 10% of the students in Nebraska attend a private school because they're either lucky enough to access scholarship programs or the family has the financial means, they can afford to do so. The only families who cannot access school choice are those without the means to do so. The Opportunity Scholarship Act balances choice for all Nebraskans and increases hope and educational success for families who previously had no options. LB1402 will allow students to receive scholarships from scholarship granting organizations. LB1402 is not a scheme to give rich families scholarships. This bill will give eligible students, as outlined in the bill, the ability to go to a qualified school. These schools must be nongovernmental and privately-operated schools. They must also not be for-profit. In other words, they cannot be for-profit schools-- comply with federal anti-discrimination laws, comply with health and safety laws, and be approved or accredited by the State Board of Education. These are not fly-by-night schools that open up in a mall. Scholarship-granting organizations, or SGOs, have to be charitable 501(3)(c)-- excuse me, 501(c)(3) nonprofit organizations. SGOs also need to distribute scholarships to eligible students under the criteria of LB1402. Lastly, SGOs cannot be directly affiliated with a single qualified school. Priority tier-- priority tiers in LB1402 are similar to current law. Typo there. The tiers are as follows. First priority-- but understand, this is the first priority after the law is already in effect-- students that received an educational scholarship from an SGO in the previous year or siblings of a student that received a scholarship, and then also live in the same household. That has to be in the law because you can't give a child a scholarship, but the next year-- if they're still qualified the next year, take it away. This caused a lot of confusion. That's why I'm trying to explain it. So this tier wouldn't come into effect until the law was already in effect for a year. So in the first year-- this the first priority is why I have a second priority here. Is students whose household income does not exceed 100% of federal poverty, students denied option enrollment, students with an IEP, students being bullied, harassed, assaulted, physically harassed and threatened,

students in foster care, students with a parent or guardian on active duty service in the military or National Guard, or those whose parent or guardian was killed in action. Third priority is students with a household income between 100 and 105-- 185% of poverty, which is what we generally refer to as free lunch, free and reduced lunch. Fourth priority is students with a household income between 185% and 213% of poverty. And the fifth priority is students with a household income between 213 and 300 poverty, which I've tried to-- these go along with what we do with other programs, the last one being the Children's Health Insurance Program. SGOs must limit scholarships to the cost to educate a student. The average amount of scholarships given cannot exceed 75% of the state's per formula spending-- student spending. If 90% of the funds are used, then each following year they can increase by 25%, not to exceed \$100 million, which would take at least 10 years and probably longer to reach that cap. SGOs can carry over no more than 25% of the grant funds to the next year. And this was something that was brought to me by Senator Hughes and I think, Senator DeKay, because they didn't want one SGO taking all the money and then not giving out the scholarships. If an SGO has more than 25% of their grant funds, that SGO must transfer the funds to another SGO to be used for scholarships or have the funds transferred back to the General Fund by September 30th the following year, again, to ensure that one organization doesn't take all the money and not use it. Each SGO receiving funds under LB1402 must submit a financial audit by December 1st. The audit must be certified by an independent public account. Lastly, I have an amendment for the committee's consideration. This amendment will create additional eligibility for students. AM-- AM2317 will do the following: Military families transferring into Nebraska will be eligible. So one SGO has already got a question from a family who is being transferred to Offutt. And they called to see what school choice was in Nebraska, because they can live in Nebraska or they can live in Iowa. And they want school choice, so right now, they're headed toward Iowa. Students currently enrolled in a qualified school and have a household income of no more than 105-- 185% federal, federal poverty. I would-- and I am sorry, I have a cold, but I'm staying a long ways away from you. I would like to preempt some of the opposition testimony. In front of you is a 2019 Op-Ed from George Will, in the Washington Post. It also ran in the Lincoln Journal. The subject of the Op-Ed is James G. Blaine, who is responsible for the Blaine Amendment in Nebraska's Constitution. And I quote, from Will's Op-Ed: Republican James G. Blaine was a House speaker, a senator, two-time Secretary of State, but he is remembered, if at all, for this doggerel: Blaine, Blaine,

James G. Blaine, the continental liar from the state of Maine. His last-- lasting legacy, however, is even more disreputable than his involvement in unsavory business deals while in elective office. So that's where the Blaine Amendment comes from. An early 20th century demonstration-- demonstrat-- discrimination against Catholics was common and accepted. Blaine almost became President of the United States by vilifying Catholics. Thankfully, Nebraska's Constitution's Blaine Amendment was amended in the 1970s to prohibit appropriations "to" rather than "in aid of" sectarian schools. In the 3 years since the Supreme Court decisions-- excuse me. In the years since, the Supreme Court decisions have made it clear that all forms of educational choice will pass state constitutional muster. For example, in *Father Flanagan's Boys Home v. the Department of Social Services*, the court allowed the state to contract with private schools for the education of children with special needs. For those who can't remember the world before IDEA, which is a federal law, individuals with disabilities education, most children with special needs were cared for by religious institutions, such as the Lutheran Home in Beatrice or Boys Town. *Cunningham v. Lutjeharms*, the court upheld the textbook loan program. I've listed-- in 1984, the Nebraska Supreme Court held the fact that the private institution derives indirect benefits from a contract with the state does not transform payments or contracted service into an appropriation of public funds. The court ordered the state director of health to consider the application for public research grants, by-- filed by a religious university. In 1981, and this one, I think, is especially instructive. It's on page 8 of 9. *Lenstrom v. Thone*. The Nebraska Supreme Court held that nothing in the Nebraska Constitution prevents the state from creating a scholarship program to provide financial assistance to students attending public and private post-secondary educational institutions. Finally, included in your pack-- packet is Nebraska Department of Education option enrollment form, form. Please note the first question after the grade level. Does this child have an indivi-- individualized education program? So in our public option enroll-- enrollment program, schools are allowed and do refuse to take kids with a disability, even if it's just a slight hearing loss. If they have an IP-- IEP, they're generally turned away. And I think I included in that packet a letter from a parent I got this year, about-- they bought-- they lived in a school district. They bought an acreage they didn't know was outside the school district. They tried to opt back into the school district they were in. They would take one, but they would, they would not take a daughter with an IEP.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

CLEMENTS: Other questions from the committee? Senator Wishart.

WISHART: Thank you for being here. So if the Legislature passes this legislation and we have the other legislation from last year, are, are we talking then, potentially-- because this could grow to \$100 million. So are we going to have two then two pro-- I'm trying to understand what the total fiscal impact would be if this passes and we have the other legislation we had last year.

LINEHAN: It would be-- my thought process, and I haven't talked to everybody about this, but if we pass this, we should repeal the other one. The complaints on the tax credit, which I think are completely silly, but there's-- because of all the noise, there's some thought that somehow the, the act we passed last year benefits donors, contributors. We have, I don't know, 24 tax credits on the books now. And almost all of them-- well, not-- well, I think they are about split half and half. Some of them actually do-- half of them, at least, actually benefit the person taking the tax credit, meaning they get a tax credit and they put the money in their pocket. Right? Some of them, the rest of them, I would say, generally benefit, like last year, we did one for childcare expenses. So parents have childcare expenses. If it's up to \$75,000, I think they get \$2,000 per child under 5, or 5 and under; and up to \$150,000, 5 and under. So that money goes into the parents' pockets. But-- right, they have more-- high expenses. This tax credit goes to a child who can't get into a school they want to go to. None of the money goes back to the person who's getting the tax credit. None of it, which I think makes it very unique amongst our tax credits. And just to show how much we like tax credits, I think, if I remember right, there are 13 tax credits, tax credits introduced this session by 9 different senators. We use tax credits to promote things that we believe are good policy. But because of all the confusion and the negative-- actually halts-- but I, I understand why people get confused. I just think this is just-- just appropriate the money. And I am not the appropriator, but I think we already have \$25 million in the budget for the other program. So if that went away, you'd have \$25 million to pay for this.

WISHART: One more question. So we ask this in Appropriations a lot. The intent of this is a program that is ongoing, not just for the life of this budget.

LINEHAN: Right.

WISHART: OK. OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

LINEHAN: But I realize the appropriators can change that.

WISHART: OK.

CLEMENTS: Other questions.? Seeing none, thank you, Senator Linehan.

LINEHAN: Thank you very much.

CLEMENTS: Are there proponents for LB1402? Good afternoon.

BRANDON VILLANUEVA SANCHEZ: Good afternoon. Hi, my name is Brandon Villanueva Sanchez. B-r-a-n-d-o-n V-i-l-l-a-n-u-e-v-a S-a-n-c-h-e-z. It's long. So I came here today to support LB1402 as a private scholar recip-- as a private scholarship recipient and an attendee of a K-12 private Catholic education, I can first-handedly speak to the ways and how this education has changed and altered my life up until now, being a college student. And the reason I attended private schools was because of my parents' philosophy and the way they were brought up. My parents grew up in Mexico, where they were forced to drop out in seventh grade in order to help work and put food on the table for their families, depriving them of an education. So when my parents came to the United States and had me and my older siblings and it was time to enroll in some schools, they told themselves that they were going to do whatever they could to give us the best quality education. And to them, that meant a private education. However, because Nebraska wasn't offering school choice, the financial responsibility fell solely on my parents. And thankfully later on I was able to receive or we were able to receive private scholarships that eased the burden a little bit, but still had a tremendous burden on my parents, requiring them to have 4 total jobs between the 2 of them. My dad worked 2 full-time jobs as a janitor. My mom, 1 full-time job as a janitor, a maid, on top of being a full-time mom. And this education is something that I continue to carry with me through today. Because of the education, because of the environment, and because of the rigor, I was able to complete high school, something that many people see as an expectation, whereas some people see it as a hope. Furthermore, I was able to attend college on a full-ride scholarship, where I currently attend the University of Nebraska at Omaha, as a first-generation college student where I study neuroscience with a minor in chemistry. Because of my education or because of what I attribute to my education, I have also been identified as a future leader in neuroscientific research, both by the Johns Hopkins School of Medicine and the Barry Goldwater Foundation, one of the most prestigious STEM scholarships available to undergraduate students. And although my

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

parents had been able or were capable of sacrificing, sacrificing so much, I realize that not everyone or not every student has parents capable of making that sacrifice or working multiple jobs just to provide them that education. So I ask you today, when you think about this bill, when you're going to vote on this bill, think about how this has changed, how this could change lives, how it has changed mine, and how it could change hundreds if not thousands more. Thank you.

CLEMENTS: Thank you, Brandon. Are there questions? Seeing none, thank you for your testimony.

BRANDON VILLANUEVA SANCHEZ: Thank you.

CLEMENTS: Are there additional proponents? Good afternoon.

CLARICE JACKSON: Good afternoon, Senators. My name is Clarice Jackson. My address is 8110 Girard Plaza, Omaha, Nebraska, 68122. It's good to see you all today. I have come down here--

CLEMENTS: Did you spell your name?

CLARICE JACKSON: Oh. C-l-a-r-i-c-e, Jackson, J-a-c-k-s-o-n.

CLEMENTS: Thank you.

CLARICE JACKSON: Sorry about that. I've come down here many, many times, in support of educational freedom, otherwise known as school choice. And I have very personal reasons for that, as well as experience, being the daughter of a school teacher, an Omaha Public Schools teacher, who taught in the school system for 35 years before retiring. So I believe in education in its totality. I believe education is the great equalizer, and it is the gateway out of poverty. And it is an answer to some of the things that ail our community and our citizens. I'm a huge proponent of literacy, and due to those things, I have found, by working in the public school system and also as a school choice advocate, that educational freedom is an answer. And I don't believe that we should prevent or refrain parents who can't afford to send their children to a school that they would not otherwise be able to afford because of political fear and myths that are out there about what school choice is and isn't. There's a narrative that suggests that if you support school choice, that you absolutely hate traditional public schools. That is far from the truth. I support all school options, and I believe that parents need that choice. I believe it's a human right. I was a parent who had a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

daughter who, for all intents and purposes, I thought the public school system could answer her, her, her dilemma. And her dilemma was she had dyslexia. And so I did everything that the school suggested that I do, to no avail. My daughter made it to the fourth grade, unable to simply read 2 and 3-letter words. And she went through special education. She went through every hoop that they asked me to go through and she still could not read. I had to take her out of the traditional public school and I placed her in a private school that I could not afford. At that time. I was 19, and I only made \$800 a month, and that did not work. She went to that school and she got the assistance she need. That forever changed my perception of what I thought school was. There are parents just like me who need another option when the traditional public school does not work, and we, as senators and citizens of this great state, need to open up doors and avenues to help parents and not hinder them.

CLEMENTS: Thank you. Are there questions from the committee? Seeing none, thank you for your testimony.

CLARICE JACKSON: Thank you. Appreciate you all.

CLEMENTS: Other proponents. Good afternoon.

BEVERLY VARGAS: Good afternoon. My name is Beverly Vargas, B-e-v-e-- or-- r-l-y. Sorry. Last name, V-a-r-g-a-s. I am the daughter of 2 Mexican immigrants. I come from a family of 4 children, and I am a first-generation student. I first came into the Catholic school systems in fourth grade. I came to St. Gerald's Catholic School. After that, I went to Mar-- or I'm going to Marian High School. However, my parents did not think they could afford a Catholic school. Thankfully, we were lucky enough to receive a lot of tuition scholarships and it became a possibility. My Catholic school has prepared me academically. It has helped me give-- it has given me a second home, helped me grow in my faith, and it has prepared me for my future. The challenging curriculum has not been easy, but I know that it will prepare me for college. As a first-generation student, I did not where to start-- I did not know where to start in my college search, but the counselors and school as a whole has helped me a lot. I have met some of my best friends, as well. Before coming to a Catholic school, my brother struggled socially at public school. My brother received a lot of academic accommodations to his disability of Tourette syndrome, and he has-- he was able to graduate. I plan to major in nursing, as I have spent some time in hospital, and have been inspired by 2 bilingual nurses who, who have helped me and my family feel understood while I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

was getting treated for an eye bacteria. I plan to continue my education, and I also want more students like me to receive scholarships to an education of their choice. Thank you.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony, and we wish you the best.

BEVERLY VARGAS: Thank you.

CLEMENTS: Other proponents?

BETZY BRAVO: Good afternoon. My name is Betzy Bravo, B-e-t-z-y, last name B-r-a-v-o. I am thankful that I have the opportunity to testify. I previously attended a public school, Omaha South. My own school wasn't well known for many good things. When I attended Omaha South, I was constantly revolved around negative people. These people were constantly pulling me out of my education. I feel that a student shouldn't be influenced to be torn away from school. This school, any time I wanted to even use the restroom, I couldn't even breathe in there because of the constant smoke in the air. I strongly disliked that there was always lockdowns, so much so that it was becoming normal to me. It was becoming a habit. At this school, a student was stabbed by another student. A pregnant woman was beaten trying to defend her daughter in a fight. End result, she lost her baby. This shouldn't be happening in a school environment. This shouldn't be happening in, in any school, overall. Over this course, I was scared that my siblings would have to experience this as well. Nevertheless, thanks to my parents, we were all able to switch. At my new school, Gross Catholic, I'm able to thrive above my limits in a safe environment. The education I'm receiving now wouldn't be possible without scholarships. My brother couldn't attend a private school because my parents didn't hear about it at that time, and anytime they would like, think about it, we knew it wasn't going to be possible for us because of money-wise. We were never able to sustain tuition, so the, the opportunity that we had received when we were applying scholarships was major to us. It was a big step forward. We knew that-- with that possibility to attend a private school, we would, we would exceed our academic limits. And end result, I am now revolved around good people with good intentions. I am now closer to my faith. And now, I'm looking into universities, even though I'm a junior. I'm taking that step forward because the, the teachers I have right now are really one-on-one with students, and they're able to help me provide that education with my siblings, as well. Now that I'm

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

exceeding to learn more, I'm able to teach them more above what they're already learning. Thank you.

CLEMENTS: Any questions? I had one. Would you say that your grades have improved since you switched to that school?

BETZY BRAVO: My, my, my grades have improved. At the beginning, when I first started my, my new school, I was at a GPA of 1.8. Now that I'm starting to learn more, have more one-on-one with, with teachers, my GPA has gone up to a 3.0, in the less of one month.

CLEMENTS: Wow. Very good. And how long have you been at that school?

BETZY BRAVO: This is my first year.

CLEMENTS: I see. Very good. Well, thank you for your testimony. We wish you the best. Are there other proponents for LB1402?

JAVIER BRAVO: Good afternoon. My name is Javier Bravo, J-a-v-i-e-r, last name B-r-a-v-o. And I was in public school and now I am in Catholic schools. And Catholic schools give more educations, and I help all of the kids in public schools come to Catholic schools. And I have the same educations that Catholic schools offer. My favorite educ-- my favorite subject is math. Without my parents' hard work, I wouldn't be here today. Thank you for all the scholarships.

CLEMENTS: Thank you. Are there any questions for Javier? Thank you for coming, Javier. Thank you for your testimony. Are there other proponents for LB1402? If there's other proponents, would you move to the front chairs here, now? Welcome.

MARIBEL MARIN [THROUGH TRANSLATOR]: Good afternoon. My name is Maribel Marin, M-a-r-i-b-e-l. My last name is Marin, M-a-r-i-n. I'm the mom of Betzy and Javier. I am an immigrant mom looking for a better education for our kids. This is the first year they have the opportunity to attend a Catholic schools. Without they are receiving a better education in Catholic school. Since they start, I, I have seen them more happy, more motivated. The education they are receiving is very wonderful, because it's not about academics, but it's about the-- how they are living their faith. My little son, Javier, is 8 years old. For his birthday, he has [INAUDIBLE] a Bible as a present. He really likes to read the stories in the Bible. Every single night, he, he likes to read a chapter. It makes not possible if Javier [INAUDIBLE] in a Catholic location. Thanks to many generous people that give money for scholarships. We are a low-income family, and without scholarship,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

that-- the education they are receiving wouldn't be possible. Thanks for your time.

CLEMENTS: Are there questions? Senator Dover.

DOVER: Gracias. Es clara que su escuela a nueva es se bueno para su hijos.

MARIBEL MARIN: Si. So muy, so muy buenas las escuelas para mis hijos [INAUDIBLE].

DOVER: Gracias.

MARIBEL MARIN: Mucho mejor.

DOVER: Si. Gracias.

MARIBEL MARIN: Gracias.

CLEMENTS: Other questions? Would you repeat that conversation for the record?

_____: Well, I'll try to recall everything. Well, she's an immigrant mom. They were looking for a better education for their children.

CLEMENTS: No, just--

ARMENDARIZ: No, just what he said.

DOVER: I can, I can do mine. I said, it's, it's clear that your new school is a benefit of your children.

_____: Sorry.

DOVER: And I said thank you.

CLEMENTS: And the reply was?

_____: Yes, the school is--

MARIBEL MARIN: Mucho mejor.

_____: --much better than the previous one.

CLEMENTS: Thank you. Thank you for your testimony.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

MARIBEL MARIN: Thank you.

CLEMENTS: Are there other proponents? Next one, please. Welcome.

DAWNE LL GLUNZ: Thank you. Good afternoon. I am Dawnell Glunz, D-a-w-n-e-l-l G-l-u-n-z. I've been an educator for 37 years. I retired from public education after 33 years, and I'm honored and blessed to be continuing to be an instructor at Grand Island Central Catholic for the past 4 years. Throughout my career, I have focused on providing special education services and co-teaching with other academia in the area of math, science, and English. Currently, I provide intervention to middle school and high school students on an IEP or having a 504, and also other identified students who struggle academically, emotionally, economically, or disadvantaged. I repeatedly hear the false narrative that Nebraska nonpublic schools do not work with students with special needs and are not accountable to the state. I can attest, having worked in both private and public settings, that nonpublic schools serve unique learners well. And we at GICC, like 200 other nonpublic schools, are accountable to the Nebraska Department of Education. I came to Grand Island Central Catholic in August of 2020. At that time, we had 11 students receiving intervention, either on an IEP or 504. January 2024, we now serve 35 students, 9 students on a 504 and 18 on an IEP, including middle school students struggle with traumatic brain injury, hard of hearing, and autism. This constitutes 12% of our environment. Families yearn for the intervention in a private school setting, allowing their sons and daughters services. Many Nebraska parents want their sons and daughters to be nurtured in a faith-based, rigorously demanding curriculum while being supported mentally, socially, emotionally and educationally. Bills like last year's historic Opportunity Scholarship Act and today's LB1402 will help more students access the education that is right for them. I've dedicated my entire career towards making a difference, one child at a time. Thirty-seven years, and I am not done. But it takes all of us, parents, nonpublic schools, and public schools to serve these scholars. That is why school choice is exploding across the country. States are realizing parents can be trusted to find the best education for their children. Now, with teacher education shortage, social injustice and the tumultuous culture, it's time to put politics aside and all come to the table, serving scholars in the environment in which best meets needs: social, emotional, mental and academic. Like so many nonpublic schools, GICC serves a diverse population and is committed to special education. Nebraska scholars deserve the opportunity to find the right fit for them. Speaking of which, I brought a very special young man here who is now able to access his

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

best-- may I finish-- education because of a school choice scholarship. I'd like to introduce you to Carlos, the next testifier, who will put a face and personal story to my testimony. Thank you for your time and consideration on LB1402.

CLEMENTS: Are there questions? Seeing none, thank you.

DORN: Senator Erdman.

CLEMENTS: Oh. Senator Erdman.

ERDMAN: Thank you, Senator Clements. Thank you for coming. Does your school teach any young people who have dyslexia? Is that part of-- is it-- are there anybody in your school do that?

DAWNELL GLUNZ: Yes.

ERDMAN: So do you have a special program for those people?

DAWNELL GLUNZ: Dyslexia is identified as a reading disability, and we have goals and we work with those students to overcome those reading disabilities and raise them up in their education, so that they are more able to keep up with their peers.

ERDMAN: Are you familiar, do those students come from a public school or how do they get to you, that had dyslexia?-- Those were those students at a public school that wasn't meeting their needs, or how did, how did they come to your school?

DAWNELL GLUNZ: Some of those, yes. We, currently, as I said, we started with 11 students. And once I became a part of the staff and we in-house offered special education services, our enrollment continues to grow. You might know that we recently have been building an elementary school. So next year we will open up PK-12. And I have met with Dr. Engle, and I have met with several families of students that are on an IEP, and they want to know what those services are going to look like, should they enroll at GICC. And of-- 100% of those families that we've met with, have enrolled. So I'm not sure of their motivating factor while they're choosing to leave the public schools, whether they're not getting the service that they feel they need, or whether they're looking for that faith-based education. So I'm not able to answer your question regarding every family's choice.

ERDMAN: Perhaps the reason they're enrolling in your school, they've met you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

DAWNELL GLUNZ: Thank you, sir.

CLEMENTS: Thank you for your testimony. We welcome your guest next.
Good afternoon.

CARLOS CALLEJAS: Good afternoon. My name is Carlos Callejas, C-a-r-l-o-s C-a-l-l-e-j-a-s. I am one of the first students in Nebraska to receive an opportunity scholarship. This semester, I began attending Grand Island Central Catholic. I am very thankful for the opportunity I have been getting to study at a Catholic school, and I know that others who receive these scholarships will also be thankful for the opportunity presented to them. I feel this opportunity at GICC is great for my family, because my mother went through great lengths raising me. She fact-- she sacrificed so much to help me and my brothers become better people. My father left my family-- our family, when I was young. We fell into poverty. This scholarship allows me the chance to show my mom that she did well in raising me. She doesn't have the chance to send me to a private school on her own, but I have the chance now to give back what she gave me by earning this private education. I am still new at my school and getting used to it. But my cousins have been at GICC for a long time. My cousin Osmar and Felipe went to Central Catholic. My uncle Renan is like a father to me. When I step into his house, you know he lives close to the Lord. I want to be part of that life. I want to follow the Lord like him. Being able to attend GICC will help me live like my uncle. School choice has given me a new opportunity, and I know there are a lot of misconceptions about school choice and who it helps. The truth is, school choice helps students like me. GICC has accepted me with open arms. They have adapted my IEP to their teaching styles and I already feel successful at Central Catholic. I hope my testify-- my testimony helps the committee and others feel violated-- validated in knowing school choice is effective. Thank you for hearing my testimony.

CLEMENTS: Thank you. Are there questions? Senator Erdman.

ERDMAN: Thank you for coming. That's outstanding testimony.

CARLOS CALLEJAS: Thank you.

ERDMAN: The only thing I wish is you were at that Education hearing yesterday, testifying on my school choice bill. That would have been very appropriate. Thank you for your testimony. Outstanding.

CARLOS CALLEJAS: Thank you for having me.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

CLEMENTS: Other questions? Senator Dorn.

DORN: Thank, thank you, Senator Clements. Thank you for coming today. And maybe, maybe you don't know the answer to this, but do you know how much your scholarship was for?

CARLOS CALLEJAS: No. I don't have the correct amount. I mean, I can maybe give you a rough estimate that's not even close.

DORN: Thank you.

CARLOS CALLEJAS: But thank you.

CLEMENTS: As a followup to that, does it provide 100% of your tuition or just part of it?

CARLOS CALLEJAS: I haven't been given the exact details yet, but--

CLEMENTS: All right.

CARLOS CALLEJAS: --if I do get accepted, I'll--

CLEMENTS: We can find out from others.

CARLOS CALLEJAS: Yes.

CLEMENTS: Thank you for your testimony.

CARLOS CALLEJAS: Thank you for having me.

CLEMENTS: Next proponent. Welcome.

ROBERT ZIEGLER: Chairperson Clements, members of the Appropriations Committee, my name is Robert Ziegler, R-o-b-e-r-t Z-i-e-g-l-e-r. I'm the superintendent for the Nebraska district of the Lutheran Church Missouri Synod Lutheran schools, here in the state of Nebraska. Please accept my letter today as my testimony. I thank you for your service to the state, for the opportunity as a citizen to participate in the democratic process with the work of the legislative branch. I represent 66 schools with 6,318 students and 515 professional teachers. In addition to my superintendent's role, I am also part of the Nebraska Council of Teachers Education and the Nebraska Department of Education's Committee on Practitioner. I'm thankful for the collaborative effort of the Nebraska Department of Education for our nonpublic schools. I'm also the current chairperson for the Nebraska Coalition of Nonpublic Schools. Our board is composed of the-- myself

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

as the Lutheran school representative, the Catholic schools, the Seventh-day Adventist schools, some non-denominational Christian schools, and the Street School, out of Omaha. The Lutheran school system, based out of St. Louis, Missouri, states that we believe God created the family unit and the parents as the primary educators of their children. The parents should be free to choose the school entity they feel best meets the needs of their unique family and children. I believe this bill puts parents in charge of their children's education, regardless of where, where they live, whether or not they have sufficient funds. It also allows them to pick a school that best matches their values. Our school system operates under National Lutheran School Accreditation, and National Lutheran School Accreditation has a reciprocal agreement with the largest accrediting agency in the world for public and nonpublic schools, Cognia. We also are part of a national system for Lutheran special education based out of Detroit, Michigan. Prior to returning to Nebraska in 2015, I served for 16 years in one of our Lutheran schools in Florida, and the school choice programs there allowed us to reach out to and serve children who otherwise could not afford our tuition. Our capacity of the Lutheran schools in Nebraska can meet the needs of students who are looking for choice. I support LB1402. This legislation will provide so many more educational opportunities. As Senator Hansen recently stated, robust school choice policies are one way to make sure families looking to move to Nebraska find our state attractive, and families questioning whether to move to another state are convinced that the good life is the right place to continue raising their family. I emailed my testimony to you today because after my letter, there are some links for you for other resources that give you information about school programs comparatively and so forth. And so I submit those to the Appropriations Committee for your consideration. And thank you for your service.

CLEMENTS: Thank you. Are there questions? I had a question. I asked about what percentage of expenses was scholarship for a student. Do you have an idea?

ROBERT ZIEGLER: So I, I actually sit on the board for the OSN. And in the discussions that we've been having, they are treating those as needs-based scholarships, using Nelnet, Facts Ed here in-- for the state of Nebraska to be a screening process for those applications so that there's rigor, and, and great deal analysis that goes behind that. So in most cases, it is not 100% scholarship unless the need is shown. And they have to submit tax returns and all of that. They're

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

vetted through that Facts process. And so I know that would have been done in this case, as well.

CLEMENTS: OK. So the level of scholarship depends on the level of need then. All right

ROBERT ZIEGLER: Of need, yes. And we also believe in our system that it's important for families to be invested in their child's education.

CLEMENTS: Very good. Thank you for your testimony. Next proponent. Good afternoon.

NICOLE FOX: Good afternoon.

CLEMENTS: Hello.

NICOLE FOX: Nicole Fox, N-i-c-o-l-e F-o-x, representing the Platte Institute. Thank you for the opportunity to testify in support of LB1402. The Platte Institute has been steadfast in our support for enabling school choice legislation in Nebraska, and we've testified in the Revenue Committee on the merits of tax credit scholarships under LB753, as well as previous bills similar to it. While Nebraska has a strong public school system, it isn't meeting the needs of all students. There is overwhelming support for and significant and growing demand for school choice options across the country and here in Nebraska. There has been significant demonstrated support by Nebraska families through scholarship applications since LB753 was passed last session. The Platte Institute thanks Senator Linehan and her efforts to assure that parents have choices when it comes to addressing their children's educational needs. And we agree with the gentleman before us that robust school choice is very important in terms of trying to attract families to our state. And with that, I conclude my testimony.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony. Next proponent.

KIRBY KLAPPENBACK: Good afternoon, Chairman Clements, members of the Appropriate-- Appropriations Committee. My name is Kirby Klappenback, K-i-r-b-y K-l-a-p-p-e-n-b-a-c-k. I'm a licensed attorney in, in Nebraska and a father of 4 children. My wife and I reside in Lincoln with our 4 children. Three of our children attend Christ schools in Lincoln, and our oldest attends Lincoln, Lincoln Lutheran Middle School. My testimony here will echo Senator Linehans' testimony concerning the constitutionality of LB1402. The Nebraska State

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

Constitution provision that is often raised in opposition to LB1402 or similar legislation is Article VII, Section 11, commonly known as the Blaine Amendment, which in summary states that there shall be no appropriation of public funds to any nonpublic schools. It is important to note that prior to 1972, the provision read no appropriation of public funds "in aid of" any nonpublic school, but was amended in 1972 to prohibit appropriations "to." Since that amendment in 1972, there is a line of Nebraska State Supreme Court cases where the court has repeatedly allowed indirect aid to nonpublic schools. For example, the Nebraska Supreme Court clearly identified, in *Lenstrom*, that the state can use scholarships for post-secondary education at private and religious schools. Additionally, the Nebraska Supreme Court has identified that, that public dollars can be used to bus students to private and religious schools, provide research grants directly to institutions, and can loan, can loan textbooks to students attending public and nonpublic schools. LB1402 is in line with those cases and would not appropriate public funds to any nonpublic schools, but rather would provide direct aid for parents and students via the scholarship granting organizations. Since there would be no direct appropriations to the nonpublic schools, LB1402 would not be unconstitutional under the State Constitution. It is the parent who makes the decision as to where they want to send their child. I also believe that it is important to mention that it has been widely documented that the Blaine Amendments were originally enacted on the basis of anti-Catholic bigotry, and should be seen in that light. Thank you.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony.

KIRBY KLAPPENBACK: Thank you.

CLEMENTS: Next proponent please. Good afternoon.

PATRICK GRAFF: Good afternoon, Chairman Clements and members of the Appropriations, Appropriations Committee. My name is Patrick Graff, P-a-t-r-i-c-k G-r-a-f-f. I'm the director of legislative policy for the American Federation for Children. Today I testify in support of LB1402. You have already heard from other supporters today about how this bill will give families life-changing access to a school that best fits their student's needs. But that is not what I'm here today to talk about. Instead, I argue that if you care about improving outcomes for public school students, you should support this bill. Recent education research published this past November by Professor

David Figlio and coauthors found that the creation and maturation of private school choice scholarship program in Florida improved the public school student test scores by 4 to 5 1/2 percentile points, in addition to fewer suspensions and absences. This paper is the latest in a series of now, 30 papers examining the competitive effects of school choice. In other words, this research answers the question, how does the competition created by private school choice programs affect public school students? In just a short time, you will hear from opponents of this bill that this funding should be spent in the public school system. Yes, new education spending is one tool to raise achievement in education. Looking into the research, a meta analysis of the impacts of school spending on student outcomes, published last month by Professor Kirabo Jackson and coauthors, found that by spending \$1,000 more per pupil per year increases student test score growth by about 1 percentile point after 4 years. If allocated well, new spending can work, albeit at a substantial cost, for modest improvements in test scores. So when policymakers seek to improve the educational outcomes of their students, all approaches should be on the table. So join me in a thought experiment. If an additional \$100 million a year were given to the public school system, what test score gains could we reasonably expect? In Nebraska, this translates to about \$300 per pupil per year for Nebraska public school students. Over 10 years, the research suggests that this will improve public school test scores by less than 1 percentile point, for a total cost of \$1 billion. In contrast, over that same period, we could expect that the implementation of a private school choice program would lead to a 4 to 5 1/2 percentile increase in test scores for students in those same public schools facing competitive pressures. In other words, for the general school spending approach to achieve the same results for those public school students in terms of additional growth, they would have to remain in public school for at least an additional 30 years. A kindergartner would have to be about my age, which I'm not that young anymore, to see that same kind of level of return. So when considering a range of educational spending decisions, Nebraska has and should consider a range of interventions. LB1402 is one such effective intervention to improve the lives of both private and public school students. I ask for your support of this bill, and I kind of outlined some of my projections here in the handout I provided.

CLEMENTS: Are there questions? Senator McDonnell.

McDONNELL: Thank you for being here. What's your background?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

PATRICK GRAFF: Yeah. So I, so I started off in education as a third grade teacher in Florida. So some of the scholarship children who benefited from the Florida program were in my classroom, and that's how I kind of discovered school choice for the first time. And then I went on to the University of Notre Dame and got involved in education research. My Ph.D. advisor was the professor who helped evaluate the Indiana voucher program, the scholarship program in Indiana, that's been around since 2011.

McDONNELL: Tell me a little bit more about the time frame, and the, and the-- when you started seeing the effects.

PATRICK GRAFF: Yes. So I think-- so something really interesting about this new paper that was just published in November, is that they're not only able to look at the one-year impact, but actually because the Florida programs have been around for so long, they're able to look at what are the effects over the long-term, 10 to 15 years. So you see an initial bump, even for public school students in those first couple years, so relatively small effects. But once you look at those effects 10, 15 years out, the effects are quite, quite substantial for public school students.

McDONNELL: So recently, there was a article about the OPS school system. And the freshman class, potentially 50% at this point, are not projected to graduate. Now, that ship could be turned. Looking at this impact, what kind of percent would you attribute to that, that possibly could-- either change schools, or again, you know, competition brings the cream of the crop to the top. How would that impact, potentially, the next 4 years?

PATRICK GRAFF: Yeah, it's a good question. I mean, this, this research does not directly speak to, kind of high school proficiency rates. I think both what we have found in the competition literature and in the education spending literature is that those increases in education spending and competitive pressure both lead to higher test scores and to higher rates of college enrollment, so we do see bumps in college enrollment. However, I would-- I'm making the argument, particularly in a state like Nebraska, where we-- you know, there was just [INAUDIBLE] the first private school choice program passed last year, that the new effects of passing a program here will be much larger than if that same money were spent in the public school system.

McDONNELL: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

CLEMENTS: Senator Erdman.

ERDMAN: Thank you, Senator Clements. Thank you for coming. So in Florida, that increase in proficiency that you've seen, did they do a similar thing like they've done in Nebraska, they figure out how they figure the proficiency? So in Nebraska, we had like 46% of the kids were efficient in reading. That means 50-- 56-- or 54% aren't. And so they did a recalculation--

PATRICK GRAFF: Right.

ERDMAN: --you know, and so now the proficiency is better because they calculated it differently. You didn't do that in Florida, did you?

PATRICK GRAFF: Yes. Unfortunately, this research does not depend on proficiency rates, which can be subject to manipulation in different ways. Not saying that that happened here in Nebraska, but, you know, here, they're looking at, kind of percentile points. So you can imagine if you're a 50th percentile student, right, you're right in the middle. There's, you know, 50% students below you and 50% scoring above you. How much would we expect you to grow more on, on these tests? So it doesn't speak to proficiency, just how much expected growth, year to year.

ERDMAN: When I was here, first, in '17 and '18, I was on the Education Committee. And Omaha Public Schools had like 81 grade schools. Twenty-nine of those, if I remember correctly, couldn't read-- those kids couldn't read to third-grade level. And when the superintendent was asked what the solution was, he said more money. And then Senator Grone was the Chairman, and he said, show me a time when we gave you more money that improved reading scores, and we're still waiting for that result. We have never heard. So I appreciate what you're doing, and I appreciate your testimony.

PATRICK GRAFF: Thank you.

CLEMENTS: Senator Wishart.

WISHART: Thanks for being here today. Apologize I didn't get to hear all your testimony, but I'll definitely read it. From your research, what have you found is the most adequate class size for learning? Just interesting in hearing your perspective.

PATRICK GRAFF: Yeah. No, it's a great question. So, I mean, one of the most famous experiments on the effects of class size on student

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

achievement is the Tennessee Star Experiment. The-- this was around a number of decades ago, kind of a-- looking at if you were to randomly assign students to different size classes, how much would their test scores improve. And this is actually a-- this is a great intervention if-- to raise test scores of students. However, it can be very expensive. And when this was tried in other places, you have a real problem with teacher quality, in terms of needing to hire extra teachers and hiring teachers who may be at the-- may be towards the bottom of the quality distribution when you're having to hire a lot more teachers. Right? It's all those teachers who might have been on a waitlist for hiring before, but now have to staff the extra classrooms. So there is actually some of the research that has been done on competitive effects, they think actually one mechanism, potentially, of raising student achievement in these cases, is that, you know, there will be some students transferring from public schools to private schools as a result of programs like this. And because of that, you might have 1 or 2 fewer students in your classroom. So, in effect, a private school choice program does help with class size reduction, by a few students in many places. So that-- and that has been hypothesized as one mechanism of part of this effect.

WISHART: OK.

PATRICK GRAFF: If that makes sense. Yeah.

CLEMENTS: Senator Armendariz.

ARMENDARIZ: Thank you. Chair. Thank you for being here. I like the research, and I'm going to try to pull out some answers from you here. When you talk about the research that you did, I want to know, do you think there were, there were different variables at play, not money? Related variables, such as in the, the parents that wanted their kids to go to private school just happened to be more involved in their children's school, and that variable might have been the bigger indicator of success and the reduction of spend of dollars, compared to-- and I get the argument a lot when I say, why do the public schools always just say I need more money? Well, they have a more diverse base to cover. So with that base that they're covering, they have some parents that are not involved. So it would take more effort then to educate those kids, or is the parental involvement a big variable in the success of the kids? And then would it, would it justify the argument that the parents that are involved but can't afford an option, the dollars might be better spent in an educational environment that can do it for a reduced cost?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

PATRICK GRAFF: Yeah, it's a great question. And so for-- you talk about some of those-- maybe those differences between parents who are involved and not involved. Is that a big variable? I mean, absolutely. That is a huge variable in kids' educational outcomes, just talking about the level of which kids are able to perform at, right, so kind of proficiency rates. So those family background characteristics matter a lot. You know, what this research is speaking to is not how well the private school students are doing as a result of these programs. It's actually speaking to how the public school students do in response to the competitive pressures. So we're looking at students who are exposed to more competitive pressure or less, depending upon where their school is located and if there are other options surrounding them. Those competitive pressures actually improve the test scores of public school students who remain in their public schools. So we don't even have to touch the question of how big of a variable is family background for answering a question like this.

ARMENDARIZ: So do those public school students achieve the same level then, as those private school students when the competitive pressures are put into play?

PATRICK GRAFF: At the same level? So I-- that just totally depends on-- yeah, which comparison you're looking at. On average, private school students do score at a higher level, in terms of just their level. But a lot of that is related to family background characteristics.

ARMENDARIZ: Thank you.

PATRICK GRAFF: Yeah.

CLEMENTS: Other questions? Seeing none, thank you for your testimony, and thank you for coming.

PATRICK GRAFF: All right. Thank you.

CLEMENTS: And next proponent. Those who have testified, would you please move to a, a rear seat, so the front seats are available? Welcome.

DUSTY VAUGHAN: Good afternoon, Chairman Clements, members of the committee. For the record, my name is Dusty Vaughan, spelled D-u-s-t-y V-a-u-g-h-a-n, and I'm a registered lobbyist appearing on behalf of yes. every kid. yes. every kid. is a nonprofit organization whose purpose is to enable every family with the ability to customize, that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

best matches their child's unique talents, interests, and priorities. In recognizing the individuality of each child, it becomes evident that the traditional one-size-fits-all education system falls short of addressing each child's diverse needs. That is why yes. supports this legislation, which provides Nebraska families with the decision-making authority to shape their children's educational journey. There's a strong consensus among families that more educational opportunities will improve the overall education system. This unanimity was echoed in a recent poll conducted by YouGov and released by yes. every kid. foundation., which reveals that Americans from nearly every demographic group believe expanding educational freedom will positively impact education in our country. Notably, more than 70% of parents support educational freedom. Families want the ability to choose where and how their children learn, whether that's public, private, homeschooling, or a combination of those. This is why 8 states passed universal educational choice programs in 2023, where every child in the state, regardless of income, can participate. yes. every kid. is agnostic about where a child attends school, but not about who makes those decisions. At the heart of this is a simple truth. No one understands a child's needs better than their family. And therefore, parents and caregivers should be empowered to decide what learning environment works best for each child. Education has the power to change lives. The SGO program set up through this bill has the potential to cultivate future leaders of the state while simultaneously dismantling barriers to educational opportunity. Every child is different and deserves an educational experience that works best for them, regardless of their income or background. For these reasons, yes. every kid. respectfully asks for the committee's federal support of LB1402, LB1402. Thank you, and I'd be happy to take any questions.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony. Next proponent. Seeing none, we will now move to opponents on LB1402. If you're an opponent, come to the front seats, please, ready to come forward and testify.

SCOTT NORBY: Mr. Chairman, members of the committee, my name is Scott Norby, N-o-r-b-y. I represent the Nebraska State Education Association, in opposition to LB1402. And I'm also authorized to state that the Nebraska Council of School Administrators, Greater Nebraska School Association, Schools Taking Action for Nebraska Children's Education, and the Nebraska Rural Community Schools Association joined the NSEA in its opposition to LB1402. Senators, last year, similar legislation was passed by this body and is now the law. That bill was

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

LB753. Under that legislation, through a tax credit scheme, qualifying education scholarships are funded for payment of tuition and fees at private schools. Presumably, the funding of tuition and fees under that legislation, through tax credits as opposed to a direct appropriation, was done to minimize the legislation's exposure to running afoul of Article VII, Section 11 of our State Constitution, which states, notwithstanding any other provision in this Constitution, appropriation of public funds shall not be made to any school or institution of learning not owned or exclusively controlled by the state or a political subdivision thereof. Whether LB753 has successfully avoided that constitutional proscription has yet to be determined, and may never be. In any event, LB753 and the fundamental policy it presents, which is whether it is appropriate and good policy to fund, either directly or indirectly, private schools with public funds in this state, will be decided by the people at the next general election this fall. Under our constitution, that-- excuse me-- that is the result of the people exercising their prerogative as the foundational legislative body of this state under our constitution, the right of referendum. Under our constitution and democratic form of government, specifically, Article III, Section 1, the people explicitly reserved to themselves the power at their own option to approve or reject at the polls any act, item or section of any act passed by the Legislature. LB753 does indirectly what LB1402 seeks to accomplish directly, namely, the funding of private schools with public dollars. That policy issue has been determined by the people to be a matter of such significance that they wish to decide it themselves. However, the only apparent reason for the introduction of LB1402 at this time is to effectively preempt the right of the people to meaningfully exercise their legislative authority through the power of the referendum. Moving forward with this legislation before the people have had the opportunity to decide the issue themselves would affirmatively ignore the will of the people from which this body acts in a representative capacity. It would undermine confidence in our democratic form of government. For these reason-- reasons, we ask that you decline to advance this legislation.

CLEMENTS: Are there questions? Senator Erdman.

ERDMAN: Thank you, Senator Clements. So let's talk about LB753 for a moment. Tell me how LB753 is going to affect the funding to schools, to public schools.

SCOTT NORBY: Dollars that you spend one place are dollars you cannot spend in another. And the tax credits that will take place-- give a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

tax break to those that receive them and take money from the general fund from which this bill seeks to appropriate funds directly.

ERDMAN: So how does LB753 directly affect funding the schools? Schools currently are funded by property tax and they get a slight, some get a slight stipend from the state. So LB753 was a property-- it was an income tax credit. And last summer when they were circulating the petition, those circulators lied to people and they said that this was a property tax credit. I had several of them tell me this is a property tax credit, which was a lie. It was not. It was an income tax credit. So I don't understand how you people got all upset and fired up about LB753 taking money away from the public schools, when, in fact, we, the Legislature, contributed \$350 million more to public education last year. And then you, public education, raised another \$85 million above that in property tax. So don't come here and tell us about LB753 taking money away from schools. And let's talk about the-- your comment about it being unconstitutional. The lawyers sat there a moment ago and explained exactly that it was not unconstitutional, so your-- what exactly has happened is your opinion is that LB753 is unconstitutional. That's exactly what it is, is your opinion.

SCOTT NORBY: Sir, I didn't say it was my opinion. I read to you what the constitution said. I don't think you need to be a lawyer to understand the language I read.

ERDMAN: It's your intrepratat-- it's your interpretation of what the lawyer described exactly what had happened. So explain to me how LB753 is taking money from the school.

SCOTT NORBY: Well, I just rely on the Legislature's own fiscal note as to the money that will not go into public funding, that would be available for private education.

ERDMAN: Well, I think--

SCOTT NORBY: Dollars, dollars that you don't bring in because of a tax break to those that are funding private education doesn't go into the fund that would be available to fund public education.

ERDMAN: Do you have any idea how much \$25 million is compared to the total funding for schools?

SCOTT NORBY: \$25 million, Senator, is a lot of money to me.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

ERDMAN: It's like 0.006%. It's insignificant if in fact it did affect public schools. So how do-- what do you think about improving the efficiency of schools? What's our choice there? How do we do that?

SCOTT NORBY: Well, that's a complicated question, sir, but I don't think you improve our public schools by taking money away from the pool of money that's available to support them by funding private schools.

ERDMAN: I'm not so sure you're correct on that. I think you heard the testimony from the person from Florida, said that when you get competition, the public schools get better. And that's the problem of the public schools. They have no competition.

SCOTT NORBY: Sir, I don't think that anybody seriously disagrees that a expensive private school education has its benefits. That's what we heard today.

ERDMAN: Expensive private schools? Most of them cost \$7,000 a year. How is that expensive compared to public schools at 15? Which one is more expensive, 7 or 15? I mean, you should be able to tell me which is greater, 15 or 7. You're an educated person, right? Would you say 15 is greater than 7?

SCOTT NORBY: I'm not real good at math, sir, but yes, sir. I, I would agree with that.

ERDMAN: Thank you. That's all I have.

CLEMENTS: Are there other questions? Senator Dover.

DOVER: I would just, just, just ask this simple question. So our schools are funded by property tax, right, that they levy. And so, I just-- I don't know that-- and I apologize if I didn't hear, but I don't know that you had answered Senator Erdman's question-- is-- how is, how is the funding of the, the earlier bill from last year, how does that take money away from schools, which are funded by property tax that are levied in their districts?

SCOTT NORBY: Well, I think schools are funded a number of different ways. My view of it is, is that the money that does not come into the public coffers as a result of tax breaks is money that is not available to fund public education. And public education is very expensive. All education is expensive. So our view is that money that goes to private schools is money that is not available to go to public

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

schools. And public schools-- and I'm not suggesting that money is the answer to the challenges faced by our public education system, but it does take money. And it is money that is being spent in a way that does not support our public school system and therefore, undermines it.

DOVER: Do you, do you see then, every other appropriation that our community does as a-- as taking away from public schools?

SCOTT NORBY: Every dollar you spend here is a dollar you can't spend there. What we're talking about is the pool of dollars being funded by this body to educate our kids.

DOVER: OK. And then--

CLEMENTS: Do you have a question?

DOVER: Yeah, just, just one last question. This is a followup on this question. So, Senator Linehan commented on-- and, and we listened to it last session about the Blaine Amendment and those kind of things. And did you-- have you-- I mean, there was people [INAUDIBLE] testifying, were you learning-- were you listening to their earlier testimony [INAUDIBLE]?

SCOTT NORBY: I heard, I heard most of it, sir.

DOVER: Did you get a chance-- have you had a chance to read about the Blaine Amendment and currently what--

SCOTT NORBY: You know, honestly, Senator, I'm not a constitutional scholar or an academician. Yes, I'm familiar with-- I'm, I'm not familiar with all the history. What I know is what our Constitution says, sir. And I, and I think it's written in pretty plain language. And I don't agree with the suggestion that our constitution is bigoted, nor do I agree that Article VII, Section 11 is bigoted. It simply says that it is the foundational policy of this state not to fund private education of public dollars. I don't infer from that, that is-- there's a bigoted motive. It's the establishment-- it's Establishment Clause in our Federal Constitution. I just don't see it that way.

DOVER: [INAUDIBLE] Yeah, I wasn't even going toward, toward bigotry or anything. I was just simply asking if you learned to the pri-- listened to the prior testimony. They talked about cases that had dealt with the Blaine Amendment that obviously, that, that in this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

form or that form, transportation, whatever it may be, that that was considered not, not-- it was considered constitutional due to that and did not violate the constitution.

SCOTT NORBY: Yeah. Honestly, Senator, I don't think this is an issue against private schools. This is America. And, you know, if you can send your child to a school that is accredited by our Department of Education or whatever, you should be able to do that. The question here is, you know, do we fund private schools with public dollars? That's, that's the foundational policy question. And my-- I guess my point in my testimony today, what I've tried to suggest is, is that through the referendum, the people have decided to decide that issue themselves this fall. That's-- and i'm, and I'm just suggesting that you hold off on passing legislation that does directly what LB753 does indirectly, until the people have had a chance to determine the issue themselves. That's-- I just think that's good government, and I think it's a better look.

DOVER: All right. Thank you.

CLEMENTS: Are there other-- Senator Armendariz.

ARMENDARIZ: Thank you. Thank you for being here. A couple-- well, first of all, the, the ballot initiative. My husband-- I, I was never approached, but my husband did give me feedback. And, and the people asking for signatures were-- didn't really even know what the bill was. They were just given talking points that were incorrect. So I think that's a little unfair to say that that bill took money away from public schools, which is what a lot of them were saying. This is taking money away from the public schools and giving it to the private school, and that-- that's not exactly what should have been communicated. So you can see the contention on the, on the ballot initiative. But if-- so the, the previous testimony said that we can spend a lot less money to educate kids with higher results. Do you think that, that that would be more fiscally responsible to our taxpayers, to, to give--

SCOTT NORBY: I don't think you can disagree with that, Senator. I mean, I think whether you're running a business or whether you're running a governmental agency or a public school district, being more efficient is, is the goal, right?

ARMENDARIZ: Absolutely. Absolutely. So wouldn't that be more impactful to property tax owners right now, if we could find a way to educate

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

more and more students at that lower level and get even higher results coming out of the educational system?

SCOTT NORBY: I, I don't think I can disagree with that as a general proposition.

ARMENDARIZ: It's a really big pain point in Nebraska, in case you haven't heard.

SCOTT NORBY: Yeah, I, I don't disagree with that.

ARMENDARIZ: Property taxes are the biggest issue.

SCOTT NORBY: Yeah. Yeah, I own a house. I, I get it.

ARMENDARIZ: And that's a huge difference if-- I don't, I don't know the exact number for public school education. I believe it's between 11 and 15 per student. And a private school education isn't that much per student. So maybe that's-- maybe that's a way that we can help reduce our property taxpayers, as well. And we're also-- I, I have-- part of my district is in OPS, and the-- their rates, coming out of high school, their proficiency rates are really at the very bottom. So if we could bring that up, people that are paying these bills might feel a little bit better about paying that bill. I appreciate you being here.

CLEMENTS: Other questions? Thank you, Mr. Norby--

SCOTT NORBY: Thank you, Senator.

CLEMENTS: --for your testimony. Next opponent please. If there are other people who are opponents, we have chairs in the front row here, we'd like for you to move up to. All right. Go ahead.

RITA BENNETT: Thank you, Senator and committee members, for the opportunity to be here today. My name is Rita Bennett, R-i-t-a B-e-n-n-e-t-t, and I am here today as an individual to voice my strong opposition to LB1402. The ties, as has been mentioned earlier, between this bill and last year's LB753 are clear in their intent to have public tax dollars or public coffer money diverted to benefit private schools. The tens of thousands of voters who enthusiastically signed the referendum petition to place LB753 on the ballot this fall, understood our state's constitutional prohibition against public dollars being spent for private school use and by a pretty overwhelming referendum, at least according to the standards needed,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

Nebraska voters did speak loudly and clearly that they do want to be able to vote on this critical issue. And now, through the use of the constitutional processes, voters will get to have their say on it in November. It was disheartening to me and disingenuous, it seems, that instead of waiting for voters to send a loud and clear message to you in November, LB1402 has instead been crafted to create yet another way to divert public money for private use, in an effort to do nothing more than an end run around the will of the voters with LB753. As a voter, it bothers me at the lack of respect for our constitution and for the process that voters used in order to say, hey, hang on a minute, we want to have a say. When there's so clearly a related issue waiting for voters, to have other bills introduced that would instead create a divert-- a direct diversion of tax dollars in this way, says to me, that regardless of what voters say, you'll find a way. And that's my concern. It's reminiscent of the games we played as children, where somebody decides to invent new rules while the game's already underway because they might not like the outcome otherwise. And in the case of LB1402, the game changes even more than before because instead of the shell game played via tax credits, you would send tax money to private organizations through the-- these scholarships right out of the appropriate-- approp-- appropriations. Excuse me. And further, there wouldn't be limits on administrative expenses connected to it, no requirement that those organizations would report things about progress or process. As a volunteer, I'm one of those who spent countless hours last year honestly collecting petition signatures to allow voters to have their say. And while I'm certainly willing to succeed at doing that again, I respectfully would request that you listen to what's already been said through the referendum process. And I do hope that you will demonstrate that respect for our constitution and for voters of Nebraska, by allowing us to have our say in the voting booth this November and join me in showing that by not forwarding on LB1402. Thank you.

CLEMENTS: Are there questions? Senator Erdman.

ERDMAN: Thank you, Senator Clements. Thank you, Ms. Bennett, for being here. So in your comments, you stated the ballot this fall-- the voters understood the state's constitutional prohibition against public dollars spent for private school use. Do you think that was exactly the case that voters understood that before they signed?

RITA BENNETT: Certainly the hundreds of people I spoke with, because the language was right in front of them. Just as you heard Mr. Norby

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

quote language from the constitution, pretty plainly stated. That's what, that's what I shared with voters.

ERDMAN: OK. So it very well could be that others that were circling, circling that petition did not state that. Would that be-- could that be possible?

RITA BENNETT: I couldn't guarantee. I do know that the training I was required to go through, in order to circulate petitions, had very clear directive and information that we were to share, you know, letter of the law, so to speak. That's all I can speak to, is the training that I attended and that I'm aware others attended.

ERDMAN: So the young men that spoke to me about signing the petition told me it was property tax credit. And I tried to explain to him it was income tax. And he argued with me that it was property tax. And then he said, McCook Public Schools are going to lose \$250,000 if this passes. And I said, where did you get that? And he said, I've been told that. At that same time, I had a friend in eastern Nebraska, was at a Hy-Vee grocery store, had exactly, exactly the same comments given to them that it was property tax relief and it would put McCook public-- public schools going to lose \$250,000. So somewhere, there was a common training somewhere that told these people to say that. So for you to say that people understood the constitutionality prohibition in your, in your statement is incorrect, because there was a majority of circulators did not state that to people. It was incorrectly and they coerced people into signing, thinking it was something other than it was.

RITA BENNETT: Well, I think it certainly-- certainly I, I would-- I definitely don't approve of any incorrect information being given out. That's not what I stand for. It's also probably incorrect, though, to make a blanket statement that none of the voters who signed it understood it, because there were voters given the correct information. I think that that's also, though, the value of this process, is that with it coming up on the ballot, both sides of the issue, we have an opportunity to educate voters, through outreach, that will give them the opportunity to vote in whatever way they feel is right, come November.

ERDMAN: Yeah. The only way they'll know the truth is for the truth to be presented and that wasn't the case.

RITA BENNETT: That's what we're looking forward to continuing to do.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

CLEMENTS: Are there other questions? Senator Armendariz.

ARMENDARIZ: Thank you. Thank you for being here. I'm going to throw my husband under the bus here, so just to be clear. He was at a Casey's gas station, and there was a woman very provocatively dressed in a very flashy outfit. So he, of course, wanted an-- get an excuse of why to go over and be closer to her, I guess. She had a petition. And he went over and said, what's the petition about? School choice. This, you know, will you sign this to keep our money in our public schools? The new bill that was passed will take the money from our public schools. And he said, well, how did-- how did you hear about that? How do you know? You know, tell me more about the bill. And she's like, I don't know any-- I was flown in from California. So do you think it might be disingenuous some of the petition folks didn't know what the bill was about and were sent out with the wrong information?

RITA BENNETT: Well, clearly, clearly, I can't control all of them. As I said, I've stated that the trainings that I went through definitely didn't include things that weren't true. And, and I also think that, you know, in looking at the process again is, is simply that most of the petition circulators that I worked with were all volunteers. The-- I didn't encounter-- and I went to lots of community events myself, just as an attendee. And other petition circulators I encountered, there may have been some paid ones. The majority of the paid circulators that I encountered were the ones who were trying to get people to sign a pledge not to sign our petition. And they were from other states. So there was a lot of that happening on both sides. So I think that one way or the other, it did successfully meet the standard to get on the ballot. So all we're really asking you to do, as was mentioned earlier, is to respect voters enough to wait until they have their say on an issue as important as this.

ARMENDARIZ: Do you know how many, how many signatures you, yourself, were able to obtain?

RITA BENNETT: You know, I really didn't keep track. I know I was told that I was in the top 20 or so of circulators, in terms of the number that I turned in. I don't even know what that means exactly. Other than that, I was, I was glad to make an effort, simply because I also believe in voters having a voice on this particular matter, in particular, with the way our funds are appropriated, in a way that might, that might impact public school funding. When you look at the revenue-- the Nebraska revenue chart and the Nebraska expenditure chart, there are pieces of the pie for education on both sides. So, as

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

was mentioned earlier, less money in this pie means less money over here.

ARMENDARIZ: And you realize we gave an additional billion dollars to public schools?

RITA BENNETT: I know that-- I know that there is a lot of complex explanation for how that comes about and, and what the actual impact of that action was, which would probably require a whole other lengthy discussion, for us to parse that out and share the facts of that.

ARMENDARIZ: Thank you.

CLEMENTS: Other questions? Senator Lippincott.

LIPPINCOTT: I missed some of your testimony, and I apologize for that.

RITA BENNETT: No worries.

LIPPINCOTT: But I see here in your, your testimony, the second paragraph, line 1, it says their intent to have public tax dollars diverted to benefit private schools. The next paragraph then, second line, it says another scheme to divert public money for private use. And then, same paragraph, 4 lines up, it says, instead of a shell game being played via tax credits, she would send tax money to private organizations, right out of appropriations. Explain to me slowly, so I can understand it, how does public tax dollars-- how was it diverted to benefit private schools?

RITA BENNETT: Again-- OK, first of all, [INAUDIBLE] looking at LB753, which provides for 100% tax credit for donations that are given to these private scholarship granting organizations or SGOs, as the senator, as Senator Linehan refers to them. All right. So if I get 100%, I can give \$5,000 and I get 100% tax credit for that. All right. That's, that's a \$5,000 then, that's-- presumably, if that were the, the share that should have gone into, let's say, state tax revenues through my income taxes, that's money that's no longer going to be deposited into state coffers. All right. And state coffers, again, as I mentioned, the pie chart of state revenues versus state expenditures, than that-- less money available there means less money available on the expenditure side. So in other states where similar legislation has been enacted, it does show a decline in financial support for public schools.

LIPPINCOTT: Right now, we have SGOs, right?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

RITA BENNETT: Yes. Currently.

LIPPINCOTT: This, this calendar year. Yeah. So it's-- that's in effect. I don't have all the school budgets memorized in my district, but I do have one: Central City. Now, normally before this year, they were receiving \$119,000 a year from the state. Now they're receiving well over \$1 million from the state. These schools aren't getting less money. They're getting more. Now I know you referred to it as a shell game later on, and, and a lot of these tax things, very complicated.

RITA BENNETT: Yes, they are.

LIPPINCOTT: Convolutated is what I would say, but I remember something that the secretary of defense for Ronald Reagan, Caspar Weinberger, he said, competition's a good thing. And what it does is it makes the public schools better, the private schools better, everybody better. Education and I don't mean to lecture here, but education is a business. And the customers are the students and the parents.

RITA BENNETT: Absolutely. I worked with them for 30 years as an educator, here in Nebraska. So I took that mission very seriously, and I still do. Which is why I want to make sure that we're preserving not only what I believe is our constitutional language, but also to preserve the ability for public schools to, to deliver the absolute best that every child and family deserves. And I was glad to be part of that and I'm glad to be a part of trying to make sure that happens for the future.

LIPPINCOTT: Thank you very kindly.

CLEMENTS: Are there other questions from the committee? Seeing none, thank you for testimony, Ms. Bennett.

RITA BENNETT: Thank you so much. We have a great chance in this state to do this and I really, truly appreciate it, and don't, don't take it for granted. Thank you.

CLEMENTS: Thank you. Next opponent, please. Good afternoon.

KATHY DANEK: Good afternoon. I think I need to be taller for this chair. Good afternoon, distinguished members of the Appropriations Committee. My name is Kathy Danek, K-a-t-h-y D-a-n-e-k. I am a member of the Lincoln Board of Education, and I've been on the board of education for more than 22 years. I am testifying in opposition to LB1402. I am focusing my testimony on LB1402 as a funding mechanism

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

for the law that we opposed as LB753 a year ago. The state should not appropriate \$25 million for tax credit scholarships because the law could not reach its stated goal of improving the quality of education available to all children. First, the law does not measure learning improvement. The law does not include a requirement of pre- and post-academic measure to see if the students who utilize the scholarship improve their academic performance. The law does not include any oversight of the use of the scholarship funds, so it is impossible to determine if the funding from the scholarships is used to support academic programs impacting achievement.

77-711(4)(a)-(d)(iii), which is 3. Since no academic-- measures of academic performance or financial investment in academic programming are made, improvement cannot be measured, and this portion of the goal, goal cannot be met. Second, the law is not intended to help all children. The \$25 [SIC] appropriation proposed in LB1402 could not help improve the quality of the education available to all children when, according to 77-7103(4), other than for race, scholarship granting agencies and the schools that receive these scholarships can establish requirements in their enrollment practices to limit certain children from attending their schools, making it impossible for this program to be available to all students. Examples of reasons a student may be denied access to the scholarship program include their religion, their sex, their gender, or if they have a disability. In fact, schools eligible to receive these dollars are guaranteed, in current law, that they do not have even an obligation to continue to enroll these students whom they initially accept with a scholarship funded by this program. For these reasons, we oppose LB402. I'm happy to answer questions.

CLEMENTS: Are there questions? Senator Dover.

DOVER: Yeah, I mean, I, I listened to the testimony and I, I can listen for so long. And, and while-- you know, you come across so passionately that you're worried about this and that and the children, but, I mean, I just, I, I find the argument falls short of caring for the children. Destiny was one of the first children to actually receive the Opportunity Scholarship in, in, in my-- in my, actually, my hometown in my district. And she's in a situation where she was in public school and being bullied, etcetera, was able to get this grant and attend. And [INAUDIBLE] matters what other school, but it's a nonpublic school, and is very happy there. When-- well, her sister found public school wonderful and wanted to stay there. So I really see what I think that-- lacking in all this argument is really caring for the children, because that's why we're here. And I, and I really

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

see, really an orchestrated, I guess a conglomerate of everyone. And, and it seems that we wait for that [INAUDIBLE] with the teachers union and protection and fear and all those kind of things, when, when it seems as though everyone's losing what's important is the children's education. And we just hear people testify how wonderful it's working. And I just find-- I don't know in what world that one solution fits all. And I just see as though that, that argument is lacking, where you're really-- tell me, tell me, please, how you're going to benefit, how this is going to benefit by going down your road and not having a choice for, for children and for parents.

KATHY DANEK: Let me start with this, Senator. You, you do not know my background. I'm a mom of 4. I'm one of 9 children. I attended parochial education when I was a child for 3 years, where I was discriminated against because my family didn't have resources. I was made to to be told I was too stupid to learn. And this was in a Catholic school, so pardon me if I don't see your passion, because I don't see what these kids see here. I decided my faith was extremely important to me, and opted to put my children in a parochial school to start their education. I have 4 daughters, 3 of them grew up to be educators. Two of them work in public schools. One is a private school teacher. Here's what I saw with my children. My oldest daughter, in eighth grade, became anorexic because of the way she was treated by classmates, because it was the same group of kids from the age of 4, all the way through their eighth grade. My second child had Turner Syndrome and had a growth disorder and was beaten up in her classroom. And this is in a school that is supposed to be of faith. My third child was a ringleader, and she decided she didn't want the, the new kid on the block to be celebrated. And my fourth child was highly gifted and given the same math assignment 3 times because she finished them way too fast. So when you tell me it's better, I would say that's not the experience for all parents.

DOVER: I'd like to-- excuse me just for one second, because I think you're inferring of what I was saying is not what I was saying, that you're, you're arguing back at me. I don't, I don't, I don't believe that the private schools or these schools here or public schools, that either one doesn't-- does-- is the best school. I think there's-- I think there's private schools that have problems. I think there's public schools that have problems. My simple point was that let the children, let the children find where they work and where they can learn, and where they can grow and prosper. And let their parents decide. And I don't-- I mean, quite truthful, I am not of, of the religious faith of any of the parochial schools. And my children went

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

to public school. Our family's always gone to public school. My grandchildren will go to public school. My grammy Schmeeler [PHONETIC] taught in public school. So please don't insinuate that I am, I am saying that somehow, a parochial school is the answer. Because there's, there's bad parochial schools and there's bad public schools. There are bad schools and there are bad teachers and there's good teachers. What I'm simply saying is, I can see the lack of focus for children and family choice for what's best for their children. And, and, and obviously, in your situation, the best thing for you was to take-- was for you, you know, your children not to be in the school you're describing. So, I mean, I agree with that.

KATHY DANEK: Senator, I think we agree on more than we-- than we're talking about. The real reality here is I look at these bills, there is no accountability. In my 22.5 years on the school board in Lincoln, the accountability that public schools go through is tremendous. There is significant testing. There is-- my one daughter is a school psychologist, so I can tell you the accountability that they go through to identify children and make sure they have the appropriate learning IEPs. And more importantly, she's also the school psychologist that handles the parochial schools in the northeast quadrant of Lincoln. So she's in both public and private schools. And they work their tails off every day to make sure every child that they serve has an appropriate education. And that includes the students she serves in the nonpublic, that also includes the students that are served in the public schools. But this bill, if you go back to it, does not require one iota of accountability, either academically or on the attendance. All of the things that you're telling me is going to benefit, none of that is required with what is currently in place and what this law proposes to change.

DOVER: Are you, are you saying then, with, say, the parochial schools, let's say north Omaha, that there is no established guidelines or criteria they have to meet?

KATHY DANEK: I can't, I can't speak for Omaha because I live in Lincoln. I don't know how their public school systems-- because when my children went to--

DOVER: Well, then in Lincoln.

KATHY DANEK: When my children went to parochial school, our children were funded mostly by the donations of the parents into our church on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

a Sunday tithe. And I worked 2 jobs to pay for that for my kids, so I know how that came [INAUDIBLE].

DOVER: So in Lincoln, are you saying that parochial schools have no criteria or guidelines that they have to follow to provide a quality education [INAUDIBLE]?

KATHY DANEK: I believe they're approved, not accredited, is what I remember when my children were in school there, they were approved schools not accredited because there are some guidelines through the State Department of Ed of how the schools are, are they use the word approved.

DOVER: And I believe that's by Department of Edu-- Education, isn't it?

KATHY DANEK: I believe so.

DOVER: All right. Thank you.

KATHY DANEK: And so that's, that's really it. But the, the accountability for tax dollars, the accountability for the education, the accountability that we have to do every day in public education is our charge. And it's also our mission. And we work very, very hard to make sure that accountability is taken care of. And one final note, I thank the Legislature for dedicating additional funds to public education, \$1 billion to try and change. For years, since 2001, we've been asking for the 3-legged stool to be balanced, because taking tax-- property tax dollars today is because that's what state law said we had to do. That stool became out of balance several years ago, and I appreciate the efforts to get it balanced back. I would also tell you that I'm very proud of our school district, serving 43,000 students, that we stayed within the guidelines that the Legislature set without doing the override at our district for the additional property tax revenue. And mind you, there was a whole lot of property tax revenue that was available in Lincoln this last year. But I also know we're going to see over \$30 million cut in our statement.

DOVER: I do believe if you read the bill, I think-- I do believe it says that you have to be either approved or accredited by the Department of Education.

KATHY DANEK: I believe so. I believe it depends on the school. So.

DOVER: All right. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

CLEMENTS: Are there-- Senator Erdman.

ERDMAN: Ask Senator Armendariz first.

CLEMENTS: Oh. Senator Armendariz.

ARMENDARIZ: I got ya.

CLEMENTS: Please be concise. Ask a question.

ARMENDARIZ: Yep. So you, you-- you're stressing accountability. And I have a large portion of OPS in my district. And their proficiency scores are below 30% and some below 20%. And they do get diplomas. So where's the accountability in that? I'm all about the ROI. Lots and lots of tax dollars going to this, so the ROI does not add up to me. And this is in the public system. It's seemingly, no accountability.

KATHY DANEK: I can't speak for Omaha's accountability. Our kids have an 85% graduation rate in Lincoln.

ARMENDARIZ: Graduation rate is a different thing. I want to know the proficiencies.

KATHY DANEK: And their proficiency and their scores, depending on if they have an IEP or not, because kids--

ARMENDARIZ: No, I want all kids getting out of public school. I want to know what the proficiency is. We're paying for all kids. We're paying tax dollars to all kids to graduate.

KATHY DANEK: Well, you have to meet the, the standards that are put in your schools, and you have to pass the classes to get that, or you don't get a regular diploma, you get a provisional diploma. And I do know that I-- some kids with IEPs get provisional diplomas. So you don't get a regular diploma in-- if you have an IEP and you didn't meet all of the standards. And I know that from some students who have been there. Senator, I can't speak to every student, and I can't speak to every, every school in the district. What I-- well, in state. What I can tell you is working to make sure every child receives a quality education has been my mission for more than 20 years. And what I can also tell you is that I go to every school in my district. I've been in the classroom. I've watched the education that is being provided by teachers, and the students as they engaged in learning. And I'm proud of what Nebraska does. And my greatest fear is that the work we have of providing a great public education across this state will not be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

available for my grandchildren and my great grandchildren. And that is my goal, is to make sure that the quality education that my children received in public education is available for children in the futures. And if it's not working right now, then we need to make sure that we move to [INAUDIBLE].

CLEMENTS: All right. Senator Erdman, do you have a question, please?

ERDMAN: Yep. I, I do. Are you familiar with LB939, I introduced it. It's called My Student, My Choice Act. Are you familiar with that?

KATHY DANEK: It wasn't on my radar. I, I do my bills by the day, so I probably missed that one, Senator.

ERDMAN: That hearing was yesterday. It's \$5 billion. It takes 50% of what goes to the public schools in a health-- in a education savings account. That's real school choice. This is not. But I'm surprised you people weren't there yesterday.

KATHY DANEK: Again, Senator, that one wasn't on my radar.

CLEMENTS: Any other questions? Senator Dover, question please.

DOVER: Yes. So in north Omaha, I had met someone in 1977, and it was [INAUDIBLE] where they are. And so that was 1977. And I keep hearing just exactly what you said, is we got to fix these things. Right. I talk to people in north Omaha now senate-- that their senators from the district. And I keep hearing that. But-- and while I understand what you're saying, but how, how, I mean, how long is-- do you think-- I mean, because we got to improve these things. How long is that going to take? And is there-- what's-- what is another solution?

KATHY DANEK: What we came up with in Lincoln was a variety of opportunities for kids to get alternative pathways. And when I say pathway, it's not every kid is designated to go to college. Some kids want to be welders. Some kids want to work in the trades. Some kids like culinary arts. We have an academy, at the Career Academy, of, of students in our high schools. We have an aviation pathway at one of our high schools. We have a health science pathway at another one of our high schools. Giving kids a place where they can see their dream is is a very significant change in how the education was that I received as a child, where you went in and you did basically the 3 Rs that really aren't the Rs because writing is with a W, not an R. And I think that that's one of the ways that we're seeing difference, because the engagement of the student in something they love is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

extremely important. A student who loves to read but can't have a book, a student who, who relishes working with their hands, they can create art out of a welding class. If you go to the welding class at Lincoln Northeast High School, you would see students, young women, which surprised me because a welding-- welding equipment is very heavy. And they were sculpting flowers as they learned their sculpt-- their, their trade of welding, how to make flowers. So I know this isn't about appropriations, but it is because we can't fund those kind of dream programs for kids' dreams, where they can become whatever they need to be by the public education implements.

CLEMENTS: All right. We need to wrap this up. Any more?

KATHY DANEK: Thank you.

CLEMENTS: Thank you, Ms. Danek.

KATHY DANEK: Thank you for the opportunity to speak.

CLEMENTS: Thank you for your testimony. Next opponent. Good afternoon.

REBECCA FIRESTONE: Good afternoon, Senator Clements, members of the Appropriations Committee. My name is Dr. Rebecca Firestone, R-e-b-e-c-c-a F-i-r-e-s-t-o-n-e. I'm executive director of OpenSky Policy Institute. We're testifying in opposition to LB1402 because we're opposed to the Opportunity Scholarship Act of LB753, and would be opposed to directing state funding to an untested program the same year it went into effect and is, at the same time, subject to a repeal and constitutional challenge. First, this bill proposes to direct state funds to an untested program that's unlikely to result in significant cost savings to the state. We've talked about Florida, and there's evidence from Florida that for \$1 of lost state revenue to fund private school vouchers, that state saved \$1.49. However, the authors of that report stated that they had no information from which to estimate the percentage of students who would switch from public to private schools because of the program. They assumed that 90% of students would switch because of the program, but they admit that the program breaks even at 60% of students switching, and would all cost the state at only 50% of students switching. This is important because the Opportunity Scholarship program could only result in savings to Nebraska if a significant number of public school students transferred to private schools in a way that reduces public school expenses. However, even if public school enrollment declines slightly, public schools still have fixed costs. Schools still need teachers in the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

classroom, lights, heating, etcetera. Further, evidence from multiple other states indicates that voucher programs can incentivize private schools to raise their tuition to increase profits, thereby limiting low-income families from using them and further decreasing switching between public and private. Therefore, there's not strong evidence that this program could result in cost savings to the state in the long run. The question of cost savings aside, while research over time is mixed, most recent studies indicate that voucher programs have mostly negative or can have statistically insignificant impacts on student outcomes. And we have a handout that shows some of that research. For example, a quasi-experimental study in Louisiana found that students who attended a Louisiana scholarship program were 50% more likely to have a failing math score. And that study also found significant negative effects for reading, science, and social studies. Researchers also found persistent negative effects on outcomes in Indiana. If improving student-- if improving student learning and student outcomes is really the goal here, and all of us care about our kids, it would be more prudent to fiscally invest in evidence-based programs that strengthen education. Further, at a time that the student-- the state is considering funding a property tax relief package from cash funds rather than the general fund and limiting new appropriations to avoid a structural deficit in the future, we encourage caution in devoting more funding to a program already set to cost the state up to \$100 million within a few years. Given that the long-term budget report already shows a structural deficit by fiscal year 2027, there's genuine question as to whether the state will be able to fund its current obligations in the future, as is. The Opportunity Scholarship program as designed in LB753 is also pending a potential repeal. And as such, we would suggest waiting to allow the voters to weigh in on that particular program. Thank you for your time, and I'm happy to answer any questions.

CLEMENTS: Senator Armendariz.

ARMENDARIZ: Thank you. Thank you for being here. Do you know where Nebraska ranks nationally in public schools?

REBECCA FIRESTONE: In what type of outcome? Like in terms of educational outcomes or in terms of funding?

ARMENDARIZ: Educational outcomes.

REBECCA FIRESTONE: In terms of educational funding, I think it's a variable--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

ARMENDARIZ: Educational outcomes.

REBECCA FIRESTONE: Sorry-- in outcomes. OK. Thank you. I believe, on a variety of different indices, we rank at about 18th or so. So we're about middle of the pack towards the top.

ARMENDARIZ: So do you-- do you think that there is room for improvement? Why are we one of a handful of states that offer zero choice in schools? I could see if it's in the top 5 we're doing amazing.

REBECCA FIRESTONE: Sure.

ARMENDARIZ: We're not. So why would we be one of 5 that offers no choice?

REBECCA FIRESTONE: So there-- I have not yet found very clear evidence that there's like a 1 to 1 relationship between school choice and, and improvement in student outcomes.

ARMENDARIZ: OK.

REBECCA FIRESTONE: So there is--

ARMENDARIZ: How do you suppose we should get our ranking up?

REBECCA FIRESTONE: How-- I, I think there are several steps along the way. One is making sure that our schools are fully funded and well funded, and in many instances, that's going to mean investing in areas where there's need. And then there's a need to invest in effective interventions within those schools, for example, improving some of our curricula, for example, investing in the science of reading in order to work on our proficiency scores. And those types of interventions, reducing class sizes, improving the type of curricula that are used, those are the types of programs needed in order to improve-- in order to get our rankings up, improve where we are. Funding is needed to do that. And when we end up in a system where we ending up-- we are ending up funding both private schools and funding-- and, and public schools, we end up in a place where the state's hands are tied and the availability of resources that has direct to really focusing on improving outcomes.

ARMENDARIZ: And one followup question, Chair. So we fund public schools upwards of \$5 billion a year, plus. So just so that taxpayer-- property taxpayers know, how much does it cost to fully fund them?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

REBECCA FIRESTONE: So in order to get to what outcome? Because right now, our student-- our education funding formula that we use in the state is actually not outcome-based. There are a number of states that actually build on their education.

ARMENDARIZ: What would we be measuring-- what do we want our kids to do when they get out of high school if it isn't good outcomes?

REBECCA FIRESTONE: So--

ARMENDARIZ: What are we measuring?

REBECCA FIRESTONE: --I'm not available that we actually have consensus across the state in terms of what the outcomes and goals are that we really want our education funding to be delivering on. And I think we have a lot of opportunity in the state of Nebraska to really be thinking up what our revenue sources are, both on the state level and on the local level, to think about how we're driving to those outcomes, and are there other states that are doing [INAUDIBLE].

ARMENDARIZ: So how much more money-- how much more money do they need to figure out what outcome we're shooting for?

REBECCA FIRESTONE: I'm aware that there are studies that have-- there have been resolutions that have been introduced into the Legislature in order to do that. I have not seen any recent studies that have been done to develop that kind of consensus commitment, on what type of ROI that I think you're asking for, Senator, we're looking for. I think there's a real need for that, and I think you're really on to something by asking those questions.

ARMENDARIZ: And I know there are other institutions that do do it right. And I'm in full support of supporting the institutions that do know and do it right.

REBECCA FIRESTONE: Sure. And I'd be so happy to visit with you on how we can actually do some more work at the state level, about thinking about how to answer those ROI questions.

ARMENDARIZ: Thank you.

CLEMENTS: Senator Vargas.

VARGAS: Thank you very much for being here. I don't think we are as used to having a lot of conversations about outcomes, which, I want

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

better outcomes for our public schools. I want more accountability. I just wanted to focus on part of your testimony here, that-- because it was asked previously by some of my colleagues, and I wanted to give you a chance to weigh in on this, because I think an important context to all of this, for everything that we decide in terms of the budget, is what the future looks like. I know I heard one colleague say, haven't we fully funded education, misconceptions about property tax and how, you know, how this is tied to it. You put in testimony, given that the long-term budget report already shows a structural deficit by fiscal year 2027. One of my colleagues asked, aren't we already fully funded in education from here on in? I wanted to give you an opportunity to elaborate on that because I think it's still an out [INAUDIBLE]. There was a question asked, and I don't think we have a full answer on that.

REBECCA FIRESTONE: Thanks, Senator. So I know-- the Legislature made some really important decisions last year, in terms of directing additional resources into K-12 education in this state, at the tune of, I believe, about \$305 million a year, last year. That was part of that larger \$1.25 billion Education Future Fund commitment. That was done on the basis of what was fiscally available. I did not necessarily see what specific outcomes for students that funding was designed to achieve, other than a reduction in property taxes. So the-- and there were some expectations because of the introduction of soft caps on school budgets around revenues, that school districts would actually take their property tax asking down when the state began to direct more resources into schools. So that means that that wasn't necessarily new funding or additional funding going into schools. That was actually more of a revenue shift. So to suggest that last year's decisions are-- mean that we're now fully funding our schools, I think is not necessarily the case. And there is more work to be done, I think, for us in the long term, to really think about what commitments the state can make, what we can do on a local level to get to those student outcomes, and also make sure that we actually have the fiscal space on the state level to afford those commitments.

VARGAS: Thank you. And the reason why I asked is I think it is helpful. I supported the vote on the Education Future Fund. I think the entire committee did because we want to better fund education and that was the intent. But we did also hear that it is not sustainable yet, and we're going to have to continue to put money towards it. Thank you for answering that question.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

REBECCA FIRESTONE: And I understand that there's some proposals now, to put additional money in-- direct additional funding through the transfer bill into the Education Future Fund.

VARGAS: Thank you.

CLEMENTS: Senator Dover.

DOVER: I guess, you know, we-- there was an increase in the-- I think, 360-- \$365 million, somewhere around there. And excuse me, I'm kind of new at Appropriations. And then, schools actually raised their budgets \$85 million. So you-- and we were talking-- that's a lot of money. And I mean, where-- and I guess, to Senator Armendariz's-- so, so when is this going to stop? When is-- is there enough money? And then my question, I guess, beyond that and I'll-- and if you can answer, it seems as though the public schools have worked on this for a really long time. And it seems as though more money and more time always seems to be the answer, so we can figure it out. And I-- a little-- worries me a little bit about when we-- when Senator Armendariz asked about when, when are we going to get the kids where we need them to get? And you were saying, well, it depends on this, and you're going back and forth. We are still deciding. We don't know. I mean, I would think, by now, we know what is important as far as educating our children. As far as-- and, and let's go to the most basic thing, reading. It seems as though really, from some of the things I've read, that reading is not getting better in the state, it's getting worse. And at this stage, over decades, because I'm a little older now, over decades and increased budgets, you would think that more of our children could read at a higher level. And some of the-- some of the-- them have been coming out canned. And the re-- I mean, it's, it's sad. So I don't know how long, how long, I guess [INAUDIBLE] this. How long are we supposed to wait? And how much money do we-- do the taxpayers have to give? Because, I mean, they're giving an unbelievable amount because, I think, on average, probably, property tax is 60%, of prop-- only 60% is school funding, of property tax. How long are we going to wait and how much money are we going to spend until we get kids that are ranked higher, not only as a state and our country, but on the world stage. Because we spend more money than, I believe, most any other country. So how much I'm-- how much and how long?

REBECCA FIRESTONE: So our education funding formula in the state, TEEOSA, has been around since the early 1990s. We haven't made that many significant shifts in the state funding formula until really last year. I believe there were a few changes, I think, in 2006 or so, as

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

well. This is an ongoing and perpetual challenge on the funding front. I would say, in terms of the performance and the outcomes front, there's some really interesting work and I believe some, some, legislation that's been introduced into the Education Committee this year, that's focusing on curriculum improvements based on new evidence around effective interventions for helping kids to leave-- to, to read. And it's going to take time and concerted effort to support teachers and administrators in schools to figure out how to shift into making sure that the-- that science of reading-type curriculum is implemented on a broad scale. On the funding front, when you're doing these things piecemeal, I think it is hard to actually figure out sort of what's the return on investment, what's the value for money? And I'm not aware that we have had that kind of strategic work on the state level to really say, this is what it costs in order to get to this type of outcome. We have been involved in supporting resolutions to try to get to that type of study, Senator. But this-- yes. This has been going on for a while. I think we are missing, however, this sort of strategic plan and the big picture vision about how to get to the kinds of outcomes you're looking for, which I think are important for those of you who are on the budget writing committee.

DOVER: Thank you.

CLEMENTS: All right. Are there other questions? Senator Lippincott.

LIPPINCOTT: Taxes are kind of convoluted, like we talked about earlier. I think for Nebraska, taxes are 1,171 pages long. You know, that's the tax law. The argument's made, over and over again, that school choice takes money away from the schools. So my question would be this. There are lots of deductions for taxes. Let's just say, for instance, that you tithe to your church. If you're old, if you're disabled, there's lots of different tax credits that we can take. Can the same be said there, that if I'm disabled or if I tithe to the church, that that's taking money away from public school? This-- it's a gotcha question. The answer is obviously no. But in other words, the-- saying that we're taking money out of the pot over here, well, the same thing can be said for tithing, for giving money to charity. The same thing could be said, well, you're taking money away from the schools. No, not.

REBECCA FIRESTONE: I want to make sure I'm answering the question that you have here, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

LIPPINCOTT: No, I didn't even ask you a question. I'm just making a statement, I guess but.

REBECCA FIRESTONE: I'm happy to speak to the difference, though, between the like, charitable deductions that we have in our tax code as opposed to tax credits. So the tax credit is about LB753, not about this particular legislation. But LB753 provides a dollar-for-dollar tax credit for donations to a 5-0-C-- a 501(c)(3) nonprofit organization that grants scholarships. That is a very different tax treatment than other charitable deductions that we have in the Nebraska tax code, which are, an order of magnitude, much smaller than that dollar-for-dollar tax credit. So there is currently, in law, a very different tax treatment for your charitable deduction, deduction-- donation in church versus a tax credit for the scholarship granting organization.

LIPPINCOTT: Senator Dover asked about the cost. This figure is about 2 years old, but we spend between-- we spend \$162,000 per student between kindergarten and 12th grade. And we're finishing number last in the industrialized world, in terms of education. We've got to do better. We need competition. Parents need to have choice.

REBECCA FIRESTONE: On the issue, particularly on competition and choice, I've been really looking for the best available evidence that I can find that this supposition that comp-- that competition in schooling actually leads to improvements in outcomes. The best I can find and I can send it to you, is a meta-analysis that was published a few years ago, the best available research on the effects of competition and choice. And it suggests that on a school level, there's no effective competition between schools, and for students, at best, only a very modest improvement in outcomes, taking all forms of competition and schooling, both public and private. And I can send you that study, Senator.

LIPPINCOTT: But one last comment. I've looked all over the place. There are no statistics that show spending more money equates to better education for students.

REBECCA FIRESTONE: I'm happy to-- I can give you, I think, 1 or 2 studies on that, as well, that suggests that, that-- it is, I would say necessary but not sufficient.

LIPPINCOTT: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

REBECCA FIRESTONE: Thank you.

CLEMENTS: Other questions? Seeing none, thank you, Ms. Firestone.

REBECCA FIRESTONE: Thank you.

CLEMENTS: Next opponent, please. Good afternoon.

JADEN PERKINS: Good afternoon, Chairman Clements and members of the Appropriations Committee. My name is Jaden Perkins, J-a-d-e-n P-e-r-k-i-n-s, and I am the policy fellow with the Heartland Workers Center. The Heartland Workers Center develops and organizes leaders, promotes workers' rights, and fosters a culture of civic engagement in order to build power and create change with immigrant and underrepresented communities. We are here in strong opposition to LB1402. LB1402 would steer \$25 million in public funds toward private school opportunity scholarships through the Treasurer's Office. From previous testimony, it seems like this bill is a more-- nothing more than a clone of LB753, with a tweak in how the funds are allocated. So first, private schools do not accept all students. Unlike public schools, they can deny, deny admission and expel students for any reason. Private schools can and do discriminate based on religion, national origin, special education needs, English language, language learner status, refugee status, sex, gender, orientation, pregnancy, disability, and more. Second, private schools will still be too expensive for most families. Priority is often given to families who already have a child or children enrolled in private school. If your child does not receive a scholarship and the school does, does accept your student, the scholarship can be unlikely to cover the full cost of tuition. The extra cost of uniforms, field trips, and extra curricular activities still falls on working families, and often, in Nebraska rural areas, there may be transportation challenges, as well. Private schools do not mean a better education. While many are excellent, many others can be substandard and none are held to the same standards and requirements as public schools. This experiment is similar to what's happened in Latin America, where we've seen, instead of helping with systemic, upward mobility for all families, school privatization helps only a few families get ahead. Too often, those families are already ahead in society. Lastly, this past summer, our diligent team of organizers contributed to the more than 117,000 signatures that were collected to put the Opportunity Scholarships law before the voters of Nebraska, because we believe that the people should decide where our tax dollars go. LB1402 is nothing more than another underhanded, fiscally irresponsible attempt to subvert the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

will of the people. I urge you all to let this bill die in committee today so the voters can decide on the Opportunity Scholarships law this November. Thank you.

CLEMENTS: All right. Senator Armendariz.

ARMENDARIZ: Thank you. Thank you for being here. Thank you for your testimony. So were-- have you been here the whole hearing time, since 1:30?

JADEN PERKINS: I've been listening since, yeah, the beginning of the hearing.

ARMENDARIZ: So we had some, some students come and testify. And one in particular testified about her high school and the disruption in her high school. Do you think, according to your testimony, that, that she should have continued in that high school and made that sacrifice to her future and her family's future for the greater good of the whole of that high school? Or do you think it was fair for her to go find a high school that made her develop to her full potential?

JADEN PERKINS: Yeah. So as someone who is a, a, a product of public schools and did have trouble in, in public schools and, and high school, as well, I'm not against her, her choice to, go to another school. And I actually do remember that testimony, gave me some perspective as I was kind of finalizing my testimony today. So no, I'm, I'm not against her, her choice to do that at all.

ARMENDARIZ: What happens-- so most of the kids in her high school cannot afford an option.

JADEN PERKINS: Right.

ARMENDARIZ: So should they be sacrificed then, for their future, because they can't afford anything different?

JADEN PERKINS: I wouldn't necessarily say, though, but I think it-- I think it goes both ways, oftentimes.

ARMENDARIZ: Both ways, what do you mean?

JADEN PERKINS: I know people personally that, you know, sacrifice-- his parents sacrificed financially to put their kids through private schools, as well. So I think the financial sacrifice kind of goes both ways on that end.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

ARMENDARIZ: I, I mean her future, her educational future. So she's, she's distracted in her high school. She's-- it's inhibiting her learning and her ability to reach her full potential academically. And her family has no option. Although she does have this great ability, she can't find it where she's at. Is it just luck of the draw where she was born? Now she just stuck?

JADEN PERKINS: No. I-- yeah, I don't agree with that at all.

ARMENDARIZ: OK. Thanks.

JADEN PERKINS: Yeah. Yeah. For sure. And, you know, coming from my testimony, like we're not against like public schools or private schools, we simply, just helped collect signatures to put it before the voters of Nebraska. So I'm not, like, here necessarily, like, in one way or another. But just, you know, just here to say that I think the voters in Nebraska should decide on the future of, of this Opportunity Scholarship law.

CLEMENTS: Senator Dover, do you have a question?

DOVER: Yes. So are you aware of Senator LIn-- Linehan's years of service to, to not only this state, but to our country?

JADEN PERKINS: Somewhat familiar.

DOVER: Then I guess I-- just so you understand, I'm-- I take affront by the fact that you call her bill underhanded.

JADEN PERKINS: Well, I think it's a clone with, of course, a, a tweak in mechanisms-- funding mechanisms of the LB753 that was passed last session. And I think it's irresponsible to introduce this, this session, without a vote taking place on the referendum, that's due to take place this November. Now, if it were to be brought up again next session, I don't think I would be against it, you know, depending on how the vote goes. But I think because we have this referendum on the ballot and people feel very strongly about this issue, as we've seen today, I think introducing the bill is, is a little underhanded. And I don't mean it personally, against the Senator, either. So.

DOVER: Are you aware of the disinformation that was given out when the-- when people were asked to sign the ballot?

JADEN PERKINS: I know our organization, we, we went through strict education, especially organizers. And we worked to make sure that, you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

know, they were reading the language of the petition and educating our folks, you know, in Omaha and rural areas where they were going to get those signatures.

DOVER: I received--

JADEN PERKINS: I can only speak to our organization's efforts in that.

DOVER: --I received multiple videos of people explaining the bill, which in no way explained the bill [INAUDIBLE], thank you for your time, sir.

JADEN PERKINS: Sure.

CLEMENTS: Other questions? Senator Lippincott.

LIPPINCOTT: You said that some private schools, that they discriminate because of sex, gender, the religions, disability, and so on and so forth. I'm reading here from Lincoln Lutheran School, which is a private school here in Lincoln. One of their bullet points, it says: Policy of nondiscrimination. Lincoln Lutheran does not discriminate on basis of race, gender, color, national, eth-- ethnic origin, or religion in considering applicants for admission. And I believe that that is true for all of these private schools. I would like to hear from you an example of discrimination that you have heard.

JADEN PERKINS: I can get back to you. I know personal examples. You know, as I'm sitting here, I have people texting me, watching this hearing, that, a personal example. So I'd love to send you an email with some examples.

LIPPINCOTT: I would love to receive it.

JADEN PERKINS: For sure. Yep.

LIPPINCOTT: This is a great example of something that Winston Churchill said. He said, we have a constitutional republic. We know that. We do not have a democracy. And Winston Churchill said the best argument against democracy is a 5-minute conversation with the average individual, because we know that there are multiple sides to every one of these issues. And it's very important to weigh them very carefully and accurately.

JADEN PERKINS: For sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

LIPPINCOTT: Thank you.

JADEN PERKINS: Yep.

CLEMENTS: Other questions? Thank you, Mr. Perkins.

JADEN PERKINS: Thank you.

CLEMENTS: Next opponent, please. Good afternoon.

SHAVONNA HOLMAN: Good afternoon. How are you?

CLEMENTS: Good.

SHAVONNA HOLMAN: Good. Chairperson Clements and members of the approshia, excuse me, Appropriations Committee, my name is Dr. Shavonna Holman, S-h-a-v-o-n-n-a H-o-l-m-a-n, and I'm a member of the Board of Education for the Omaha Public Schools. The Omaha Public Schools is the largest district in the state of Nebraska, serving a diverse population of more than 52,000 students who speak 119 different languages. I'm here today in opposition to LB1402. A year ago, we came before this committee in opposition to LB753, which provides tax credits for those who fund scholarships for students who attend private schools in Nebraska. We said then that our biggest concern with LB753 was that funneling state money to private education would have a negative impact on public education. We believe that allocation of \$20, excuse me, \$25 million to nonprofits for the primary purpose of funding scholarships to private schools, as contemplated in LB1402, is a further diversion of resources for public education. This is one of a number of proposals before the Legislature that would make resources scarcer for our future's most important asset: the students and children that we serve. Whether a student arrives at our public schools ready for enriched learning opportunities or needs additional supports to first learn English, we meet all students where they are and partner with them and their families to provide those students with the greatest opportunities for success. We work with students who face significant behavioral challenges and/or those who have special educational needs, not because we have to, which we do, but because we want to. Our pride ourselves-- we pride ourselves on offering a wide variety of educational opportunities and innovative ways for parents and students on their journey from elementary school through graduation. Public schools have an exceptional opportunity to cultivate a strong future for Nebraska with a skilled workforce, engaged citizens, and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

thoughtful community leaders. Public schools are the best investment to reach the largest number of students. For these reasons, Omaha Public Schools oppose LB1402. Thank you so much for your time.

CLEMENTS: Are there questions from the committee? Senator Dover.

DOVER: How long have you been involved in education in Omaha?

SHAVONNA HOLMAN: I've been in education for over 25 years.

DOVER: You know, and this might go-- I, I don't know that this would go back beyond you or not, and I apologize for my lack of understandings, but you're familiar with Ernie Chambers wanting to take north Omaha out of the OPS, so-- because they were-- he felt there such a disservice being done to his district, he felt the need to separate it from OPS. Were you around for that?

SHAVONNA HOLMAN: I, I was in school during that time, so I, I can't speak to it particularly, but I know of it. Yes.

DOVER: OK. It, it surprises me because I believe Ernie Chambers cared deeply about his district and it-- and I can't bel-- you know, to go-- to have to go to that extent to protect the children in your district surprises me. And OPS opposed that. And, and then to sit, i mean, years later, on the floor and listen to Senator McKinney and Senator Wayne talking to those-- whether-- I'm guessing it's the teacher union, those people and other, other of the party that say, you know, you want us for this and you want us for that, but we need this. They're, they're certainly-- they, they, they grew up there. They, they know. They're trying to help the children. I, I was at-- I was-- I stayed at the Marriott last, last, last session. And a gentleman [INAUDIBLE] was clean-- I mean, clean cut, vocabulary, unbelievable dress, so neat, going--

CLEMENTS: Can you get to the question?

DOVER:--[INAUDIBLE]-- excuse me. Yes I do.

CLEMENTS: OK.

DOVER: --going to Creighton University. I'm just-- and I said, where are you from? He says, north Omaha. And I said wow. And, and, and he says he's-- you know, if it wasn't for the fact that-- I'm, I'm, I'm not Catholic. I don't know any of the Catholic schools over there. But he went to Saint something. OK. And he-- and, and I said, interesting.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

And so I'm a senator so I'm doing my research. And so I-- so I asked him, I said, so do you have-- did your friends go to, to Saint whatever? He said, no. He-- immediately, he went-- looked down. And I, and I could tell that the whole situation changed. And I said, well, what? And, and he said, he said their mom couldn't afford to send them. Their moms could not have send them-- afford to send them to Saint whatever school this is. And their life will never be what my life is. So my question to you is, do you see-- do you understand that statement, what they were saying? Why there-- was there any truth to that statement?

SHAVONNA HOLMAN: Well, I can tell you that I also grew up in north Omaha, with Senator Wayne. We went to school together. I am a product of Omaha Public Schools, elementary, middle school, high school. I have three degrees. I have a doctorate degree. I'm a professor here at UNL. I'm on the school board for Omaha Public Schools because I love that school district. I love what we're able to provide our students. I love that my daughter has options within her school that she's in, within the district, to attend. My daughter is not at a school in my neighborhood. My daughter is in school in north Omaha, King Science Center, because she wants to be a scientist. So that's where she gets on the bus every morning at 6:30 a.m., to go down to north Omaha to fulfill her dream, excuse me, her dreams of being a scientist. So, I don't know. I guess I, I can also say that I'm just a little bit taken aback from what you said, in that the way I perceived it in that this man looked nice and he was articulate, because he--

DOVER: He put, he put my kids to-- put my kids to shame. And I thought, you know. Yeah. Exactly. And, and, and--

SHAVONNA HOLMAN: But are you saying like because he was in north Omaha.

DOVER: --I'm thinking-- what I'm thinking, based-- what?

SHAVONNA HOLMAN: I'm going back to the comment that you made. OK.

DOVER: Oh, no, no, no. You're, you're, you're implying-- see, that's a problem. You're implying something--

SHAVONNA HOLMAN: No, I'm not implying. I'm asking you, sir. I'm asking-- you stated that you, you met a man last night that was very well-dressed, very articulate, because he went to-- and he went to whatever Saint school.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

DOVER: Correct.

SHAVONNA HOLMAN: And then I'm asking you, are you saying that he is articulate and he's well-dressed because he went to a private school?

DOVER: A, a-- he went to-- he went to-- I, I-- he went to a school that must have really prepared him very, very, very well.

SHAVONNA HOLMAN: OK. But I, I-- and I went to public school. And I can say I'm probably, if not more, his scale.

DOVER: My question was simply-- my simp-- my question was simply this, if you could just answer my question. Do you understand what he told me, how his friends would never have the life he had because they couldn't attend the school he attended. Do you any-- do you understand that statement at all?

SHAVONNA HOLMAN: I understand. Yes, sir. I do understand that statement. But I would not agree with it entirely.

DOVER: OK. Thank you.

SHAVONNA HOLMAN: Sure.

CLEMENTS: Senator Armendariz.

ARMENDARIZ: Thank you. Thank you for being here. I, I, as well, grew up in northeast Omaha, in, in Senator McKinney's district. And I went to McMillan and Tech High. We-- socioeconomically, on the lower half. You and I have done well, right? We, we did come out of that. But would you agree that most kids don't? Most kids are, are not going to be in the same place that have the same environment, at least that I had, all the things that are stereotypical of, of poverty neighborhood, I saw firsthand in my family and in my surroundings. And what do we know? You have a PhD. What do we know about kids that grow up in those environments and the opportunities that they have for their future?

SHAVONNA HOLMAN: I can tell you that I have 4 brothers.

ARMENDARIZ: What do you think was the differentiator in your family that made you guys not be as affected, then, as a lot of people that grew up

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

SHAVONNA HOLMAN: But that's what I'm saying. That wasn't the truth. That was-- 2 of my brothers are not in the same--

ARMENDARIZ: Situation.

SHAVONNA HOLMAN: --not at all. Not at all. But they're-- they are still successful in their own right. They may not have gotten a college degree. They may not had any intentions on going to college. But that does not mean that they are not successful in what they're doing in their lives right now.

ARMENDARIZ: So you heard my earlier question, about the young woman that testified about her disruptive high school environment.

SHAVONNA HOLMAN: Yes.

ARMENDARIZ: And we, and we know that's across the board. It's, it's not only OPS anymore.

SHAVONNA HOLMAN: Right.

ARMENDARIZ: I'm hearing it from all the school districts anymore.

SHAVONNA HOLMAN: Absolutely.

ARMENDARIZ: So is it fair, though, for kids that can afford-- is that the real-- the real problem with separation of people of different socioeconomic backgrounds, the haves and the have nots, per se. So if you don't have the means, you don't have a choice but to leave that disruptive environment. You must stay. It-- and I just don't see that that's fair, that some kids that have potential are, are stuck in disruptive environments that keep them from learning to their potential. I think it-- I think it's an, an opportunity for us and a responsibility for us to let every child reach their full potential. And their, and their parents should decide whether that school fits them or not. Their parent knows them better than any educator does. And I think it's a responsibility for us to give them that responsibility. Do you think it's fair that we keep kids in the lower socioeconomic half without a choice, because quite frankly, that's what it comes down to. The parents that can't afford it have to stay without a choice, and the parents that can really opt out if they want to.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

SHAVONNA HOLMAN: OK. But I would also argue that we do offer choice within the Omaha Public Schools. There is choice within the school district.

ARMENDARIZ: What is-

SHAVONNA HOLMAN: We have multiple high schools [INAUDIBLE].

ARMENDARIZ: So when I look at the rankings of the OPS high schools, they're 1 out of 10. Is that really a choice for these kids that are in, in the lower half of the socioeconomic scale? That seems to be just a lateral move.

SHAVONNA HOLMAN: I mean, I guess it depends how you look at it. Yes-- first of all, let me just say, first and foremost, I believe that a parent and a family has the right to do what they feel is best for them and their family. Plain and simple. Because I would do that for my own daughter.

ARMENDARIZ: OK. What if they don't have the money to do that?

SHAVONNA HOLMAN: I mean, we have public education.

ARMENDARIZ: And that's their only option then. That's what you're saying?

SHAVONNA HOLMAN: I can speak to what I know, in regards to the Omaha Public Schools and how I feel about public education.

ARMENDARIZ: OK. Thanks.

SHAVONNA HOLMAN: Absolutely.

CLEMENTS: Are there other questions? Seeing none, thank you, Dr. Holman, for your--

SHAVONNA HOLMAN: Appreciate you.

CLEMENTS: --testimony.

SHAVONNA HOLMAN: Thank you.

CLEMENTS: OK. Next opponent. If there are other opponents in the back, would you move to the front seats, please? Come on forward. Good afternoon.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

DUNIXI GUERECAL: Good afternoon. This is a new committee, and it's been a long day, so let's get going. Thank you, Chairman Clements, members of the Appropriations Committee. My name is Dunixi Guereca, D-u-n-i-x-i G-u-e-r-e-c-a, and I'm the executive director of Stand for Schools, a nonprofit dedicated to advancing public education here in Nebraska. So Stand for Schools is here in oppos-- strong opposition to LB1402. Nebraskans have many things to be proud of, and our history of supporting public education is at the top of that list. As Nebraskans, we have long known an educated citizenry is crucial to the continued functioning of a democracy. The best way to ensure that all of our citizens receive a quality education is to support public education. We-- I'm going to skip around my, my testimony. First, we oppose LB1403 [SIC] because it does not provide Nebraska's children against discrimination by private schools. As the child of 2 Mexican immigrants, this is really important to me. Unlike public schools, which are open to all, page 2, lines 30-31 of the bill states that private schools, under LB1402 must comply with 14 U.S.C. 1981, which only prohibits intentional discrimination based on race. That means students will not be protected from discrimination based on religion, national origin, special education needs, English language learner status, refugee status, sex, gender identity, sexual orientation, pregnancy or disability. Moreover, even this protection is insufficient to protect against discrimination based on race, actually. The Supreme Court has held that Section 1981 doesn't allow plaintiffs to demonstrate discrimination by analyzing the disparate impact policies have on different racial groups, meaning that unless a school can be shown to be intentionally admitting, punishing, or expelling students based on their race, which is a pretty high legal bar, LB1402, as written, does not protect minority students. Stand for Schools does not believe taxpayer dollars should be used to support schools that may be closed to some children and that may not meet the same account-- accountability requirements as public schools. As Governor Pillen has told us, public dollars do come with a public responsibility. And, and I really just want to add another point, that 117,000 Nebraskans said, not that they disagree with the concept of school choice, but that they want to take it to a vote. That's 117,000 Nebraskans from every corner of the state, every racial group, every political party, open carry, not open carry, rural, urban and everywhere in between. They want to say, let us have a vote in November. And as the child of 2 Mexican immigrants, whose father came here in search of a society based on rules, fair play and hard work, I just think-- this is on a personal note, that we should allow the vote

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

to take place. And yeah. My time is going to be up pretty soon, so we'll just leave it there.

CLEMENTS: Are there questions from the committee? Senator Dover.

DOVER: What, what would you tell the Hispanic family that was-- did you hear the testimony earlier?

DUNIXI GUERECA: Yes, sir.

DOVER: What would you tell that Hispanic family that they-- that they wouldn't have the right to do what they did, to go to this school where they were able to flourish?

DUNIXI GUERECA: Sir, I do believe they-- not-- again, I don't know the specifics of the case, but I believe it was a private scholarship that allowed them to attend that private school.

DOVER: It was an-- I, I, I, I thought it was from the Opportunity Scholarship, from the LB753.

DUNIXI GUERECA: Don't know the specifics of the case.

DOVER: OK. This-- OK, let's make a-- this a question, then. So in that situation, LB753 would provide that family to be able to go and flourish and, and, and have their grades increase, by testimony, quite a bit, to read, and all those things and for their, for their children to flourish in education. What would you tell that family, based on your testimony here? Do you think that's a good thing?

DUNIXI GUERECA: So, Senator, I think Senator Armendariz sort of, sort of hinted towards it. The reality is, is that there are-- there are various factors that define student succ-- that, that influence student success. Right. And what we saw, in this instance, was a mother who was very driven, who, who did research, who, who found a way to, to get it done and pushed her students. And now that's a, a trem-- a tremendous parent who cares deeply about her children, and reminded me a lot of my mother. And the, the reality is, Senator, is I, I would argue that, you know, she, she got it done. Right. She, she found a way to get it done. She found a way to, to get the resources her children needed in their particular situation.

DOVER: To move from public to private schools, to get the-- what she felt needed to get into an environment, where they could increase

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

their, their-- the abil-- their-- actually their grade points, right, to, to read.

DUNIXI GUERECA: Correct, Senator. And I mean that, that took, took a lot of tenacity as a parent. I would argue that regardless of the environment, a child like that would thrive.

DOVER: [INAUDIBLE]-- you think she was not-- she wasn't as tenacious when she was in public school? Do you think she didn't-- do you think she changed somehow? That maybe when they came-- went to whatever school they went to. Somehow she changed or has she always been that mother [INAUDIBLE] and that that environment, it seemed as though she was testifying that that environment allowed her child to flourish.

DUNIXI GUERECA: Correct, Senator. But-- so that-- that's a, a very-- you know, that's, that's her arg-- that's, that's this case, right. Now we're talking about large scale--

DOVER: I think that we want to address this case-- the case that's in testimony right now.

DUNIXI GUERECA: Huh? What was that, Senator?

DOVER: I just want to addr-- I would like you to address the testimony earlier today, is what I'm asking you to address.

DUNIXI GUERECA: Well, Senator, I mean, that-- again, I, I heard the testimony. I don't know much else about that case, but what I can send you is study after study that showed that large scale limitation of school privatization schemes actually have a detrimental effect on [INAUDIBLE].

DOVER: The problem with studies, and I apologize, is we really have to look at the source of the study, because either side can come up with the studies that support their information. I'm simply wanting to, to, to, I guess, attempt to explain a situation here, that's--

CLEMENTS: Senator Dover. I think he's answered--

DOVER: Sorry. Thank you. I'm done. I'm done.

CLEMENTS: --the question.

DOVER: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

CLEMENTS: Are there any other questions? Senator Lippincott.

LIPPINCOTT: Sir, you're a registered lobbyist, is that correct?

DUNIXI GUERECA: So I'm the executive director of a nonprofit that does come before the body. And as such, there are various registrations, including with the NADC, that, that I know-- making sure that I'm in compliance with all state statutes.

LIPPINCOTT: That was yes or no?

DUNIXI GUERECA: That means I'm in compliance with the law, Senator.

LIPPINCOTT: OK. It just has to be read into the record, I believe. Thank you, sir.

CLEMENTS: All right. Seeing no other questions, thank you for your testimony.

DUNIXI GUERECA: Thank you, Chair.

CLEMENTS: Next testifier. Welcome. Good afternoon.

ASHLEY ALDABUTE: Good afternoon, everybody. My name is Ashley Aldabute. That is A-s-h-l-e-y A-l-d-a-b-u-t-e, and I am testifying in opposition to this bill. So, I know, throughout the testimony on both sides today, the state of Florida and the state of their education system is brought up, so I decided to speak a little bit as somebody who went through the education system in Florida. So definitely, I know there's been a lot of benefits and speaking about competition and how charter schools have improved the state. And in reality, not quite the case. I went to a public high school, Lake Minneola. It was top public high school in the state, really plagued with a lot of serious issues. On staff turnover, about half of my teachers each year would leave in the middle of the year. Two years of high school, I had 3 teachers for 1 class for 1 year. Teacher salaries, incredibly low, and included teacher benefits was two bags of, like, a Lipton tea, like individual bags, as compensation. Lots of teach to the test mentality. I was in accelerated classes and often would not even be taught material, but I was sat down multiple times a year to take FSAs, they were called, just to basically be a testing mill. And several issues. To the point where-- secondary educat-- post-secondary education in Florida is very competitive. Got into every state college on a full-ride scholarship, and I chose to leave the state. So what I would urge on the members of this committee, if you would like to have the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

educational system of the state of Florida, go to the state of Florida, but please do not bring that here. Thank you.

CLEMENTS: Thank you. Are there questions? Thank you for your testimony.

ASHLEY ALDABUTE: Thank you.

CLEMENTS: Next testifier, please. Good afternoon.

CINDY MAXWELL-OSTDIEK: Good afternoon. Thank you. My name is Cindy Maxwell-Ostdiek. Chairperson Clements and members of the Appropriation, Appropriation Committee-- you spell my name C-i-n-d-y M-a-x-w-e-l-l-O-s-t-d-i-e-k, and I actually attended this afternoon to just sign in on the committee sheet, but decided I did want to say a few words. And I apologize. I don't really have a lot written out, but I do want to tell you, I'm a mom and I'm a taxpayer and I am a supporter of public schools. I am testifying as an opponent to LB1402. And I do want to say that there are many of us whose children attend public schools, like mine. I have 9th, 10th, and 11th graders right now. But I also have my nieces and nephews. All of them attended parochial private schools. Many of us in Nebraska support all of our schools. We want our children to have the best education, no matter where they attend. But there are very many like me, who strongly believe that our public dollars belong with public schools, and they should not be going to private schools that do not serve all students. I did want to-- I did not want to repeat what others have already shared here today, but I heard part of a comment about the petition process to repeal LB753, and I just wanted to push back against any suggestion there were fraudulent gathering of signatures. I believe the Secretary of State would have investigated if that were the case. There was an expensive campaign mounted to encourage Nebraskans to remove their names from the petition and a few people, I believe, did. And that is their right. But I proudly gathered signatures myself, this last summer, and I wanted to just let you know that I, along with the other volunteers that I served with, believed we were doing the right thing for our state, and we were doing it with integrity. We may have strong disagreements about this policy, this legislation and the repeal process, but I don't believe that we should be resorting to implying that people had, you know, nefarious intentions. I do want to also say that I had people approach me to sign the bill or, excuse me, the petition to repeal the bill, that had kids in private schools. I had grandparents with kids in private schools. I had people who wanted to sign because they wanted us to get this on the ballot so they could

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

vote. So there were a lot of reasons people signed, but I would want to say that it is important that we remember that all Nebraskans, including the members of the second House, are trying to do what's best for our state. And I think that, as senators, I hope that you would recognize that and make sure and support that process. Thank you.

CLEMENTS: Senator Erdman.

ERDMAN: Thank you, Senator Clements. I wasn't going to ask a question, but so are you saying that when I stated what someone told me, was not true?

CINDY MAXWELL-OSTDIEK: I did not get to hear all of your testimony. I was in the car. And then when I got out, my Bluetooth disconnected. So I'm sorry. I did not hear all of the comments back and forth.

ERDMAN: I recorded the testimony that the person that was circulating the petition asked me to sign, stating that it was property tax relief. And I tried to explain to that person it was an income tax credit. He told me that McCook Public School is going to lose \$250,000. About that same time, somebody in the eastern part of the state had exactly the same conversation with a circulator. Those people heard that somewhere. Those 2 people don't state the same thing when circulating the petition unless somebody told them to say that. And I have the recording and you can listen to it. That person was totally mis-confused-- was totally confused on what was going on there, and they explained it in a way that was not appropriate. So just to say that because you did it right, doesn't mean that somebody else did not.

CINDY MAXWELL-OSTDIEK: Well, I know that for--

ERDMAN: That's not-- you don't need to answer that.

CINDY MAXWELL-OSTDIEK: OK.

ERDMAN: That was a statement.

CLEMENTS: Would you-- would you like to comment?

CINDY MAXWELL-OSTDIEK: Well, I was just going to say, you know, as far as the circulation process, there were, many of us volunteers who, you know, completed training. And we all read the actual wording that was approved by the Secretary of State, for when anyone signed the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

petition. I think there's genuine disagreement about the bill and what it actually is intended to do and, and the result of it, and the repeal process. I think there's genuine misunderstanding, possibly from many people, about what it does. But I don't believe that there were a large number of petition circulators that were giving any sort of incorrect information or purposeful. I don't-- I wasn't there, I guess, with whatever it was that you were listening to with the recording, but there were 117,000 people-plus that signed this petition in just 3 short months, this summer. And I think it indicates that Nebraskans want to vote on this.

CLEMENTS: Other questions? Seeing none, thank you for your testimony.

CINDY MAXWELL-OSTDIEK: Thank you.

CLEMENTS: Next testifier, please. Good afternoon.

MAGHIE MILLER-JENKINS: My name is Maghie Miller-Jenkins, M-a-g-h-i-e M-i-l-l-e-r-J-e-n-k-i-n-s, and I'm here today to testify in opposition of this bill for a couple of reasons. I don't want to repeat what a lot of people have said before, but kind of backing the testimony that was just before mine, the second house in Nebraska has already spoken and said that they wanted to be able to vote on this issue. So the fact that it's being pushed in a different arena, in my opinion, is underhanded. Two, I have a 15-year-long career working with people with disabilities, and this bill hurts them. Private schools are not mandated to follow IEPs. And a lot of private schools, in order to not have to deal with IEP, which stands for an individual's education program, in order for them not to have to deal with those IEPs, they just won't admit those students into their scholastic institution. You see a lot more instances of racism inside of privatized education than you do inside of public schools. There are a lot of things that happen inside of public schools that just can't happen inside of private schools. Even with a tuition reimbursement, it doesn't matter. Our public education system is a cornerstone of how we show that our society is at its peak of performance. This weekend, I went to Prague, Nebraska. I don't know if any of you know where Prague, Nebraska is. They used to have an elementary school there. They don't anymore. It closed down because the people in Prague decided that they didn't want to pay the property taxes in order to keep that school open, and so they voted not to. And now that town is dying. It has probably 1 generation left, because everybody there is most of your guys' age. And you guys aren't going to be out there working fields, right, because that's a farm town. When you guys are talking about what's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

going to happen to our public education, think about towns like that. It's not all about Lincoln and Omaha. It's also about these smaller towns. You take away their public education, you take away their ability to be able to maintain themselves as a society, as a town. Because where you don't take care of your children, you don't take care of your society. And this is a detriment to the health of our society. Our children are our future, and making sure that all children have access to a robust education is a must in order for us to grow a healthy Nebraska. Thank you. Questions?

CLEMENTS: All right. Thank you. Are there questions? Seeing none, thank you for your testimony. Thank you for coming. Next testifier, please. Good afternoon.

JUDY KING: Hi. Judy King, J-u-d-y K-i-n-g, and I'm an opponent of this bill. I also went out and collect signatures for that petition drive. And there were some fraudulent people out there in yellow shirts, that were trying to, from the opposition, trying to give a false petition to people. Yellow shirts, they called themselves Keep Kids First. So there was shade on that side. Most of everyone that I know of were excellent at collecting those petitions. In fact, they didn't even have to say anything. People would just come up and they'd say, are you with that petition that's for the-- to give our tax money away? And I'd go through the whole process of reading the petition out on the top, going through the whole process. Most of the time, I didn't even have to say anything. They were chasing me down. So to pull this bill, this bill by Linehan, before that gets on the ballot is shady, and so were your yellow-shirt people that were out there doing the same thing. I'm a taxpayer. I'm not-- I'm not paying for Catholic school kids to go to school. And I don't think there's a lot of people out here that would do that either. If you want to send your kids to private school, you send them to private school, but we're not paying for it. And-- what else was I going to say? Yeah, because the Catholic Church is sitting back here. He's had all these meetings that they want some money, or they want to teach-- get kids into religious schools, but they don't do anything about regular school choice, going to public school. But this is shady, putting this bill out here right now before it gets on the ballot. That's all I have to say. Thanks.

CLEMENTS: Seeing no questions, thank you for your testimony. Are there other testifiers? Good afternoon.

JACOB CARMICHAEL: Afternoon. Sorry I wasn't able to print it out this morning, so everything is on my computer. Good afternoon, Chairman

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

Clements and members of the Appropriations Committee. My name is Jacob Carmichael, J-a-c-o-b C-a-r-m-i-c-h-a-e-l, and I am here today in opposition to LB1402. I-- before I go ahead in my planned testimony, I would just like to say I was a, a petition circulator. I collected a lot of signatures. And I had a lot of conversations with people about it, and some ones where I got yelled at. And I would like to say even though we have disagreements, the first school I went to in Nebraska was a Catholic school. And an important thing I learned there was the difference between lying and like-- what a lie actually is and knowingly telling something false. So I would just like to say all the accusations of, like, lying and intentionally lying that have been thrown around today around every single circulator, that's not in the best interest of this conversation, in general. That being said, moving forward to what I had planned. These SGOs, the-- one of the first ones being the Opportunity. Scholarships of Nebraska Act, founded in association with or in partnership with the Nebraska Catholic Conference and the 3 bishops of the different dioceses. This obviously does not represent all SGOs, but the majority of private schools in Nebraska are-- or the vast majority of private schools in Nebraska are parochial schools, and the majority of parochial schools are Catholic schools. And with that, I would like to read from the Attorney General's statement on a clergy report of sexual assault in-- from 2021. The most troubling finding from this report is the fact that on numerous occasions when there was an opportunity to bring justice to the victims, those in authority chose to place the reputation of the church above the protection of the children who placed their spiritual care in the hands of those in church authority. The depth of physical and psychological harm caused by the perpetrators and the decades of failure by the church to safeguard so many child victims, is unfathomable. Skipping forward a little bit. Absolutely no institution is entitled to place the preservation of its reputation before the protection of our most vulnerable. True vigilance demands a collective commitment to never allow this tragic history of unspeakable harm to repeat itself. The duty to protect the children is on our watch. May we not fail. I would also add, the duty is yours to protect our children. The church has not taken a strong stance. And this Legislature, if it approves funding to go to these schools through this SGOs, will also be failing our children by not advancing any protections against them, as well. Thank you.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony. Thank you for waiting. Are there other opponents? Other

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

testifiers in opposition? Seeing none, is there anyone wishing to testify in the neutral capacity? Welcome.

ANTHONY SCHUTZ: Hello. Do you need me to spell my name?

CLEMENTS: Yes, please.

ANTHONY SCHUTZ: Anthony Schutz, S-c-h-u-t-z. I'm here today in a neutral capacity. I'm a law professor. I teach at the University of Nebraska College of Law. I have probably spent more time than probably anybody in the state looking at the Nebraska State Constitution and its meaning, as well as Article VII, Section 11. I wrote an article last year, on the tax credit provision and, and so I-- in that article, explain the arguments both for and against the idea that this is unconstitutional. And so, I came down here today to testify on that particular subject. I'd start just with, you know, sort of recapping the testimony today. Right. A public school, private school fight involves basically every question that you could come up with. We've seen everything from rural development to religion, geography, families, upward mobility, wealth inequality. We're talking about public-private partnerships at their-- at the core. Two years from now, if this were to go through, I'm sure we'd be talking about what a qualifying school is for purposes of this thing. So the point is, opening this can of worms is quite a can of worms. In 19-- or I'm sorry, in 1875, in 1920 and again, in 1972, constitution drafters tried to take this off the table. They knew about these fights in the Legislature. They'd been through these fights in the Legislature, and the members of those committees had all been in the Legislature and seen them firsthand. The debates of all of those-- of at least 1920, and then again in 1970, all advanced very serious debate about whether or not we should fund private schools. In the judgment of the constitution drafters was, no, it's not worth the fight. It involves too many issues. It gets too difficult. We wind up basically having to fight about what the conditions are going to be on the funding. And at the end of the day, we just don't think that this is something the Legislature should do. So they wrote Article VII and Section 11, and it's remained in our constitution ever since. The tax credit provision from last year, the LB7-- was it LB753-- raised really interesting issues about whether or not a tax credit could qualify as an appropriation. Those issues would fall by the wayside if this were to pass, because this is clearly an appropriation. The only issue that would be remaining is, is to whether or not that appropriation is to a private school. And I believe there's a pretty strong argument that there is. You heard from Mr. Norby and you heard from another attorney

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

early on, about whether or not this does violate that constitution. My judgment is that it's-- Scott probably has the better argument. But I'm a lawyer, and it's hard to say definitively whether or not the court would rule in his favor or in the opposit-- or in the supporters favor. So I'm happy to answer any questions you may have about that. I know there were a lot of questions early on, about the constitutionality. And I'm familiar with the cases and the constitutional history, and would be happy to, to inform you.

CLEMENTS: Are there questions? Senator Erdman.

ERDMAN: Senator Clements, thank you. I just have a question. So in your opinion-- do you have an opinion whether we should pass this bill or not? Do you have an opinion about that?

ANTHONY SCHUTZ: No. I mean, the underlying merits of whether we should fund education by providing money to schools to attend any particular institution, that's, that's a very difficult question. I mean, I work for an institution that has seen a shift from public provisioning to student finance. And I've seen that transition all the way into debt and increased tuition and things along those lines. So I-- there's a lot to think about if we were going to start talking about shifting our-- the way in which we provide education in the state. It's probably not an Appropriations Committee discussion as much as a-- you know, it's, it's one for the people to decide, fundamentally, I suppose, given the state constitutional prohibition. But no, I don't have a particular view on that subject.

ERDMAN: Listening to your comments, I would conclude maybe you're not in favor of something like this. Would that be fair?

ANTHONY SCHUTZ: No, I'm, I'm in favor with the-- well, I came down to testify on what the constitution says and what its history is and what the history of that involves. But, you know, to be frank, I'm, I'm a public school kid. I grew up in Elwood, Nebraska. I went to the University of Nebraska at Kearney. I worked as a corrections officer in Kearney. And then I came to law school here, and I did well enough to get hired as a professor. The only way I got that education was through Pell grants and scholarships. I grew up with debt collectors calling every weekend and all of that. So, you know, I have a-- I have a soft spot for public education, but that's just my background.

ERDMAN: Fine.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

ANTHONY SCHUTZ: I, I haven't had experience--

ERDMAN: Thank you.

ANTHONY SCHUTZ: --with private education.

CLEMENTS: Senator Armendariz.

ARMENDARIZ: Thank you. Thank you for your testimony. So in your opinion, then, if this were to be brought to a court to be fought, do you agree that there is an argument for both sides of the argument, and then it would just come down to which lawyer won, in-- interpreted it and won?

ANTHONY SCHUTZ: Sure. So, I mean, what lawyers try to do is read the tea leaves of the cases that have been decided thus far, and try to anticipate what exactly-- what we think the likely outcome would be if this case were to come before the court. A couple of different cases have come before the court. One court-- one case was a case called Rogers. Rogers came before the court. It was, it was a bill that allowed for the reimbursement of private school tuition. Court struck it down. Said no, that's, that's an appropriation in aid of.

ARMENDARIZ: You might be selling your consulting a little bit early if you wanted to--

ANTHONY SCHUTZ: Well, I work for the University.

ARMENDARIZ: --consult on one side or the other.

ANTHONY SCHUTZ: I'm a public servant.

ARMENDARIZ: You're giving them a little bit of--

ANTHONY SCHUTZ: So yeah, I'm, I'm, I'm here on my own time. In any event, so the Rogers case struck down, under the "in aid of" language of the State Constitution, a, a private school reimbursement mechanism that the Legislature had created. This was in-- I believe that case was in the 1960s. The 1970s, there was a lot of fighting about, about public and private school education. There was a provision to provide a-- there was a provision that came through the Legislature to propose a constitutional amendment to the people to allow this sort of thing. In the throes of that, we were also doing a Constitutional Revision Commission. That Constitutional Revision Commission was having the same fight that the legislature was having. The Constitutional

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

Revision Commission decided to maintain the prohibition on the distribution of funds or appropriations to public schools. But they changed the words from "in aid to" to "to." All right. Now, the, the constitutional history is clear, and the debate, the debate transcripts are clear that there was no inclination by the committee that drafted that, that that would open up some forms of support to private schools. But the court has its politics, too. And so after that, there were 3, 3 different cases that came before the Nebraska Supreme Court, one dealing with buses, one dealing, dealing with test-- textbooks, and one dealing with a scholarship program that involved an appropriation from the Legislature to a fund that would provide scholarships to college-aged students to attend both private and public universities. All 3 of those passed, right. So, the question becomes whether or not this case is like those cases or whether it's different from those cases. The Lenstrom case, which is the one that involved the public-private scholarship mechanism for college-age kids, came through the court. And the court, in explaining its reasoning, made a very specific point that the funding that was available to those students through those scholarships could be spent at either public or private institutions. That meant that the appropriation was to the students rather than to the private school. And it refused to overturn the Rogers case, which had struck down that provision. So the way that I read those tea leaves is, there's def-- there's, there's a significant issue here. One way of dotting i's and crossing t's on this would be to make the funding available to a student to attend any particular institution, right. Support their education at private schools or public schools. Then, it's not an appropriation to any school, it's an appropriation to students and to parents. There's the textbook and the bus cases, though. It's not entirely clear what to do with those. Right. Is appropriating money to a qualifying scholarship fund that can only give money to students or schools for tuition and other supplies, is that like books and buses, or is that like the tuition cases that we've had? So that's kind of the, the lay of the land. And of course, the lawyers would probably get paid quite a bit of money to argue that, that case.

ARMENDARIZ: Yeah.

CLEMENTS: All right.

ANTHONY SCHUTZ: I don't know if I'd get paid to do it.

CLEMENTS: Senator Dover.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

DOVER: Yeah. Can you explain the ramifications of the Cunningham case?

ANTHONY SCHUTZ: The, the Cunningham case. Remind me--

DOVER: Right. That's the one--

ANTHONY SCHUTZ: --of the basic facts. Is that the buses or the textbooks?

DOVER: Textbooks.

ANTHONY SCHUTZ: That's the textbooks case. So the textbooks case is interesting. Right. And it provides support for I think, those who are in favor of this provision. So there was a state law that allowed for public funding of textbooks for private schools. That legislation had been struck down under the old constitution and-- but it was under the language before they changed it from "in aid to" to "to." Once the language was changed to "to," it came back before the Nebraska Supreme Court on another effort to provide this sort of support to private schools. And the court said, I would think it's OK now, that they've changed it from "in aid to" to "to." But it's not entirely clear what the rationale that the court's utilizing in that case. One way of looking at it, is that basically, what the court is saying is that an appropriation can be 2 students, so long as-- even though it's only kind of going private, so long as it's sort of replicating the sort of supplies that are available to public students. And so that's one argument that can be made here. It's very difficult, though, to compare dollars for scholarships to dollars spent on schools for students. Right. The financing mechanisms are just totally different. I think the bill makes a little bit of an effort to try to get at that kind of, of equality, right, by utilizing TEEOSA in some of the language that's involved in there. But TEEOSA is a rat's nest to get into. I'm not sure I have a good understanding of it. I don't know that anybody does since Ron Raikes is no longer here. So, you know, digging deeply into those sorts of questions would be, would be the sort of thing that we'd get into. But yeah, the textbook case has the seeds of an argument. But you know, the Lenstrom case and the Rogers case are pretty strong cases, too.

CLEMENTS: Are there any other questions? Thank you for your testimony. Thank you for coming--

ANTHONY SCHUTZ: Thank you.

CLEMENTS: --Professor.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

ANTHONY SCHUTZ: You all are tired.

CLEMENTS: Are there-- is there anyone wishing to testify in the neutral capacity? Seeing none, Senator Linehan, would you care to close?

LINEHAN: First, foremost, thank you all very much. This is actually shorter than it is on the Education Committee. I know-- something out of respect for the appropriators, I think the schools only sent 2 people. When they're in Education, each group: STANCE, GNSA, NRCSA, the state school administrators, they all send somebody. And you only got Mr. Norby, who was representing them all. So that saved you an hour. Mr. Norby came up here and read The Blaine Amendment. That's what he did. He read the Blaine Amendment. The Blaine Amendment has been-- it's, it's bigotry. And then he said, it's not bigotry-- or no. That was somebody later. The history of this is very clear. Senator McDonnell might have some insight on this. My mom was born in 1921. I grew up listening to stories about she couldn't go here, she couldn't go there. Nobody could-- it was not cool to be Irish or Catholic in the 1920s, when these Blaine Amendments were passed. As far as the ballot initiative, it's hard for me to believe-- well, first of all, just like Senator Erdman, I witnessed people not being read the petition. I, I witnessed our people that were in the yellow shirts, that went-- getting the police called on them, and trying to get them arrested, even though they had every right to be there. And when they sat-- some of the testifiers sat here and say, it's a tax credit scheme, it's public dollars, divert public dollars, a diversion, a shell game, send to private organizations, no limits on administration expense, I find it hard to believe they didn't say any of that when they were carrying the petitions around. Here's from a Supreme Court case-- a U.S. Supreme Court case in 2011, Arizona Christian School Tuition Organization v. Winn. Like contributions that lead to charitable tax deductions, contributions yielding STO tax credits are not owned to the state, in fact, passed directly from the taxpayers to private organizations. This I find very interesting. The contrary position, position assumes that income should be treated as if it were government property, even if it has not come to the tax collector's hands. That premise finds no basis in standing jurisprudence. Private bank accounts cannot be equated to Arizona's treasury. It's not our money until we get the money. I'm going to get in a lot of trouble for that. I thought that the school board member from Lincoln Public Schools made an excellent argument for school choice. If your kids are getting mistreated, I don't care what school it's in. You should move them. I moved my kids several times, not because they were getting

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

mistreated, but because it wasn't the best fit for them. My son had problems reading. We moved to Virginia. The schools there were like 10 times bigger than anything they'd been into, so they went to private schools because I could afford to do so. The idea that there's no accountability? Pages, I know you're tired, but-- and it's a lot of paper. Here are-- here's a stack of all the rules and regulations that approved and accredited schools have to put up with-- or have to follow. OpenSky, who helped fund the petition drive, and who is funded by people, through tax-free foundations. They are funded with tax-free money. I also found it interesting, they, they could not ask-- answer Senator Armendariz, Armendariz' question about education funding, since-- in 2022, they received \$265,000 to education finance work. In 21, they received \$254,000. In '20, they received \$245,000. And way back in '18, they received \$107,000. So that's hundreds of thousands of dollars, but yet, they don't know how much it would cost-- how much is full funding? I find that amazing. They cherry-picked on studies. Yes. And I think I have this here, maybe, somewhere. Here. Right here. OpenSky was referencing student achievement in private schools. There have been 17 randomized controlled trial studies, 11 positive, 4 negative, and 2 no difference. You can, you can find any study that will agree with you if you look at all the studies. How we rank nationally with education? We're in the middle of the pack. I think that's what somebody said. That might be true for white kids. It is not true for our minorities. We have the biggest gaps in the country between white children and minority children. We also have a huge gap between upper middle income, middle-income children, and lower income. It's embarrassing. I agree we need to do the science of reading. I have a bill in front of your committee to ask for money to promote the science of reading, which I've been working on, trying to get the science of reading in schools since I was first elected in, in the Legislature. The 100% credit cannot, on-- well, let's just skip that. That's not this bill. Mr. Perkins with Heartland Workers Center, I believe right now, they're getting-- they're in the process of getting money from the Economic Development Corporation, and they're also funded by Sherwood. Stanford Schools, also funded by the same people that fund OpenSky. I, I don't have this with me, thank goodness, so I don't burn down more-- or chop down more trees. But if you go back 20 years ago in the state of Florida, they were at the bottom of national rankings. I mean, this is when Jeb Bush was governor. He became governor in Florida. He said, we're going to fix this. They opened up school choice, choice. It's got more robust every year, and they are now fourth or fifth in the nation. So in 20 years, they went from the very bottom to the top 5. And I think somebody said, how many people

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

removed their names? It was-- I think they said 20. It was over 200, removed their names from the petition even as hard as it was. Finally, I did these charts for the whole Legislature. Can you, please-- and you made this point, Senator Erdman, and I agree with it. So I'll just skip to, skip to the second page. Here's what \$25 million is to the state budget. All of this mashing of the teeth, competition, over 200-- excuse me, \$2 million spent on campaign, over a tiny slice of our budget. They don't want the competition, folks. It is so clear. They don't want competition. And the fiscal note they talk about, it costs-- it might cost the public schools money. I did that because we have, what, 24,000 kids in Nebraska choosing public option. When they choose public option, we, the state of Nebraska, sends that school the average cost of educating the student, which I'm guessing right now is almost \$14,000. So we send that school \$14,000. Now, if that option student, who's got parents who are paying attention, right, because they're opting him into another school, if they leave, if they leave the public school option funding and go to a private school option funding, they will lose money. That's what the fiscal note's about. They will lose, because they don't have a child, so they don't get the money. It-- and I don't even know. And maybe next year when I'm not here and I have more time to be creative-- I don't know how right now, after sitting through all these constitutional questions and what we can and can't do, I don't know how now it's OK to fund a child that's going from a public school to another public school to the tune of \$14,000. That's a choice we're giving them, but we're not funding another private choice. I think there's a question there, as to the fairness of it. So, that's my summation.

CLEMENTS: Are there questions?

LINEHAN: Thank you again for being here.

CLEMENTS: Senator Erdman.

ERDMAN: Thank you, Senator Clements. Senator Linehan, your chart here the .46 is missing 2 zeros.

LINEHAN: Oh. OK.

ERDMAN: It's .0046. I just did the math.

LINEHAN: OK.

ERDMAN: But when you and I were here in '17 and '18, did-- didn't you and Senator Pansing Brooks try to fix reading in the third grade? And

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

did you have a bill that said, if you can't read in third grade, you don't go to fourth grade? How, how did that go?

LINEHAN: Well, we took that part out and we passed the bill. But unfortunately-- well-- and you know, things take time here. And I, I think if we weren't term-limited, it wouldn't seem so-- we wouldn't always have to be pushing so hard. I do think finally, the Department of Ed, the ESUs they are going to try-- they're asking for money. And I've talked to them. I think they're committed. They are going to try-- push the science of reading back into schools, which is-- and, and get away from queueing. The science of reading is basically-- and I don't have it here in front of me and I'm tired, so I can't remember. But it's not just phonics, but phonics is part of it. What it is not, is look at the picture and guess what the words are. There are, there are children-- I have 1 daughter, that-- I don't know. She was like 2. She was reading. I got grandkids that are like that. But I have another son that would have never, ever learned to read that way. And I actually think that's why our proficiency scores are around the 50% mark. Because you've got 50% of the kids can learn what they call whole language. Here's a book. Look at the pictures. Figure it out. They're wired-- their brains are wired that way. Another half of the kids are not going to learn that way. They're just-- they got to have-- they got to have the old-fashioned, when you and I in school, you know. It's boring, right? I know it was boring, but it worked.

ERDMAN: Thank you.

CLEMENTS: Senator Armendariz.

ARMENDARIZ: I just wanted to make a comment because you said, this takes time. And it does. Government runs extremely slow. I just had this conversation, and, and I believe this very deeply-- we don't have time. Every month we waste not addressing kids that can't read, those kids are going down the wrong path. And we owe it to kids to make sure they reach their full potential. So, it takes time? We don't have time when it comes to kids. Thank you.

CLEMENTS: Other questions? Seeing none--

LINEHAN: Thank you all very much. I know it was a hard day. Thank you.

CLEMENTS: Thank you, Senator. We have position comments for the record: proponents, 187; opponents, 82; neutral, 0. That concludes the hearing for LB1402.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee February 6, 2024
Rough Draft

[AGENCY HEARINGS]

CLEMENTS: That closes the Department of Education Agency 13, and that is it for today. We're adjourned.