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Education Committee
February 25, 2008

[LB719 LB1021 LB1125 LB1135 LB1151]

The Committee on Education met at 1:30 p.m. on Monday, February 25, 2008, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1125, LB719, LB1135, LB1021, and LB1151. Senators present: Ron Raikes, Chairperson; Gail Kopplin, Vice Chairperson; Greg Adams; Brad Ashford; Bill Avery; Carroll Burling; Gwen Howard; and Joel Johnson. Senators absent: None. []

SENATOR RAIKES: Good afternoon. Welcome to this hearing of the Education Committee of the Nebraska Legislature. We're pleased you could be here this afternoon. We are going to hear five bills, they are listed on the little sheet outside the hearing room door. We'll hear them in that order, LB1125, LB719, LB1135, LB1021, and LB1151. I will proceed with the introduction of the committee, such as introductions can go. Imagine with me, Matt Blomstedt, our committee's research analyst; Senator Brad Ashford from Omaha; Senator Gwen Howard from Omaha; Senator Carroll Burling from Kenesaw; Tammy Barry, our legal counsel for the committee; Ron Raikes, District 25; our able vice chair, Senator Gail Kopplin from Gretna; Senator Greg Adams from York; Senator Joel Johnson from Kearney, who is recovering from back surgery; Senator Bill Avery from Lincoln, who has no excuse that I know about; and then Kris Valentin, our committee's clerk. We will employ our usual procedures today, with a couple of possible variations. We do use the light system. There is a light sitting up there in front. Our usual procedure is to allow five minutes for testimony, and you have green light for four minutes, a yellow light, and then the red one for the five minutes. We will do that today to begin with. We have one bill in which we may have quite a lot of testimony. At the beginning of that bill, I'll ask for indications as to who's going to testify. If there are more than we can fit in in one hour, then we may reduce the time allotment for speaking from five minutes to three minutes. So please be aware of that. We do want to allow either side an hour to make their case. So we'll stick to that. I hope you understand that those sorts of time limits are in the interest of all of us, you and us, in terms of making the best use of your time. So as you testify, why, try to think of things the committee has not heard before your testimony, present new information, and of course present it concisely. We will reserve a little time at the end of each testimony for cross-examination by the committee or questions and answers and so on and so forth. You do need to fill out one of the little forms, which I'm sure you can find somewhere. I've got them to sell for \$5 a piece if you can't find one. Fill that form out and stick it in the box up here. As you come to testify, please state your name and spell it, at least your last name, for our transcriber. Turn off your cell phones or otherwise disable them. And I think with that, we're ready to begin. So first up is Senator Adams. []

SENATOR ADAMS: Thank you, Senator Raikes, members of the Education Committee. Greg Adams, representing the 24th Legislative District. Senators, the bill that I'm introducing, LB1125, today is really a two-fold effort. One, a very legitimate effort to make some technical changes in a piece of legislation dealing with early childhood

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

Education Committee
February 25, 2008

education that was passed in 2006, but also, as long as I have this pulpit for a few moments, I want to talk a little bit about early childhood education. And as I thought about that, I said to myself: I am really going to be preaching to the choir for a few moments today. If you recall back, I did anyway, to our lengthy, lengthy discussions last session about the metro learning community. One of the things that I remember most, and will always remember most about it, we were not just trying to deal with finance issues and boundary issues, but I felt all along that this committee throughout all of those discussions was committed to fixing an achievement gap. And you know what, even more importantly, I would have a hard time right now recalling a discussion where we talked about high school. Our discussion was almost entirely about elementary, K-3. If we were going to tackle the achievement gap in the metropolitan area, we were focusing, I think, at the right place, and that's not at the high school level; it's at those formative years--kindergarten and third grade. In 2006, this Legislature created an early childhood education endowment, and just very briefly what that does, \$40 million in land and trust funds is set aside in the interest of which goes into the early endowment fund, and then the interest off of private monies goes into that fund. The board of trustees created by this body then grants dollars from that fund to educational institutions in this state who are trying to do early childhood education programs, and we're talking now about preschool, 0-3--a place where we can have a huge impact and a place where this state is a leader in trying to do something. More specifically, what this bill does, there are technical changes to be made. One of those, the monies that are being invested on the private side of the endowment, the folks who are doing the investing of the money need some changes in the statute that complies with the vocabulary and the language that they mostly typically use in their business. "Earnings deposited" needs to be inserted into the statute in several different places. Quarterly reporting and going to annual reporting instead because it goes along with common financial practices. The bill also would remove or clarify language that educational service units cannot be recipients of these early childhood education grants. The monies from the state land and trust funds, those monies have to go to the common schools. Educational service units are not that. They can assist, they can partner, but they cannot be applicants for these grants. So we need to change that language as well. There's another place in the bill that would change some of the technical assistance from 5 percent of the grant to 15 percent. Here's the reason for that: The Board of Trustees feels as though they need a little more shoulder room in assisting particularly rural Nebraska in making applications for grants for early childhood education. There's a host of folks out there in rural Nebraska that are beginning to see, they already know the value of early childhood education, they're just beginning to realize that this money is available, they want to make application for it. And the board of trustees feels like it needs a little more room financially to be able to assist them in the preparation of their grants. So we would go from a 5 up to 15 percent. The board of trustees would decide how much the technical assistance would be. And finally, it's a six-member board of trustees, two of the members--they're all appointed by the governor--two of the members, one comes from the rural area, must specifically come from a rural area that has a high-risk population.

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

Education Committee
February 25, 2008

The other must come from an urban area with a high-risk, high-need population. On the urban side, it is a little more cumbersome the way that member of the board of trustees is chosen. There's a group of three that will look for nominees, and they look for the nominees, submit the name to the governor. It's a little more cumbersome than the way it's done to determine who a rural representative may be. So the rest of the statute would change that particular part or the rest of the bill would change that particular part of the statute to really make it a bit easier to find someone from the metro area where there's a real need for this kind of money. It'd make it a little bit easier to do, the governor would still be the person doing the appointing on it. It is a technical bill. Most of what I've described to you is simply changes in language. There is no fiscal note with it, no requirement on the part of the state in any of this. Thank you, Mr. Chair. I'll entertain questions. [LB1125]

SENATOR RAIKES: Thank you, Senator Adams. You described K-3 as the formative years. I think that you would agree that in Avery's case there must have been a lot go wrong in his K-3 years (laughter). [LB1125]

SENATOR ADAMS: Well, we don't need to be specific, but we could talk about it afterwards. I would agree. [LB1125]

SENATOR RAIKES: Are there any questions? I don't see any, and you're not recognized Adams or I mean Avery. Okay, let's go to proponents. Proponents for LB1125. [LB1125]

HELEN RAIKES: I am Helen Raikes, that's spelled R-a-i-k-e-s. [LB1125]

SENATOR RAIKES: How do you pronounce that? (laughter) [LB1125]

HELEN RAIKES: Senators, I greet you today. I'm here in support of LB1125, which is fundamentally, as you have heard, a clean up bill for the birth to three endowment program that was passed by the Legislature two years ago and passed by the voters as a constitutional amendment in 2006. Becky will explain the provisions to be improved by cleanup as Senator Adams has begun, and my role here is to remind the committee of the larger purpose served by the birth to three endowment programs and their sister programs for at-risk children 3-5 served through the Early Childhood Grants Program that's administered in the Department of Education. I will make three points briefly. I will remind all of us what high quality early childhood education programs do. Number two, give a quick snapshot of where we are in Nebraska in early childhood programs. And number three, set these in the context of desirable goals that we have. First, as many of you know from the testimony and experts that have appeared before this committee in the past, the return on investment from high-quality early childhood programs for children in poverty and at risk due to other factors ranges from 4 to 1 to 17 to 1. As rigorous studies show, this return is because children in these programs have superior

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

Education Committee
February 25, 2008

early learning skills, less grade retention, less need for special education in the early elementary years, and are less likely to commit crimes and drop out of school than counterparts who do not receive early childhood programs. Long-term studies also show these children are more likely to finish high school and be more productive as citizens. Senator Adams referred to the achievement gap. Christopher Jenks, who is a chronicler of the achievement gap, suggests that about half of the difference between black and white students in high school can be attributed to differences that existed within children before they even started school. Thus, it is not surprising perhaps that many states, including Nebraska, are making important investments in early childhood education. For example, our neighbor Iowa appropriated \$22 million new in early childhood education just two years ago. My second point is that we are making good progress in improving the options for at-risk children in our state from ages 0 to 5. The early childhood grants program passed in 2005 spends approximately \$2.7 million per year in Nebraska, and schools have successfully administered grants for three years now are now enrolling their four-year-olds into the state aid formula. More relevant to the current bill that we are focusing on today, focuses on 0-3, the trustees, of which I am one, of the public/private 0-3 endowment has recently crafted and released an RFP. Many, many schools from all over Nebraska, rural and urban areas--both have tremendous response--attended a recent bidders conference, and we expect to be funding selected schools by July from the new endowment funds. Third, where are we relative to providing high quality early childhood opportunities for children in Nebraska? We've made a lot of progress, but where are we today? We are expected to serve about 90 percent of the at-risk 4-year-olds through the grants program and Head Start combined by approximately 2011. The proportion of vulnerable 3-year-olds being served is considerably smaller though, and falls considerably short of our targets. With the 0-3 endowment that we're referring to today, we move from serving about 3 percent of the most at-risk infants and toddlers to more like 10 percent, still short of our target. As one of four states with the highest proportion of working mothers of young children nationwide, we also have a great need to improve the quality of child care that children at all income levels receive. A representative UNL study conducted in 2001 showed that only about a third of the child care within our state is of a quality that supports the development of children, and only about 20 percent of child care providers have professional qualifications that we require in the grants program. That's not too different from child care quality in other states. However, other states are developing rating systems, market approaches, and developing a qualified labor force in ways that we haven't taken on yet. Thus, we've made good progress. However, there's more to be done. But today we salute the committee for the work that's been done in the past, and we are eager to improve the 0-3 endowment program, as LB1125 seeks to do. Thank you. [LB1125]

SENATOR RAIKES: Thank you. Questions? Senator Howard. [LB1125]

SENATOR HOWARD: Thank you, Senator Raikes. I just want to take a moment to

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

Education Committee
February 25, 2008

thank you for your commitment to this issue. You know, I worked for 34 years as a protection service worker, child protection service, and foster care and adoption, and there would be homes that I would walk into that those children, those little ones, would just be sitting in front of a television. And you knew that the outcome wasn't going to be good, but it wasn't enough to really do something drastic. But this is such a step forward, and I'm so grateful to the work you do. And I think all the years that I had hoped something like this would happen, and for us now to realize that we just can't say it's just the breaks that some kids are better prepared to go to school and some kids aren't, now we're going to commit ourselves to making it more of a everyone's got an opportunity. [LB1125]

HELEN RAIKES: Thank you for your comment, and we've made a lot of progress and we have a ways to go yet. [LB1125]

SENATOR HOWARD: Yeah, we do. Thank you. [LB1125]

SENATOR RAIKES: Senator Johnson. [LB1125]

SENATOR JOHNSON: Actually, I was just going to say that notwithstanding good senator's comments, we already thought that you were a saint (laughter). [LB1125]

HELEN RAIKES: I assume we're not going to vote or debate that. [LB1125]

SENATOR RAIKES: Senator Avery. [LB1125]

SENATOR AVERY: You weren't going to recognize me. I had a conversation with a senator from the state of Arkansas. They put \$111 million into an early childhood learning program and they've seen tremendous results. I have only one question. I noticed here that LB1006 in '06 was on the ballot for a constitutional amendment, and it's the only one that passed with eight other issues on the ballot. I want to know how you did that because I have one on the ballot in May and it's the only one and we're worried about it. [LB1125]

HELEN RAIKES: We were biting fingernails, too, on election night. But, yes, we were very pleased that the voters of Nebraska saw the value of early childhood and chose to pass that amendment. [LB1125]

SENATOR AVERY: I think it's a demonstration of the depth of support Nebraskans have for public education. [LB1125]

HELEN RAIKES: I do, too, thank you. [LB1125]

SENATOR RAIKES: Speaking of ballot issues, the one to raise legislators' salaries did

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

Education Committee
February 25, 2008

not pass, so you need to get back to work (laughter). [LB1125]

HELEN RAIKES: I think I'll leave with that. Thank you very much. [LB1125]

SENATOR RAIKES: Other proponents, LB1125? [LB1125]

BECKY VEAK: (Exhibit 1) Senator Raikes and members of the Education Committee, my name is Veak and I work for the Nebraska Children and Families foundation. I'm here to talk with you just a bit...to give you an update of the early childhood education endowment. I think about half the committee members were here in 2006 and the others weren't, and so I just want to give you just a quick update on where we are with the endowment. Nebraska Children and Families Foundation, we were chosen through an RFP process as the endowment provider, and what that means is that we are responsible for managing the private portion of the funding that goes into the endowment. The handout that I'm handing around to you right now gives a flow chart of the endowment itself, which as Senator Adams said, is \$40 million for the educational lands and trust fund, another \$20 million from private donors and it is the earnings off of those two funds that go into a blended cash fund, and that then go out to schools across the state. Our responsibility, again, as Nebraska Children and Families Foundation, is that we are responsible for raising that \$20 million. We're also responsible for investing and managing the private funds, and we're responsible for supporting the six-member board of trustees, as has been referred to. In partnership with Health and Human Services and the Nebraska Department of Education, we have spent the majority of 2007 in getting the board of trustees' structure in place. And what that means is just a structure, we've created bylaws, there's a structure for monthly meetings, we've spent a good part of that year developing the request for proposals that went out in January across the state. The second handout that I gave you is a list of the 38 school districts that we have receive letters of intent from this year. All across the state they're representative of, and those are the school districts that have expressed an interest in applying for these grants. We held a bidders' conference in February with a lot of individuals that turned out for that. We had video conference sites across the state in Norfolk, Kearney, Scottsbluff, Lincoln, and Omaha. In another couple of weeks, we plan to have community forums--also in Omaha, Columbus, Ogallala, and Kearney--to offer some extra assistance to people who are interested in applying for grants. The applications are due April 15, and we expect to have the programs up and running by July 1. This last year has really given the board of trustees, as we've been working them, the opportunity to identify some issues that they wanted to see us clean up. I was going to walk you through the bill, but Senator Adams did a very good job of explaining the issues to you, and unless you have any specific questions regarding those issues that are in the legislation, I think I will just pass. [LB1125]

SENATOR RAIKES: Senator Howard has a question. [LB1125]

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

Education Committee
February 25, 2008

SENATOR HOWARD: Thank you, Senator Raikes. I do have one question. Senator Adams said that the amount allotted, the percentage that would be allowed for assistance in applying for grants would be increased from 5 to 15 percent. How will that be used? Where will that increase in percentage be utilized? How will it be put into place? [LB1125]

BECKY VEAK: Okay. Currently in the legislation it calls for up to 5 percent of the cash fund. We're suggesting the language read up to 15 percent of the cash fund can be allotted by the board of trustees to be used for technical assistance to local communities and for statewide evaluation. We anticipate because of the letters of intent that we've received from all across the state, we anticipate a wide distribution of grants going out across the state. The technical assistance will go to communities who specifically request additional technical assistance maybe with creating partnerships in their community, or just from communities that don't have all the resources that other communities have to them. And also the board of trustees have identified that the issue of evaluation, because these are new programs just getting started and they're serving a population of birth to three, that it's really important to them to design a good evaluation tool to be able to evaluate the program so that we can measure their impact and report back on the status. [LB1125]

SENATOR HOWARD: Well, in simple terms is this going to mean staff? The percentage increase would cover staff? [LB1125]

BECKY VEAK: No, no. The 5 to 15 percent would actually, well, okay...let me go back on that. The 5 to 15 percent raise in the percentage that will go to communities, it would go toward, yes, it would go for staff per se. We're going to contract with someone to develop an evaluation tool, to design that evaluation tool, go out to the grantees to evaluate the programs, evaluate the status, measure the different objectives that are determined that the trustees want to gather that information on. So in essence, it probably would...I didn't really think about it that way, but yes it would go to staff to provide the technical assistance and evaluation to the communities who receive the grants. And the trustees, I might also say, have also said they want as much money as possible that is in the cash fund to go out to the communities for grant programs. But in this early time, they want the latitude to designate up to 15 percent. That doesn't mean they will go up to 15 percent, but they want that latitude to go up to 15 percent to be able to design the evaluation tool and use in the event communities need technical assistance. [LB1125]

SENATOR HOWARD: So what that would translate to would be sort of administrative costs then, to administer the program? [LB1125]

BECKY VEAK: Yes. [LB1125]

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

Education Committee
February 25, 2008

SENATOR HOWARD: Okay. Thank you. [LB1125]

SENATOR RAIKES: Any other questions? You got a change in there from "interest, earnings, and proceeds" to "earnings deposited." What specifically is that change about? [LB1125]

BECKY VEAK: What that means is we have been advised by our investment advisory council and our attorney to make that language as it reads now, to make it consistent with other common trust language. Right now in the financial investment marketplace, the word "earnings" is the sum of all of those things, so interest and proceeds is considered to be all a part of earnings, and so they recommend that we change that language to make it consistent with common trust language. [LB1125]

SENATOR RAIKES: Okay. Any other questions? I don't see any, thank you. [LB1125]

BECKY VEAK: Thank you. [LB1125]

SENATOR RAIKES: Other proponents, LB1125? [LB1125]

JAY SEARS: (Exhibit 2) Senator Raikes, members of the Education Committee, I'm Jay Sears, J-a-y S-e-a-r-s, representing the Nebraska State Education Association. We support these technical amendments to the bill, and one of the things we found is anytime you start a new program, we never provide enough resources for the evaluation and technical assistance of any programs. So we're in support of the increase to up to 15 percent of the funds to do that. Very important evaluation, because I think we'll learn a lot about what's going on in Nebraska in early childhood education programs and be able to get that back out to other school districts who are interested in doing the program. So with that, that ends my testimony. Be glad to answer any questions. [LB1125]

SENATOR RAIKES: Thank you, Jay. Questions for Jay? I don't see any, thank you. Other proponents for LB1125? Are there opponents, LB1125? Neutral testimony? Senator Adams. [LB1125]

SENATOR ADAMS: Thank you, Senator Raikes. I don't know that much more needs to be said, but I have the opportunity. I taught high school for 31 years, seniors in high school. I was always most envious of elementary teachers because I always felt like at that age, what they had was a group of students who really, really were excited about education and wanted to learn. I had an opportunity this summer to visit Educare in Omaha and saw a younger group yet, and you can imagine, tabula rasa. They're hungry. They want to learn. The attitude's right. What we can do here, and what we are doing, is providing an environment for them to help them learn and to get over some of those risk factors on the outside of their world that inhibit them from learning. Now I

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

Education Committee
February 25, 2008

realize this bill is a technical bill, but next session, if things go well, we plan to come back with something more substantive in the area of early childhood education. But enough be said about that. We hope that you would advance these changes. Thank you, Mr. Chair. [LB1125]

SENATOR RAIKES: Thank you, Senator. Questions for Senator Adams? I don't see any. Thank you, Senator. That will close the hearing on LB1125. We'll move to LB719 and Senator Schimek. Hopefully she's on her way. Stand at ease for a second or two and see if she arrives. [LB1125]

EASE: []

SENATOR RAIKES: Senator Schimek, welcome. [LB719]

SENATOR SCHIMEK: Thank you. This is my first appearance before this illustrious committee this year. I'm pleased to be here. [LB719]

SENATOR RAIKES: Is it the last? (Laughter) [LB719]

SENATOR SCHIMEK: No. This bill, I don't think is real controversial, you'll be happy to hear. For the record, my name is DiAnna Schimek, I represent the 27th Legislative District here in Lincoln and I'm here to introduce LB719. It won't take me too long to explain this bill, it's pretty simple. If enacted, it would permit a member of the State Board of Education to be a candidate for another office, board or commission without resigning from the board of education. Currently, this is the only office, as far as I know, in the state of Nebraska that a person has to hand in their resignation if they decide to run for another office. The bill was introduced in 1995 by then-Senator Bud Robinson, and I believe at the time he was chair of the Government Committee...oh, no, that would have been in this committee--it would have been the Education Committee. And I actually was a cosponsor of the bill that year, but the committee indefinitely postponed the bill. The proposal was introduced a second time in 2005 by Senator Nancy Thompson, and the Education Committee amended it into LB579, which was a cleanup bill and they advanced it to General File. Unfortunately, that particular bill was never debated by the Legislature that year. I really don't understand why the State Board of Education is held to a different standard than any other elective office or board or commission. It seems to me that removing this restriction would be the logical thing to do, and I believe that the bill is long overdue. I ask the committee to act favorably upon it. Thank you. [LB719]

SENATOR RAIKES: Questions for Senator Schimek? Senator Avery. [LB719]

SENATOR AVERY: Senator Schimek, do you know anything about the history of how and why this came to be? [LB719]

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

Education Committee
February 25, 2008

SENATOR SCHIMEK: No, I've never researched that, Senator Avery, and you know, sometimes these policies develop in bits and spurts and sometimes all of the affected bodies will be treated the same way and then gradually over time one gets omitted from that particular policy and then another, and then another, and finally you have maybe one entity left standing. I don't know if that's what happened in this case. I don't know if that was something that was done only to the State Board of Education at the time, I never have looked at the history. It might instructive to look at, but in my mind it really doesn't make any difference. It does... [LB719]

SENATOR AVERY: You'd like to, there was a rational reason. [LB719]

SENATOR SCHIMEK: Yes, you would like to think so and perhaps there was. [LB719]

SENATOR AVERY: I've learned already in two years here, that's not always the case. [LB719]

SENATOR SCHIMEK: Right. [LB719]

SENATOR AVERY: I will support this. In fact, I was going to bring this same bill and found out you were doing it, so I didn't research the question I ask you. But I probably will. [LB719]

SENATOR SCHIMEK: I should've let you do it then we'd know the answer (laughter). [LB719]

SENATOR RAIKES: Any other questions for Senator Schimek? I don't see any. Are you going to stick around? [LB719]

SENATOR SCHIMEK: Maybe for a little while, I don't think I'll need to close though. Thank you, Senator. [LB719]

SENATOR RAIKES: Okay. Are there proponents, LB719? Mr. Evnen. [LB719]

BOB EVNEN: Mr. Chair, members of the committee, my name is Bob Evnen, E-v-n-e-n, I'm a member of the State Board of Education, and I'm appearing here before you this afternoon on behalf of the state Board, which has taken a position in support of LB719. I really cannot think of a policy reason that would distinguish the board of education from any other elective office in the state of Nebraska, and so we would encourage the adoption of this bill. I'd be happy to answer any questions. [LB719]

SENATOR RAIKES: Okay, thank you, Bob. Questions for Bob? Don't see any. Thank you. [LB719]

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

Education Committee
February 25, 2008

BOB EVNEN: Thank you. [LB719]

SENATOR RAIKES: Other proponents? [LB719]

JOHN BONAIUTO: Members of the committee, John Bonaiuto, executive director of Nebraska Association of School Boards, and my delegate assembly had discussed this issue and could not figure out a reason why this board was unique and different as far as being able to run without resigning from their post. And that is our concern is that if you have member of the state board that do want to run for another elective position, they have to resign, and then if they're not successful in that position, you lose a good state board member, which we have experienced in the past. We have supported this bill the last two times it was introduced. It has not been attached to something that has been able to move far enough to clarify and correct this situation. With that, I will conclude my testimony. [LB719]

SENATOR RAIKES: Thank you, John. Questions? I don't see any. Thank you. Other proponents, LB719? [LB719]

JAY SEARS: (Exhibit 3) Senator Raikes, members of the Education Committee, I'm Jay Sears, J-a-y S-e-a-r-s. NSEA appears before you today in support of this legislative bill. Two people in front of me have basically explained it, so if you have questions, I'd be glad to answer them. And I do know a little of the history behind it. [LB719]

SENATOR RAIKES: Do you need a question to proceed? (Laughter) [LB719]

JAY SEARS: No thanks. I just thought maybe Senator Avery would ask me something. [LB719]

SENATOR AVERY: You do know the history? [LB719]

JAY SEARS: Let's just say, Senator Avery, that the organization that I work for was on the wrong side of this issue a number of years ago, so... [LB719]

SENATOR AVERY: For what reason? [LB719]

JAY SEARS: I don't know, it was before my time. [LB719]

SENATOR AVERY: You don't know the history (laughter). [LB719]

JAY SEARS: I'm not going to testify to knowing the history. [LB719]

SENATOR RAIKES: Okay, thank you, Jay. Any other proponents, LB719? Are there

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

Education Committee
February 25, 2008

opponents? Neutral testimony? Senator Schimek waives, so that will end the hearing on LB719, and we'll move to LB1135. Senator Rogert. I have word he's on the way.
[LB719]

EASE: []

SENATOR RAIKES: Senator Rogert. You know your taking this time gives me idle time to think. You know, had your parents been pranksters, we could have introduced you as "Rogert Yogurt" or "Robert Yogurt Rogert." []

SENATOR ROBERT: Actually, there is a new yogurt out with Scooby Doo on it that's called "Rogurt," as in "Ruh Roh," it's kind of funny. []

SENATOR RAIKES: I'm sorry I brought it up (laughter). Okay. []

SENATOR ROBERT: You never know what you're going to get when I come in. []

SENATOR RAIKES: Here to introduce LB1135 is Senator Kent Rogert. [LB1135]

SENATOR ROBERT: (Exhibit 4) Good afternoon Chairman Raikes and the members of the Education Committee. My name is Senator Kent Rogert, and I represent the 16th Legislative District. I'm here today to introduce LB1135, a bill that prohibits the adoption of a rule by the Nebraska School Activities Association or its members, that disallow a student athlete from participating and competing in a high school sport simultaneously with a club sport of the same during the same season. Currently as it is already stated, there are now rules under athletic bylaws that prohibit a student athlete from participating in or competing in a school and club sport for the same sport during that same season. However, there are also rules that allow a student athlete to be able to engage in such dual participation if it is in comparison with a different type of sport occurring during the same season or if the two sports in question occur at two different seasons as well. Some of the reasons for the adoption and enforcement of the same sport pertains to what some coaches and some schools perceive to be scheduling conflicts, injuries, matters of priority, eligibility, and grade maintenance. But if a student athlete is already allowed to participate and compete in two different sports during the same season, how does the argument of scheduling conflicts, injury, matters of priority, eligibility, and grade maintenance hold true for just one type of sport during that same season? Wouldn't the two circumstances pose some sort of the same difficulties theoretically? There are many parents, students, coaches, and educators who believe their children, students, and athletes deserve equal rights and should be able to make responsible choices based on their own circumstances and their own person. If the student wishes to excel and to pursue their dreams beyond what a school may or may not have to offer, why do we stop them? Why do we tell them, no, stay right where you are because the rules of your school or organization forbid it or worst of all, because the

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Education Committee
February 25, 2008

school or organization knows what is best for you? In this case, I may beg to differ. I have always thought that a fair and appropriate school system would afford every student an equal opportunity and an equal playing field. However, if there are students who wish to pursue their dreams or an exceptional talent outside the school system, they are forbidden to explore and excel in those areas, and if they do stretch beyond that stipulation, they may be punished. We are restraining, stifling, and holding back our children from pursuing their dreams, yet at the same time, we tell them that you can be anything or do anything that you want in this life if you put your heart and soul into it and you work hard. In other words, work hard, go the extra mile, the sky's the limit, but we just don't trust you that you will work hard, we don't trust you'll prioritize, and we don't trust that you'll be responsible, and we don't trust that your parents will make sound decisions regarding the occupation of your time outside the school. Not only is this a mixed message and a contradiction, but it may be unfair to expect that an organization or school can dictate to a student athlete what he or she cannot do outside the realm of school responsibility, especially if the student athlete has already met those responsibilities. If a parent's primary role to see to their children after school hours regarding any and all activities that are conducted outside of the school are not represented by the school, and it is the primary role of the parent to lead, provide guidance, and instill values in their children so they will have the ability to make those choices themselves when they are on their own. Our message is simple today: Let us allow our children under the general wisdom and guidance of our parents, and in cooperation with their coaches, teachers, and administrators to be able to make these decisions for themselves, and more importantly, to be able to make those decisions based on their own dreams, aspirations, and goals that will ultimately shape and mold their character in this world and into the future. And with that, I'd like to say that I believe we have some experts in the field with USA Swimming and some students here to testify. There have been some concerns raised ahead of time, and I do have an amendment I will pass out, if a page could grab it, that we may consider to answer some of those concerns. It has added on that these sports must meet the requirements of their high school sport in order to participate in a club sport, and two, we've actually taken out the specification that those clubs must be recognized only by the U.S. Olympic Committee, which would open it up to...for students to participate, train, and compete in all sports recognized by these club guidelines. And once again, I believe this is a decision that should be left to the families and the children, and I'd be happy to answer any questions. Senator Ashford is reading the newspaper article from Sunday's World-Herald, I see. [LB1135]

SENATOR ASHFORD: It's about you, though. [LB1135]

SENATOR ROBERT: It is about me. It's a great quote. I had to check it to see if it was true. [LB1135]

SENATOR RAIKES: Thank you, Senator. Questions? Senator Howard. [LB1135]

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Transcriber's Office

Education Committee
February 25, 2008

SENATOR HOWARD: Thank you, Senator Raikes. Just so I better understand this. Right now, a student, say a high school girl, would be prohibited from participating both in the high school swim team and the club swim team? [LB1135]

SENATOR ROBERT: At the same time. [LB1135]

SENATOR HOWARD: At the same time. But she wouldn't be prohibited if she participated in the high school swim team and then, say, wanted to be on the girls' softball league. [LB1135]

SENATOR ROBERT: The club sport. [LB1135]

SENATOR HOWARD: I don't know if it's a club sport, but... [LB1135]

SENATOR ROBERT: Yeah, you could participate in an outside organization as well as high school teams if it's a different sport at the same time. [LB1135]

SENATOR HOWARD: So even though engaging in these both would take up a lot of her time, but she chose to do it, there's no restriction on that. [LB1135]

SENATOR ROBERT: I believe so. [LB1135]

SENATOR HOWARD: Okay, thanks. [LB1135]

SENATOR RAIKES: Any other questions for Senator Robert? I don't see any. Do you plan to stick around, Senator? [LB1135]

SENATOR ROBERT: I'll pay attention and reserve the right to close. [LB1135]

SENATOR RAIKES: Okay. So as advertised, let me ask, I have a list of nine people testifying, I believe, as proponents. How many people do we have who wish to testify as proponents? Two four, six...I count seven, eight, nine. Okay. So I think with nine, we can stick with our five-minute limit. We'll try to, it's around a quarter after two now, we'll try to restrict the pro-side testimony. How many plan to testify in opposition? Okay. Again, I think we can manage, I got about ten opponents, so I think we can manage within five minutes. But please, as best you can, try to use that time as sufficiently as possible. So let's get going. Proponents first. So the first testifier come forward, and those who wish to testify as proponents, we've got several empty chairs right here in the front row, so please move forward to our on-deck circle here. Welcome. [LB1135]

RANDY JULIAN: (Exhibit 5) Thank you. Thank you for the opportunity to come address the Education Committee today. My name is Randy Julian, the sport development

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

Education Committee
February 25, 2008

consultant for USA Swimming. We're the USA O.C.-designated national governing body for competitive swimming. The conduct of my duties, I interact with coaches, clubs, local organizations throughout all 50 states and oversee an initiative to strengthen and support our club system in this country. Prior to joining USA Swimming staff in the Spring of 2002, I was a full-time swimming coach for 28 years, served as a coach with our club system for 13 years down in Texas, and for 15 years I was a Division I, either an assistant coach for Southern Illinois University in Carbondale or the University of Notre Dame, and I was the head coach of Bowling Green State University in Ohio. Based on my experience and perspective, I would like to address the committee on two points. First is a very brief overview of the 1978 Olympic and Amateur Sports Act and the spirit of cooperation that was envisioned by the legislation between the United States Olympic Committee, the national governing bodies, and our other amateur sports organizations, such as NCAA and our high school associations. I'd also like to quickly recount from my own personal experience that dual participation in high school and club does, in fact, very successfully work. 1978 the Olympic and Amateur Sports Act is the federal act that created, as amended, it governs the United States Olympic Committee. The Act states 14 purposes, 2 of which I'd like to specifically state: To coordinate and develop our amateur athletic activity in the United States directly related to international amateur athletic competition so as to foster productive working relationships among sports-related organizations; number two, provide for swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations to protect the opportunity of any amateur athlete coach, trainer, manager, administrator or official to participate in amateur athletic competition. USA Swimming is the organization so designated by the United States Olympic Committee for the sport of swimming. Our 2008 Olympic trials will be here in Omaha, Nebraska, on June 29, finishing up on July 6 at the Qwest Center. Hope each and every one of you will have the opportunity to attend this great event. We will see our Olympic team come together out of that event. Very simply, athletes must have the opportunity to participate in both their high school and United States Olympic Committee-recognized programs. As envisioned by the Amateur Sports Act, there is a burden on both high school associations and the national governing bodies to work cooperatively to ensure that schedules of training and competitions are coordinated to provide the athletes the best opportunity to excel. LB1135 does exactly this for the boys and girls in this state of Nebraska. My second point is that I've not only witnessed that this is working in many states, I have lived it in my own personal life and experience. There's a state of Oregon, which has a specific law that ensures that athletes' right to dual participation in the past couple years. We've seen states of Missouri and Minnesota in the last four years take on the right to participate. It has elevated their high school participation, performance, and it has worked well with our club system. The vast majority of the states allow for dual participation in one way or another and are fulfilling the spirit of the Amateur Sports Act by working cooperatively to ensure that athletes can make their choices and participate in both high school and the club system. LB1135 will ensure then that Nebraska joins the other 40 states that recognize our fine young athletes, and their

parents can do and make the right decisions for them. In those states where dual participation is permitted, high school coaches do establish and enforce the requirements that athletes must meet in the high school programs. The high school and the club coaches work together. They devise training programs that meets the needs of the athletes without a negative impact to either their school work or their health. I believe that we would all agree that good teachers and good coaches make those choices everyday for their students and their athletes under their care. My respect for the educators in our country is the most respected value for the job that it is done in our schools each day, week, month, and year. Dual participation supports our educators and our coaches and can also, and it does work. In conclusion, passage of LB1135 will ensure athletes have the right to choose what they do after they have met their training and competition requirements with their school program. It absolutely is not intended to relieve the athlete of any responsibilities to their high school team and their teammates. These are values that are expected of the athlete to comply with, but once those obligations are met, the athlete and their parents must have the opportunity to make their own decisions in how they spend their free time. [LB1135]

SENATOR RAIKES: You said in conclusion, I assume that was a fairly short conclusion, we're beyond the limit, so... [LB1135]

RANDY JULIAN: Yes, sir. [LB1135]

SENATOR RAIKES: Yeah, please. Do we have a question here? Senator Avery and then Senator Kopplin. [LB1135]

SENATOR AVERY: Thank you, Mr. Chair. What do you say to those people who raise the issue or the concern about overloading kids with too many outside activities, making it more difficult for them to excel in the classroom, and maybe even making it more difficult for them to excel in other kinds of school activities. If you're doing, say, competitive swimming outside the team sport, it can be a pretty grueling sport. What's your answer to that? [LB1135]

RANDY JULIAN: It can be a very rewarding sport also. I believe that, again, hopefully that's a choice of a family or a child that is excited about what they're doing with the sport of swimming. The opportunity to participate in other activities, I personally participated when it was AAU Swimming before USA Swimming. I participated with high school, I was the choir president. I participated in drama at school. So I felt like I had a very fulfilling life in high school, and I participated in our state high school meets and then I went on to collegiate athletics. I believe our boys and girls do participate in church activities outside of their club teams and those school activities by choice. So with this passage or without the passage, boys and girls are making choices everyday. What we are asking and supporting in the spirit of this bill is that it is the opportunity that if I choose the track of swimming, I have the opportunity to work those additional hours or

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Transcriber's Office

Education Committee
February 25, 2008

practices that maybe is not offered by my high school program. [LB1135]

SENATOR AVERY: Can I ask one more? [LB1135]

SENATOR RAIKES: Okay. [LB1135]

SENATOR AVERY: I'll keep it brief. No, I'll pass. Nevermind. [LB1135]

SENATOR RAIKES: Senator Kopplin. [LB1135]

SENATOR KOPPLIN: Thank you, Senator Raikes. I have a question. In your testimony, it says as envisioned by the Amateur Sports Act, there's a burden on both the high school association and the national governing bodies to work cooperatively to ensure that schedules for training and competitions are coordinated. What does that mean? [LB1135]

RANDY JULIAN: I believe in the spirit of that sports act, again, the sports act is really addressing to make sure that a boy or girl is not penalized when it comes to international development or international competition. We believe that young boys and girls coming up through the high school programs have the opportunity in their development, whether it's go up to the University of Minnesota or swing down to University of Missouri with the Grand Prix series of competitions, those are development events in the United States that are trying to move boys and girls and inspire to rise to the international competition. It's our hope that boys and girls are not penalized in the high school associations working with United States swimming and maybe on some type of schedules will help these boys and girls achieve that dream. A good example would be the NCAA organization. Every four years, our NCAA championships run a 25-meter champion competition. And so this year in 2008, with the NCAA coming up, Division I men and women, they will participate in the 25-meter course that will assist, we hope in the long term, for an international development of some of these athletes of mindset and inspiration. So it's working together to try to inspire these boys and girls toward moving forward in their swimming. [LB1135]

SENATOR KOPPLIN: Okay, thank you. I was just concerned, it says training competitions are coordinated, and I wondered what kind of a coordinated high schools athletics can do, because they don't have any room to coordinate. [LB1135]

RANDY JULIAN: Right. [LB1135]

SENATOR KOPPLIN: So, (inaudible) my question. [LB1135]

RANDY JULIAN: USA Swimming has talked to certain associations. At times, it may be trying to adjust and move the parts of their season. Sometimes this cannot happen

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Transcriber's Office

Education Committee
February 25, 2008

because of the balance of boys and girls schedules throughout the fall, winter, and spring months, and gender equity issues might kick in with that. [LB1135]

SENATOR RAIKES: Senator Adams. [LB1135]

SENATOR ADAMS: Specifically, I'm looking at your testimony here. It says the vast majority of states allow dual participation. So I have two questions for you. [LB1135]

RANDY JULIAN: Yes, sir. [LB1135]

SENATOR ADAMS: Vast majority, 51 percent, 75 percent, in dual participation, when you say that are you talking about club sports and high school swimming at the same time? Is that specifically what you're referring to? [LB1135]

RANDY JULIAN: Eighty percent of our high school associations allow some form of it. We have states of Oklahoma that are wide open. You can do club meets and high school meets all throughout the season. You can train with your club coach or high school coach. High school coaches can work with the high school boys and girls during the club season. Missouri just opened up the opportunity for the athletes to participate in morning workout or afternoon workout if they're not offered. Minnesota has opened up an opportunity where boys and girls in the high school competition season, they could go to a USA Swimming meet and participate in non-high school events. The non-high school events would be example the 200 backstroke, 200 breast stroke, 200 butterfly, 400 IM, 1,650, the 1,000 event. So there's different levels of it. Oregon, as stated in the testimony, is the most wide open with absolutely no restrictions. [LB1135]

SENATOR ADAMS: Okay, thank you. [LB1135]

RANDY JULIAN: Yes. [LB1135]

SENATOR RAIKES: I don't see any more questions. Thank you. [LB1135]

RANDY JULIAN: Thank you very much. [LB1135]

SENATOR RAIKES: Next proponent, LB1135. If you have something, the page will get that. Welcome. [LB1135]

MOLLIE McNEEL: (Exhibit 6) Thank you. Hi, my name is Mollie McNeel, M-o-l-l-i-e M-c-N-e-e-l. I am 14 years old and I'm an 8th grader at St. Teresa's School and I am just a normal teenager. I play basketball for my school team. I take voice and piano lessons and I'm the president of my student council, and I get almost all straight As--except for my B plus in high school algebra. I have been swimming since I was three years old, and I've been on Nebraska Aquatics, my club, since I was five. We are

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Transcriber's Office

Education Committee
February 25, 2008

here today because I found out last fall that I cannot swim high school and club at the same time. I asked my dad how I could change this, and he took me to my senator, which is Senator Avery, and this is how it all began. I want to swim high school because everyone has told me how much fun it is, how you make new friends, and how you feel more a part of your school. And personally, I want to make my high school years the best that they can be. I would also like to swim club because I want to be the best that I can be. I am a distance swimmer, and if I want to reach most of the goals that I have, I need to train distance. I am willing to meet all the high school requirements and I don't want to change anything about high school. Right now, I am not able to train the distance that I need during high school because the longest event they have is the 500 and I am best at the mile, which is the 1,650, and the 1,000. So in order to reach the goals that I have, I would need to train for those longer events. I really feel that is up to my parents and I to choose what I do in my free time. Thank you for listening and please give me the opportunity to have fun and achieve my goals at the same time. [LB1135]

SENATOR RAIKES: Okay, thank you, Mollie. Senator Ashford has a question. [LB1135]

SENATOR ASHFORD: Just a brief question, and I missed the beginning of your testimony, but how old are you now? [LB1135]

MOLLIE McNEEL: I'm 14. [LB1135]

SENATOR ASHFORD: I think Senator Avery will be in the Legislature for 8 years, so you'd be 22. And I believe that you qualify to run for the Legislature at age 22, so if you don't go to the Olympics, which you probably will, you should keep that in mind, too. [LB1135]

MOLLIE McNEEL: I will. [LB1135]

SENATOR RAIKES: Senator Kopplin. [LB1135]

SENATOR KOPPLIN: Thank you. I don't know a whole lot about swimming. In high school, how long is the season? [LB1135]

MOLLIE McNEEL: I believe it's four months or, no, four weeks, not four months...four months, so it's quite a while. [LB1135]

SENATOR KOPPLIN: Months, for one sport. Okay, thank you. [LB1135]

SENATOR RAIKES: Okay, Senator Avery. [LB1135]

SENATOR AVERY: Do you think I could talk you into transferring to Southeast? My son

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Transcriber's Office

Education Committee
February 25, 2008

swims for that team and they need the help (laughter). [LB1135]

MOLLIE McNEEL: I don't know where I'm going to high school, but I have had that question asked me a lot, so... [LB1135]

SENATOR AVERY: I was not serious. [LB1135]

SENATOR RAIKES: Okay, thank you for being here, Mollie. Next proponent? [LB1135]

JEFF HULBERT: Senator, if you'd let us, we'd like to have, we have two individuals with similar testimony we'd like to testify together to maybe speed up the process. [LB1135]

SENATOR RAIKES: Okay, that works. We need another chair. [LB1135]

JEFF HULBERT: Actually we can share the same chair. [LB1135]

SENATOR RAIKES: Really? (Laughter) [LB1135]

JEFF HULBERT: (Exhibit 7) We're used to juggling. [LB1135]

SENATOR ASHFORD: You don't need to do that through. We have all sorts of chairs. [LB1135]

JEFF HULBERT: First of all, I'm Jeff Hulbert, that's J-e-f-f H-u-l-b-e-r-t. I'm operations manager for Nebraska State Soccer. First, we'd like to thank the committee for the opportunity to testify today. Since both of us will have similar testimony, and in case you have questions of either of us, we thought it would be in the best interest for us to testify at the same time. I don't look for us to run over on our time, but we may be over a few seconds. Who is Nebraska State Soccer Association? We are a 501(c)(3) and a public charity under the Internal Revenue Code. We represent 23,000 youth players, 1,700 adult soccer players, 3,000 coaches, 700 referees, and 500 administrators throughout the state of Nebraska. This equates to approximately 19,000 households. Nebraska State Soccer is the state governing body of soccer under the United States Soccer Federation. We are also a member of the United State's Youth Soccer Association and the United States Adult Soccer Association. This means that we govern play for club, amateur, and professional soccer in Nebraska. Our position is simple in that we support LB1135 for the reason that we believe a student athlete and their parent have the right to participate and the right to excel. We do not believe that any association or school system should be allowed to dictate what a student athlete can or cannot do during their free time. There are opportunities to participate in higher levels of competition for athletes, and we do not believe that they should have to choose between club and high school sports. We've had players choose to play club soccer during their high school season, and they have been chastised for their actions. We believe strongly that a

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

Education Committee
February 25, 2008

coach and/or school should not be allowed to punish or sanction a student athlete that participates in another activity during their free time. In other words, a high school coach should not be allowed to tell a student they cannot participate in another sport on their free time and then punish them if they do. I'll let Matt go ahead. [LB1135]

MATT HOWE: My name is Matt Howe, H-o-w-e. I'm the director of coaching for Nebraska State Soccer, and a little bit about my position, I oversee the Olympic development program for Nebraska and players aged 17-13. I'm also in charge of coach education and player development across the state with our clubs. Played the sport my whole life, grew up in Oklahoma, where I could do dual club and high school at the same time, and it did work for me. Just going a little more on the testimony, we do have concerns with some of the questions and statements we've heard and understand they may be coming from opponents of this bill, and some of those statements or comments have been nonschool activities are overly concerned with competition and winning, and the other one is, this will create conflicts between academics and other activities. We, in turn, ask the following questions: Why would high school play for championships if that was a problem? Why do schools ask the teams to practice or play games six days a week during their high school season? Why do they let a high school soccer championship team play 26 games, 19 of which were during the regular season within a 2-month span? And why do they allow a soccer team to play two games with only a half an hour break between games? This is like playing four basketball games in a row. We play games for 90 minutes, and it's a lot longer and ore of a game that would take a toll physically on someone. Our governing body, United States Soccer Federation, has recommendations for limits per week, and we'd be happy to supply those if you'd like, and if you ask. High school commitment needs to be reduced for this to work, and parents and players still would have the right to participate or choose. So with at least boys' soccer, we would hardly have any conflicts if we actually had the season played in the fall. But unfortunately we play in the spring, and a lot of the events that are outside of high school to compete and have opportunities to be seen by college coaches and exposure, our players in Nebraska are not able to be with those events because of the season. You want to wrap it up? [LB1135]

JEFF HULBERT: Sure. Just in closing, the climate in the game of soccer has changed a lot since it was sanctioned as a high school sport. At that time, there was little or no regional or national competition on the club side. Just recently in the last few years, there's been a regional and national developed here in our 14 state region. So there's many more opportunities for athletes to compete with their club teams, at least in our sport, than there was when the high school sport was sanctioned. And again, we're going to have to leave early today due to a board meeting in Omaha, so I apologize if we have to leave before the completion of this session. We did include Millard North, last year's state soccer champion's schedule in our packet. And we'd be happy to answer any questions. [LB1135]

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Transcriber's Office

Education Committee
February 25, 2008

SENATOR RAIKES: Okay, thank you. Senator Kopplin has one. [LB1135]

SENATOR KOPPLIN: How long is the high school soccer season? [LB1135]

JEFF HULBERT: And again, we have a lot to do in our own sport and keeping track of theirs, but I believe they start February 25 and regular season ends roughly May 4, it did last year at least. And then they go on with district in high school play and, depending on rain, I think their last play date may be May 20. So you're looking at 60-day period. [LB1135]

SENATOR KOPPLIN: And what percentage of club sport participants would you say get college scholarships? [LB1135]

JEFF HULBERT: A very small percentage. On the men's side especially, it's a small percentage. On the female side, it's a greater number due to the Title IX situation. And you're right, there is a very few, but we actually have an agreement with our board of directors that we try not to penalize even one child if there's an opportunity out there for that child to excel. [LB1135]

SENATOR KOPPLIN: Thank you. [LB1135]

SENATOR RAIKES: I don't see any other questions. Thank you for testifying. [LB1135]

JEFF HULBERT: Thank you. [LB1135]

SENATOR RAIKES: Other proponents, LB1135? [LB1135]

PIOTR SLAWINSKI: Hi. [LB1135]

SENATOR RAIKES: Welcome. [LB1135]

PIOTR SLAWINSKI: (Exhibit 8) My name is Piotr Slawinski, and that's spelled first name, P-i-o-t-r, last name S-l-a-w-i-n-s-k-i. I'm a swimmer for Nebraska Aquatics, I'm also the junior representative for Midwestern Swimming. First of all, I'd like to thank you all for letting me speak here today. In the last couple years, you could find me doing high school swimming and competing at the Nebraska State Championships, which are held this weekend, but not this year. This year I've decided to skip out on competing for my school. The main reason for this decision was to train and compete in my focus event, which is the 1,650-yard freestyle, also considered the mile. High school swimming doesn't include many events that are presented at the Olympic level, and Mr. Julian mentioned these. The 200s of every stroke besides freestyle, the 400 individual medley, the mile, and the 1,000-yard freestyle. For the last few years I've swam the high school league while trying to improve my times in the mile, 400 IM, and the other

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Transcriber's Office

Education Committee
February 25, 2008

distance events in order to qualify for swimming in college. This wasn't working out well. For example, last year I did pretty good at state championships, I lowered my personal best in the 200 and 500-yard freestyle. Two weeks later, I competed at the Midwestern swimming championships, known as Division I's. My goal for the meet was to improve my times from state and lower my 1,650 time even more. I ended up adding around 9 seconds in the 500 freestyle, 4 seconds in the 200-yard freestyle, and I didn't swim the 1,650 nearly as well as I would hope for. Overall, I did not go as fast as I wanted to, and I believe that with the club training I get in the summer, I would have been much closer to the times I wanted to go. I would really like to train with my club team, compete at their meets, but also take part in the high school experience, which is really a great one. The passing of this bill would be a great opportunity for many swimmers to support their school and experience the great fun of high school swimming while getting the training they need to compete in their favorite events. Thank you, senators. [LB1135]

SENATOR RAIKES: Thank you, Piotr. Questions? Senator Johnson. [LB1135]

SENATOR JOHNSON: Quick one. Are swimming events measured in meters or yards? [LB1135]

PIOTR SLAWINSKI: In summer swimming, they're measured in meters, and it's called long course because the swimming pools we use in the summer are 50 meters long. And for high school and short course season, they're 25 yards long. [LB1135]

SENATOR JOHNSON: Thanks. [LB1135]

SENATOR AVERY: Way to go. [LB1135]

SENATOR RAIKES: So let me understand. If you did participate in high school swimming, you could still do club swimming in the summer or you could not? [LB1135]

PIOTR SLAWINSKI: In the summer I could, just not during the high school season. [LB1135]

SENATOR RAIKES: Okay. Senator Avery. [LB1135]

SENATOR AVERY: Piotr, are you saying because you couldn't practice with your club team during the swimming season while you were on the high school team, you lost some of your time? Your time dropped? [LB1135]

PIOTR SLAWINSKI: Only in the distance events because the training is more focused on sprint events, and that's not necessarily what I do. [LB1135]

SENATOR AVERY: The real issue for swimmers is distance, right? [LB1135]

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Transcriber's Office

Education Committee
February 25, 2008

PIOTR SLAWINSKI: It's just whatever each swimmer specifies in. [LB1135]

SENATOR AVERY: Um-hum. [LB1135]

SENATOR RAIKES: Okay, I don't see any other questions. Thanks for being here. [LB1135]

PIOTR SLAWINSKI: Thank you. [LB1135]

SENATOR RAIKES: Next proponent. Welcome. [LB1135]

AMY HERMAN: My name is Amy Herman, H-e-r-m-a-n, and I first of all would like to thank Senator Rogert for introducing this bill. I am currently a junior at Southwest High School and have participated in both high school and club diving, and I really enjoy doing them both. And I work my hardest on being a student and an athlete. I'm very determined, and with that I have made it nationals in diving and have been able to maintain a 4.35 GPA. And being a club diver, you compete in three events: One meter, three meter, and platform. However, high school only provides one meter competition and practice, and I'm not allowed to do the other two events throughout the year. And I feel like that creates a safety issue, as state was this weekend and I went back to club and I actually had to compete in the other two events, and they're harder dives and it's not very good. Also, I find myself unprepared when I go to regionals, which is shortly after season, and I feel like I have a disadvantage to the other athletes, as that's where the college scouts usually are, and people from other states have been practicing these events all year. But high school also provides something that club can't, like you get to know people at your school that are in your sport and it's a really good experience because you get...we're all the same age and it's just really fun and it's more recognizable in your school to be in the high school sport instead of the club. And also, I think this rule was created to create a level playing field, but in my club it's created even more problems. There are three of us that are really committed divers and one is in eighth grade right now and she has a waiver for next season so she can do club and high school at the same time. And then another one cannot participate because her family does not have the resources to pay for private and she can't give up that three meter and platform during the year. I am lucky enough to have the resources to pay for privates, and I took private lessons this year, but that's one of the challenges you can only go late at night because the hours are limited and the cost is a lot more. It cost roughly \$2.57 an hour for club and it costs \$50.00 an hour for privates. So that's a challenge for many families, and to me being able to do both would save all those problems and I could get the intense training I need, as well as have fun at my school. And doing all that while balancing my academics would help me succeed in the areas I want to, and I hope that will be provided for me. Thank you for your time. [LB1135]

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Transcriber's Office

Education Committee
February 25, 2008

SENATOR RAIKES: Thank you. Questions for Amy? You mentioned somebody had a waiver so they could compete in high school and also participate in club? [LB1135]

AMY HERMAN: Yes. [LB1135]

SENATOR RAIKES: And how did they do that? [LB1135]

AMY HERMAN: There are specific guidelines that allows you to be able to get granted a waiver and I'm not exactly sure what those are but...that way she gets to continue on with her club training. [LB1135]

SENATOR RAIKES: Okay. Are there any other questions? I don't see any. Thank you, Amy, for being here. Next proponent. [LB1135]

C.J. BRAY: Thank you, senators, for allowing me to speak today. My name is C.J. Bray, C.J. B-r-a-y, I'm speaking on behalf of the student athletes in Nebraska and middle school age, high school age. I currently am attending the University of Nebraska as a student, and also as an athlete. I swim for the University of Nebraska swimming and diving team. I currently also coach the Nebraska Aquatics swim team, eight and unders, and I graduated from Millard West High School. I can speak on behalf of both swimming and soccer. I was an all-Nebraska soccer player as well as an All-American swimmer, All-Academic swimmer, and I'm currently on the honor roll at the University of Nebraska. I had a seven-year-old come up to her dad the other day and ask him if she could swim for the University of Texas. At seven years old, she already realizes that her dream is to compete and get an education. And like I'm sure many of you have told your children and my parents have told me, that you can do whatever you want and your dreams are in your heart and passions and to go out into the world and to achieve them. And like my passions, I found when you're four years old, you stick your child in every sport and give them any musical instrument and maybe even a paintbrush and you ask them to find their passion, and you ask them to find their talents and what they're good at. And I found my talents and my passions and I worked hard through them, and I knew that one day I would like to go to college and compete in a sport. And when I got to high school, I moved to Nebraska and I was amazed at how much recognition high school sports got, and I was just ecstatic that I could share my passion with so many other people. And the fact that Nebraska's all about high school sports and has something more than other states have, is an amazing thing. And the NSAA gave me a wonderful experience in organizing everything. However, my dream did come true, and I did get a scholarship opportunity for both soccer and swimming. I chose to take the swimming route, and when I got there, I was a little bit less prepared than I figured I was. It was a little bit more competition, and it was a little bit more than I realized it was going to be. Now because of my passion and because of my drive, I decided to stick it out and I've continued to swim, but I noticed a lot of my Nebraska swimming athletes, my friends, are stopping and quitting and giving up that dream because of a lot of injuries and a lot

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

Education Committee
February 25, 2008

of commitments, and not knowing that next level is a little bit higher than we all figured. I started to ask my current teammates on my college team why are you guys so prepared? And they say of their training capabilities, they swam all the time, nonstop with their club team. Their club team continues to take them places where they are recognized and they don't have an interruption in their training. The bar has raised in this country in sports, and it is continuing to raise, and we put a lot of stress on our athletic and Olympic teams. And I feel that athletes in this state are beginning to realize what it takes to get to that next level. And athletes like Mollie and Piotr are starting to choose not to do high school anymore to make their dreams apparent. And I wish that was not the choice because high school athletics were the best memories that I have had, and they're the memories that I share with everyone and I would not hope that on anyone that they could not experience what I got to experience here in this state. It's not only swimming, but all sports. It takes more than just the high school level to allow them to become recognized. Don't take their high school experience away because they want to reach their dreams. Allow them to do both. Allow them to understand that while they're in high school, although the high school sports coaches' rules count first, but when they're on their time and when they're on their agenda, the sky's the limit. And they can contribute to their own future and their own dreams however they feel is necessary. I'd like to answer the diving question that you had. Lily is the girl that got the waiver. She has Olympic standards and has proven herself in national standings to make it apparent that she has the Olympic ability so she can continue training but also do high school as well. That was their, how they went around waiving it. [LB1135]

SENATOR RAIKES: So, who waived it? [LB1135]

C.J. BRAY: I'm not sure who waived it, but I guess NSAA, yes, NSAA.. [LB1135]

SENATOR RAIKES: Okay. All right. A little help there. [LB1135]

SENATOR AVERY: I wonder if we're going to hear from (inaudible) today. [LB1135]

SENATOR RAIKES: Are there questions for C.J.? [LB1135]

SENATOR ASHFORD: These are remarkable people that are coming in here to testify. [LB1135]

C.J. BRAY: I would like to make one more comment. There was an article in the paper, or newspaper in Omaha that had stated that club coaches are trying to get more money and that's why we were trying to pass this bill. I am a student and an athlete. I go to church, I have many other commitments and I still coach because it's my passion, and I don't coach for the money. So please don't think that our club coaches are doing this because we want money. It's because we have a passion for these kids and we know

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

Education Committee
February 25, 2008

what it takes, and we know the feeling of competing at that next level and we want it for them just as much as we want it for ourselves. And I really don't want to see Mollie and Piotr not experience the high school experience because it's truly something that I'll never forget. [LB1135]

SENATOR RAIKES: Okay. Thank you. [LB1135]

C.J. BRAY: Thank you very much. [LB1135]

SENATOR RAIKES: Okay, next proponent, LB1135. Welcome. [LB1135]

ADAM KAFTAN: (Exhibit 9) Good afternoon. My name is Adam Kaftan, K-a-f-t-a-n, and I'm currently a sophomore at Creighton Prep. I'm here to support the LB1135 bill. Since seventh or eighth grade, I've always had two main goals in my life. The first one is to one day graduate from a top-notch college and go on to medical school to become a doctor, and my second dream is to one day play Division I soccer for the college that I attend. Both my parents and I think these goals are very realistic, but we both know it will take a lot of time and effort to achieve them. I often use my goals to help motivate myself to work harder. I know it will take a lot of effort to achieve these goals, so I know I have to be the very best I can be. So when I'm struggling to work hard, I often picture myself achieving my dreams. On nights when I need to study, but would rather just stay home and go to sleep, I imagine myself a doctor helping a patient in need. I suddenly find myself inspired to study hard and learn the material. It's amazing how excited I get after just picturing myself ten years from now and where I could be. I think the main reason I find so much motivation in picturing myself in the future and where I could be is because I know it is truly possible. If I become the best I can be, my dreams will come true. This is similar to the way I train for soccer. On a cold day when I feel like just hanging out at home and not training, when I know I should be working on my skills, I imagine myself on a D-I soccer team playing for the conference championship. I dream of wearing that jersey of my college and how amazing it would be to play at such a high level of soccer. I tell myself it is possible as long as I am the best I can be. However, sometimes it seems as though the tide is against me. I ask myself, am I working so hard for nothing? Will I ever play Division I soccer? It was the spring of freshman year when I first asked myself this question. Club soccer had just ended, and I was beginning to enjoy myself playing high school soccer with some of my teammates and classmates. I found it was difficult to drop all the things my club coach had previously taught me and take on the new ideas of my high school coach. Nevertheless, I did my best to adjust myself to benefit our team. The same incident happened when high school soccer was over and I reunited with my club team. This second adjustment was even more painful than the first, and I found that the adjustments hurt me very much as a player. Then I began to ask myself if I would get the opportunity to be the best possible soccer player I could be. If LB1135 was to pass, I believe my teammates and I would get the opportunity to be the very best soccer players we could be. I believe that if LB1135 was

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

Education Committee
February 25, 2008

to pass, we also wouldn't be forced to change our teams every season. Thank you.
[LB1135]

SENATOR RAIKES: Thank you, Adam. You had me confused a little bit. You said you dreamed of playing for a D-I soccer team. I thought you were thinking about maybe Mead, Nebraska, which is a D-I school (laughter). I got it, though. Any questions?
[LB1135]

SENATOR ASHFORD: I think he's thinking of top number, Chelsea or... [LB1135]

ADAM KAFTAN: Chelsea would be nice. [LB1135]

SENATOR ASHFORD: Chelsea, is that where you want to go? [LB1135]

ADAM KAFTAN: That would be great. [LB1135]

SENATOR ASHFORD: Did they finally win? Where were they this year, they didn't win the... [LB1135]

ADAM KAFTAN: They're in the FA Cup right now. [LB1135]

SENATOR ASHFORD: Are they in the FA Cup? [LB1135]

ADAM KAFTAN: Yeah. [LB1135]

SENATOR RAIKES: Okay. Thank you for being here. Other proponents, LB1135? Welcome. [LB1135]

LISA McNEEL: (Exhibit 10) Good afternoon, my name is Lisa McNeel, that's L-i-s-a M-c-N-e-e-l, and I am the mother of Mollie McNeel, who you all met earlier, and I'm here today to ask that you move forward LB1135. This issue can be presented in many ways, in many different views, but ultimately it comes to my right as Mollie's mother to help her decide what is best for her. You're going to hear a lot when the opponents of this bill come up, you'll hear a lot of different reasons why they feel this isn't good for everyone and I want to touch on just a few of those, but I realize you guys have been very patient with all of us, proponents of this, so. I'm kind of just lump sum together, because you've heard quite a few. When it comes to academics, when it comes to injury, and when it comes to the issues of burnout and these three issues, it really comes down to me, as Mollie's mother, and her father in deciding what's best for her. There are academic requirements at all the schools that students have to meet to be able to participate in extracurricular activities and of course we'd always follow those, and there's my own standards of what I expect from my child, and they're pretty high. When it comes to injury and burnout, again, I want to do what's best for her. I would never put her out

there where she could possibly have some damage, and it's up to me as her parent when enough is enough. It's up to me to balance everything that she has in her life, and frankly I feel like I've done a pretty good job right now; I have a really great kid. Some of things that haven't been touched on are there's some concern about having two separate coaches working with the same athlete, it's been done in 40-plus states. And you know the high school coaches and club coaches are great, they're all professionals, they all can bring a lot to the athlete if they put their egos aside and if they just keep the athlete first. What does the athlete want? They can work together. I truly believe that that can happen here in Nebraska. They have also...has been brought up concerns about unfair advantage, I have heard that quite often about maybe there's students that can't afford to do club. That's simply untrue. There are foundations out there that will provide the funds needed. If someone really wants to make this happen, they can make it happen. And then lastly, there's a concern about elitism. And I guess I just question, since when is it wrong to want to strive to be the best? This is a group of kids that have a desire and a drive to excel, they are willing to make a lot of sacrifices. They just want to be the best that they can possibly be. And again, it's my job as Mollie's mother to keep it all in perspective and help her balance out what is important. The NSAA does a great job; I very much appreciate all they do for Nebraska athletics. Right now, swimmers at the high school level can compete in Olympic development meets. Those are meets that are tagged as such. And I very much appreciate if they can do that, but in reality, at the high school level, those athletes that choose to do those meets are being sanctioned by their coach and their administration. When they do opt to do this, that possibility is very real. Due to this fear, the athletes are choosing not to pursue that path most often. They'll be sanctioned for every day that they go to one of these development meets, they then are not allowed to participate with their team at the high school level, and maybe a dual meet. And because they're team players and they don't want to disappoint their team and their friends, they're opting out of doing these national meets, which gives them national exposure, which leads to college scholarship money. I'm not here and we aren't here to change or belittle high school swimming and high school athletics in any way. High school sports are a very valuable and a very integral part of a student athlete's emotional and social development. But the athlete who chooses to take their support to a higher level should be allowed to access all the community resources that are out there that can help them achieve their dreams and their goals. There are those who are going to try to make this a very, very complicated issue, but for me, it is very simple. This is about my constitutional right to parent my child. It is my right to choose how I raise her, and that includes supporting her academically and athletically, setting limits when and where necessary, but ultimately helping her achieve her dreams and her goals. Thank you for letting me be here, and I'm open to questions. [LB1135]

SENATOR RAIKES: Thank you. Senator Howard. [LB1135]

SENATOR HOWARD: Thank you, Senator Raikes. I'm interested in the waiver

opportunity. We heard a little bit about that, and the one girl, Lily, has been granted a waiver. Could you just tell me a little more about how difficult that is to get and if they're a limited number of waivers that are available? [LB1135]

LISA McNEEL: I don't really know that, not having an athlete that's been there yet. It has been recommended to my husband and I that that is a possibility for my daughter, which would solve her problems ultimately, but not everyone else's. And so I think, and maybe some of the people speaking after us can clear that up for you, but I think you have to be tagged as being a good shot at making an Olympic team to have some of those, to be granted a waiver. Maybe it's not quite that involved. [LB1135]

SENATOR HOWARD: Okay. Thank you. Thanks for trying to explain it. [LB1135]

SENATOR RAIKES: I don't see any other questions. Thank you for being here. Other proponents, LB1135? [LB1135]

JAN POLAK: (Exhibit 11) Good afternoon. My name is Jan Polak, and that's J-a-n P-o-l-a-k, and I am here speaking with you today to share why I support LB1135. I have two sons that play soccer. My older son has been in the process of seeking out college choices that would also allow him to play soccer at the collegiate level. We have been challenged by the current set of circumstances within our state to maximize what options we have. The majority of the country plays club ball in the spring, which means while we are in the midst of our high school soccer season. This means that our players have to make the tough decision whether or not to play high school ball or to play club ball in order to be available to attend the high-profile tournaments. In my experience, the athletes choose to play high school ball because they want to be a part of the experience in putting on their respective school's jerseys and being a part of the team with their friends and classmates in seeking a state title. Unfortunately, this decision limits the athlete's ability to be seen and considered by college coaches because our state does not allow players the option to play both the high school sport and club activities. And as a parent, it's frustrating to know that we are possibly losing out on potential scholarship offerings because we have been limited participating in the college recruitment tournaments, and it's not fair for our player and families to have to make that choice. Last year, my other son had the opportunity to play soccer with our regional Olympic development team, as well as with United States Soccer Federation national team. He was called to attend two major events that were out of the country last year during his spring soccer season for high school. This was a huge honor, and opportunity for him, yet he also wanted to be able to play high school ball with his team and his friends. This was at the beginning of the high school soccer season. We saw him sitting on the bench because there was too much uncertainty as to whether or not he would be eligible to play with his high school team since he was attending another event and missing a number of the scheduled games. I can't tell you how disappointing that was to him, as well as for our family and community of friends that wanted to be able to watch

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Education Committee
February 25, 2008

him play as a part of his high school team. He loves the game and just wanted to play, but he was penalized in a sense because of his extra activities with the regional ODP team and the national team. These are teams that our youth system uses to build our full men's national teams for soccer. He was called to play for his country and yet when it came to his own backyard, in his sense, to play for his high school, that opportunity was held from him to begin with. This year, he's actually living in training with the national team on a full-time basis, so he will not even have the high school experience available to him. What he had was last year, and a portion of that was experience sitting on the bench until a decision could be made. We can't change that experience for him, but we can change it for future players. The high school athlete and their parents should not have to make the tough decisions as to whether or not they can participate in club or Olympic development events when these present valuable experiences and opportunities for their future in addition to the high school athletic experience. Thank you for your time. [LB1135]

SENATOR RAIKES: Thank you. Any questions? Senator Kopplin. [LB1135]

SENATOR KOPPLIN: Thank you, Senator Raikes. When do club practices occur? [LB1135]

JAN POLAK: Presently, when high school season starts, the club season ends. So they're not allowed to have any activities during that time. [LB1135]

SENATOR KOPPLIN: I meant during the day, when they practice. What time do they practice club sports? [LB1135]

JAN POLAK: Usually it's in the evenings after school. [LB1135]

SENATOR KOPPLIN: How long after school? [LB1135]

JAN POLAK: Typically when they practiced in the fall, it would be from 5:30 p.m. to 7:00, maybe 2 or 3 times a night. [LB1135]

SENATOR KOPPLIN: Okay, so they would go from high school practice directly to the next practice. Sounds like your son is very talented. How many club participants would you say rank in that talent ability? [LB1135]

JAN POLAK: Presently, he's the first one from the state of Nebraska to have achieved that. [LB1135]

SENATOR KOPPLIN: Okay. [LB1135]

JAN POLAK: But there's definitely, like Adam, so many other talented individuals that

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Transcriber's Office

Education Committee
February 25, 2008

are a part of the Olympic development program that are looking towards that success as well. [LB1135]

SENATOR KOPPLIN: Okay, thank you. [LB1135]

SENATOR RAIKES: Senator Avery. [LB1135]

SENATOR AVERY: Thank you, Mr. Chair. It seems like the big issue is the training, not so much the competition. Could you live with an amendment to this bill that would allow for training only and not competition so you don't have the club sport, the meets going head to head with the high school schedule? [LB1135]

JAN POLAK: I still reserve the right as a parent to be able to make that choice for my child. And again, for the fact with the scholarship situation and being able to go to those activities or college-search tournaments to where my child has the opportunity to be seen by college coaches that typically he's not having that opportunity by playing high school ball. So I would still say that, yes, what we can make in movements forward, but I would still like to see it be my decision as a parent as to what I can allow my child to participate in. [LB1135]

SENATOR AVERY: Thank you. [LB1135]

SENATOR RAIKES: I don't see any other questions. Thank you for being here, Jan. Are there other proponents, LB1135? Okay, do we have anymore proponents after this lady testifies? Okay, welcome. [LB1135]

MURLY KELLER: Hello. My name is Murly Keller. I wasn't intending to testify but...so I'm sure I won't be as eloquent as the preceding individuals, but I would like to just swing everyone's focus in the opposite direction. [LB1135]

SENATOR RAIKES: You said your name quickly enough, I didn't... [LB1135]

MURLY KELLER: Murly Keller, it rhymes with curly (laughter). [LB1135]

SENATOR RAIKES: Thank you. [LB1135]

MURLY KELLER: A lot of testimony has focused on the elites or the upper echelon of the high school athlete. I have taught tennis in Omaha, and regularly we would get groups of developmental players who were excited to be participating, looking forward to participating in high school tennis, but they could, once that began, no longer participate in a clinic, which would have benefitted them and they wanted to do. This a point that I'm reiterating, it was included in an e-mail that I did send to all of the senators here today. And I just wanted to bring that forward that the question before us today

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Transcriber's Office

Education Committee
February 25, 2008

involves more than just the one end of the spectrum of the high school athlete. It involves, potentially affects, could be a positive impact on athletes at the other end. There has been some discussion about waivers for individuals to do both aspects of club and high school. I represent the sport of tennis, well, I shouldn't say I represent; I do not represent an organization. I have been involved in tennis and have seen certain individuals be given waivers to attend national-level tournaments where while others who want to go to regional level tournaments or even local tournaments are denied the opportunity to do so. And to be able to attend those tournaments would be just as beneficial in their realm of existence, participation, as those who are allowed to attend national tournaments. And one question I would have you ask the NSAA is what rationale they would put forward that stipulates one may participate and one may not. A question has been asked about what time commitment, or questions about overload. I have had one of my own children, prior to high school athletics, developed a stress fracture. The existence of this...and I would bet there are people currently in high school who have stress fractures. The implementation of LB1135 would not, in my opinion, make a sudden surge in injuries that aren't already out there. And the other question was raised of how long the season lasts. A high school season is a small portion of the full year. But when it conflicts with ranking tournaments for tennis players who do compete year round, then they are being penalized for that short duration of participation. I once again applaud the committee for considering this bill and would urge them to vote in favor of it. [LB1135]

SENATOR RAIKES: Okay, thank you, Murly. Questions? I don't see any. Thank you for being here. Are there any other proponents, LB1135? Okay, one last shot here. [LB1135]

JULI KAFTAN: I'm sorry, I'll be really quick. I also was not planning to be here to speak. My name is Julie Kaftan, Adam's mother. And a question came up about the number of kids that are affected by this, and there are a lot at Creighton Prep actually, and that's one of the reasons we decided to come. As a former teacher, I know how important it is for kids to be involved in the education community itself, and it really helps them to be well rounded rather than being forced to make that decision. And this year, unfortunately, my son had to make that decision, and so he won't be playing high school soccer. And I hope it doesn't take too much time for this so that he could end up playing high school soccer before his senior year, so I know how important that educational aspect is, and I also know as a former teacher that although I do have the best interest of my students, no one knows their kids like their parents. So, thank you. [LB1135]

SENATOR RAIKES: Thank you. Questions for Julie? I don't see any. Thank you for being here. Okay. One last call, proponents, LB1135. Okay, we'll move to opponents, LB1135. Okay, we'll switch spots here so the on-deck chairs go to the opponents. [LB1135]

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

Education Committee
February 25, 2008

JIM TENOPIR: Good afternoon, Senator Raikes and members of the Education Committee. My name is Jim Tenopir, and I'm the executive director of the Nebraska School Activities Association. I'm going to give a few preliminary remarks about the NSAA and how our rules are promulgated. I believe we've got some school administrators who are here today to speak in opposition to LB1135, and I think they will do a better job in addressing some of those issues than I will. But after reading some of the accounts in the newspapers, I think that there are some things that certainly need to be clarified about how those rules are developed. We don't get a bunch of staunchy old men and get in the corner and decide this is the rule we want to govern the NSAA by or that's a rule we don't want to have. Rather, our member schools participate in a democratic process in putting together those rules. All 312 member high schools across the state of Nebraska, every school that participates in activities, is a member of the NSAA. Every school has the opportunity to introduce any changes in our bylaws or our regulations. I think that there was some insinuation that I sit in the office in Lincoln and determine which rules get forwarded to the membership and which ones do not. That does not occur. It is fully a participatory democratic process where our members have the opportunity to take a look at the various rules and regulations by which they wish to be governed for activities participation reasons. There were some issues that I think as the bill was couched, it came across as though it were protecting the Olympic movement, and in reality I think that if that in fact is the true reason for the bill, there's no reason for the bill. NSAA presently has guidelines where Olympic development activities are fully available to students throughout the state. Back with the Ted Stevens' amendments in 1998, our association came in compliance with that to assure that any student who wanted to participate in Olympic development activity, they could do so. Olympic development activities are activities that the national governing body of that sport determines is an Olympic development activity, and once they provide us those dates--we heard from USA Swimming earlier today, on a regular basis we get a letter indicating from them that these meets are Olympic development meets. If the school that student attends petitions us and wants the opportunity for the student to attend that Olympic development activity, in the seven years I've been executive director of this organization there has never been an instance where that has been denied. The question was raised about the waiver system and our guidelines specifically state, and if you'll allow me to read that: "A student may participate as an individual without loss of interscholastic eligibility under the following conditions: in an Olympic development program, which is defined as a training program or competition conducted or sponsored by the U.S., United States, Olympic Committee, or directly funded and conducted by the USOC member national governing body on a national level that is a national governing body; a national championship or direct qualification therefore; or is specifically authorized by a national governing body involving only athletes previously identified by some qualifying procedure by the national governing body as having potential for future participation in regional, national or international competition in the sport." The young lady that received the waiver was identified as one of those students who had the wherewithal to be a participant on the national level. In fact, I believe she won the Junior

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Transcriber's Office

Education Committee
February 25, 2008

Pan-American Games just this last fall. I think that there are lots of issues that are the undercurrent here. The big questions that came up, and I think Senator Adams, you raised the issue about whether other states permit or do not permit the dual participation during the school year, there are some states that have unlimited requirements as far as the dual participation of school and club. There are a lot more states that have a limited capability for students to be able to participate in both activities. There are a number of states, I believe, we did a survey...the National Federation provided it for me, and regrettably I did not have the information until Thursday of this week. That's when I asked the National Federation to run that survey, so we only had 30 of the states reporting, but there were 6 that were in our category that did not permit anything. There were six that did permit on a limited basis, for instance, maybe two competitions during the year. So having said that, I guess from our perspective, and I'm going to save time for the member schools who are represented here today to talk about the various reasons that they believe opposition to LB1135 should stand. And if there are any questions that I might be able to answer for you, I would be more than happy to do that. [LB1135]

SENATOR RAIKES: Okay. Jim, thank you. Let's start with Senator Johnson, then Senator Adams, and Senator Avery. [LB1135]

SENATOR JOHNSON: Just a couple. First of all, I might suggest you don't use Ted Stevens to prove your point. There's guys like me around that remember he was the sponsor of the "Bridge to Nowhere" as well (laughter). [LB1135]

JIM TENOPIR: Let me back up and say the amateur act of 1978 that was amended in 1998... [LB1135]

SENATOR JOHNSON: But, I guess one of the things that pops into my mind while this discussion is going on, was it last year or the year before, the football championships were going on here and at the same time there was some sort of competition regarding singing. And a young man who was quite a good singer was not allowed to participate in the evening before the football game or something like that. [LB1135]

JIM TENOPIR: You are correct. That wasn't an NSAA rule, that was the music body, but we have worked with the music governing body where now if that situation were to occur, that student would be able to do both. [LB1135]

SENATOR JOHNSON: Kind of was a sour note to me, I'll tell you. Anyhow... [LB1135]

SENATOR RAIKES: Oh, geez. (Laughter) [LB1135]

JIM TENOPIR: Was that a...yes. [LB1135]

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Transcriber's Office

Education Committee
February 25, 2008

SENATOR JOHNSON: Thank you. [LB1135]

SENATOR ADAMS: Thank you, Mr. Tenopir for being here, and by the way, thank you for stopping in my office the other day to answer a lot of my questions. And the two questions I have for you at least at this point I didn't have that day. They come about as a result of thinking about this issue over the course of the last week. My first question is rather pointed, and it's not meant to be critical, I'm really trying to get at the bottom of something. Where does NSAA's authority come from? [LB1135]

JIM TENOPIR: Our authority comes from the member schools who join our association. The NSAA is a private 501(c)(3) organization. Schools voluntarily join the NSAA. Our organization goes back to 1910. It was founded by schools because they wanted a level playing field. There were issues that were occurring within activities across the state of Nebraska that painted a picture of things not being very level. I was a superintendent in a school, I've used this illustration before, a superintendent in a school that when I went there a lot of years ago, some of the old guys would brag about the fact that that particular Class C school was the all-class state champion back 1920 or 1921 in football, beating Omaha Tech. for the title. But those same folk would tell you that, well, we used a lot of people that came back from the war that were 25-year-olds playing high school football. There were lots of issues that were occurring in the early days of high school activities where they required a level playing field, and so that was where the need for the Nebraska School Activities Association generated. Our member schools voluntarily join. Our member schools provide the governance for that activity. Our six-member board of control are administrators in member schools. The boards of education are provided all the information with regard to all of the legislative proposals that come forward. They are provided all of the information with regard to our board agendas, board minutes, that sort of thing, to where if there are issues that they believe are not occurring in an appropriate fashion, they can work through their administrators to do that. We have district meetings in November and again in January, where every school is able to be there, every school has a single vote. It is fully democratic process. [LB1135]

SENATOR ADAMS: Thank you. The other question I had for you, and quite honestly I'm still wrestling with the authority of an association, and I'm trying to separate out that authority versus the ability to make a recommendation, and that's one of the things that I'm wrestling with here. Is debate and drama, is that... [LB1135]

JIM TENOPIR: Those are NSAA activities, yes. [LB1135]

SENATOR ADAMS: Okay. Are they handled the same way as far as dual participation? [LB1135]

JIM TENOPIR: They are not. [LB1135]

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

Education Committee
February 25, 2008

SENATOR ADAMS: Okay, so I could participate in community theater at 7:00 in the evening after I had participated in drama after school? [LB1135]

JIM TENOPIR: That is correct. Our bylaws are categorized as nonathletic activities and athletic activities, and our membership has devised the rules for the athletic activities, and that's where the rule that is coming under question here is embodied. That same rule is not found in the bylaws for nonathletic activities. [LB1135]

SENATOR ADAMS: Okay, thank you. [LB1135]

SENATOR RAIKES: Senator Avery. [LB1135]

SENATOR AVERY: Mr. Tenopir, before my question I want to make a comment about the legislative process, you probably are aware of this. Seldom do we have an issue that comes before this body where one side wins everything and the other side loses everything. We are in the business of molding legislation that gives a little bit to one side, a little bit to the other. It's a game of margins. And I know that's not wholly satisfactory to someone who has a passionate position on one side or the other of an issue. Having said that, I want to ask you the question I asked an earlier witness. What would be your attitude toward a compromise whereby the athletes are allowed to practice and train with their club during the high school season, still participate in the high school sport, but have some limitations of the competition at the club level? [LB1135]

JIM TENOPIR: Let me phrase, first of all, what my responsibility is. I'm the executive director of the Nebraska School Activities Association. Regardless what my opinion is about your question, as long as I'm going to be the executive director, I'm going to enforce those rules that the membership has passed. Having said that, I believe that there are some issues that...this matter to my knowledge in the years I've been here has never come before our membership about allowing participation for swimming only or for soccer only, and in the survey that I mentioned that we got through the National Federation of State High School Associations, many of the states that have a lax policy about dual participation have that for swimming principally and a few of them are for soccer, there are very few that have it for basketball or volleyball or the other Olympic sports that are embodied in this sport. I guess from my perspective, that's something that we would like to have the opportunity to visit with our schools about swimming issues. We have a meeting with our swimming coaches and athletic administrators that's going to occur hopefully in April where that may be a topic where we can discuss. But certainly, I think you're going to hear from some of our membership what they see as some of the issues about participating in practice sessions during that same season or participating in competition. I think that's something that we have not discussed, but certainly is something that we would be willing to take a look at. [LB1135]

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

Education Committee
February 25, 2008

SENATOR RAIKES: Okay, other questions for Jim? Just one quick one to follow up with Senator Adams. Right now, am I correct in saying that the NSAA is not mentioned in state statute? [LB1135]

JIM TENOPIR: We are not a state agency, so as such in the previous six years that I've been here, there's been a very reluctance to name the NSAA because we're not a state entity. [LB1135]

SENATOR RAIKES: Okay, thank you. Any questions? I don't see anymore, thank you. [LB1135]

JIM TENOPIR: Appreciate it. [LB1135]

SENATOR RAIKES: Next opponent, LB1135? [LB1135]

GRANT FISHER: Senator Raikes, members of the Education Committee, good afternoon and thank you for hearing our testimony today. My name is Grant Fisher, F-i-s-h-e-r. I am the principal and athletic or activities director at McCool Junction Public School, a class D-1 school in York County, Nebraska. And first of all, I'd like to commend the parents and the student athletes who have come here to testify as proponents of the bill. I understand their passion for what they're doing and their desire to see more doors open. Having said that, I also want to say there is a downside, and in terms of our school district, we don't have swimming and we do not offer soccer as either of our high school activities. However, similar circumstances have occurred in nonsanctioned, and by nonsanctioned I mean junior high sports aren't covered currently by the Nebraska School Activities Association. We have a situation where junior high members can choose to run cross country meets, and we have a pretty strong program and some do. Our school promotes volleyball and football as our two junior high activities, and those same students participate on that, and we have had the situations, of course, and will have in the future, where those students have to make the choice, do I go and run in a cross country meet today or do I go with my team, my school sponsored team, and play either volleyball or football? Difficult choices for young athletes. We try to be as supportive as we can in terms of saying, you know, you're in the developmental stage here in junior high, we want you to explore both, to experiment with both. We wish conflict wouldn't occur, but it does. And so we have managed to work with that. I in no way, as an activities director, want to see those same choices in the high school form, and for us of course, our concerns would be with basketball, volleyball, etcetera. Do I think that some of our athletes would make choices to participate in club sports even in a small, rural school? Yes, I do. And I think they're some small, rural schools that could come before you and testify to even some concerns with the current system where they can participate in a club sport outside of the season that they're currently participating in. For example, playing club volleyball

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

Education Committee
February 25, 2008

during basketball season and some concerns that they could talk about in regards to those. I do want to also, as quickly and briefly as I can, testify as to my support for the Nebraska School Activities Association. They are given a lot of responsibilities for setting forth guidelines that they feel will best serve a wide variety of school districts, all the way from Class A down to Class D-2, the very smallest school districts and the very large school districts. I think they have done a very commendable job of that. As Mr. Tenopir testified, there is a process in a place for parents or school districts administrators to approach the Nebraska School Activities Association about making changes to the guidelines and the bylaws that we all follow, and it is a very democratic process. I won't sit here before you and tell you that it's a speedy process per se, but there is a process in place, and it would be my hope that the people who hope to see these changes would pursue those avenues as well as looking for legislative directive. Having said that, I guess I would open up for any questions from any of the senators. [LB1135]

SENATOR RAIKES: Thank you, Grant. Questions for Grant? Senator Kopplin has one. [LB1135]

SENATOR KOPPLIN: Thank you, Senator Raikes. I'm just wondering, small schools located further away from metropolitan areas, where would they go to participate in a club sport? [LB1135]

GRANT FISHER: Examples of that might just be that...and I'll be honest with you, I don't know what the true definition of club sports or who the governing body over the club sports would be. I know that there are volleyball association leagues that are developed when they coach one small community, such as ours. We don't currently have one, but could say I'm going to run AAA volleyball or the association sponsored volleyball, and they might gather girls from the entire area of schools. And they might try to have practices throughout the, for example, basketball season. [LB1135]

SENATOR KOPPLIN: Okay. Thank you. [LB1135]

SENATOR RAIKES: I don't see any other questions. Thank you, Grant. Next opponent. [LB1135]

KEVIN BRODERICK: To Chairman Raikes and to members of the Education Committee, my name is Kevin Broderick. I'm the activities director at Bellevue West High School and I'm also the chairman of the Metropolitan High School Activities Association Board of Control, and you'll find as we talk about something there will be some things that I'm sure we will reiterate because we all have different opinions about these types of things. I'm basically here to voice my concerns on LB1135, which I think can potentially have a negative affect on the future of high school sports in the state of Nebraska. Although I respect and understand the arguments presented by both sides of

Education Committee
February 25, 2008

the issue, I think I would be remiss as an educator to ignore the ramifications that legislative bill could have in the future for students who don't have the natural, God-given talent that helps drive the mission of many club sports and the equal opportunities that would be denied who are economically or geographically disadvantaged. Clubs are really designed to bring the best athletes together to form a highly competitive environment, and I think there's absolutely nothing wrong with that philosophy. As a parent of a son who has earned a full-ride college scholarship in athletics, I do understand the opportunities that clubs can provide to improve individual abilities. However, as an athletic director in charge of 19 sports and 37 teams at Bellevue West High School, I'm looking out for the best interest of all the athletes. I really don't have a luxury of really narrowing my focus and fulfilling the personal desires or interests of just a couple of individuals. I work with the people as much as I can. I work with kids because I love kids and I love doing what I can for them. But I have to look at the overall. Clubs have always been a great way for athletes to improve their individual skills and further opportunities after the high school season is complete or before it even starts. However, those who are economically or geographically disadvantaged are not able to take advantage of these opportunities and depend heavily on the high school program to not only enjoy participation, but also display their individual abilities. Allowing club activities to take place concurrently with the high school season will only serve to make clubs even more elitist by stealing away a school and a community's best players and eventually deny opportunities for the average high school athlete as the program slowly dies off down the road if we allow this to happen concurrently. Those proponents of the bill who feel the student would or even could do both, I don't...in my opinion are not really being realistic at times. That's a whole lot to ask from a young person mentally and physically, and we see this on an everyday basis being in the educational world. Most club activities are already outside the current high school season so that choices don't have to be made. However, if this bill passes, I believe we'll see the slow demise of high school athletics in certain sports in the state. And I honestly believe that right now we work very, very well with the club situations right now. A lot of our kids are multiple-sport athletes, and a lot of them could go from one activity such as basketball right now, if they're girls basketball they're out there playing club volleyball, and you may play a little bit of...and of course they do tournaments and things like that. So we do work with them. We're not turning a blind eye to this. The other point I guess I wanted to make as an administrator is I'm really kind of concerned that this piece of legislation is even being considered by the Nebraska Legislature given the tremendous responsibility that state senators have for the economic and lawful well-being of people throughout the state. The Legislature, like the Nebraska School Activities Association, is responsible for representing the constituents throughout the state. The Nebraska Legislature, though, is not made up of five or six individuals arbitrarily making decisions that affect thousands of people, and neither is the NSAA. The six directors do not make up the rules that govern high school activities in Nebraska. They only enforce and give guidance to rules and bylaws that have been passed on by their bosses, and that's the 312 schools in the state of

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

Education Committee
February 25, 2008

Nebraska--and I'm one of their bosses. Those schools are the NSAA, and Nebraska for the...I'm sorry, just as the state senators work for the citizens of Nebraska for the economic lawful well-being, the NSAA personnel, they work for us. They work for the schools. And the schools basically sole desire is to do what's in the best interest of kids. So if the 312 schools already have felt the NSAA bylaw 3.5.1 is in the best interest of students and schools alike, then why would the Nebraska Legislature, with much weightier issues consume their time, want to dictate legislation on a subject that's already been decided by the schools in the best interest of kids? If individuals, whether the parents or school personnel, feel an NSAA bylaw needs to be changed, then it's important to go through the appropriate process to change it, and we have that process in place. And that's a matter of coming to school administrators and saying, hey, we think there's a problem here, we'd like to have a, in our case, a proposal introduced. [LB1135]

SENATOR KOPPLIN: You'll need to wind it up. [LB1135]

KEVIN BRODERICK: Okay. So, to me to be honest with you I think, I just wanted to say that the NSAA is really, really somewhat like the Legislature, and we do have opportunities in place to provide people the voice and to change things. And nobody here is against compromise in any way, shape or form, even on this issue. [LB1135]

SENATOR KOPPLIN: Okay. Are there questions for Mr. Broderick? Senator Adams. [LB1135]

SENATOR ADAMS: Has this issue been before the NSAA? [LB1135]

KEVIN BRODERICK: Not in the district that I'm from. In other words, nobody has proposed this, made a proposal in the district that I'm at in District 2. And that's something that once it is proposed, it is then voted on in all the schools in that particular district. And that could be done in each of the districts throughout the state. [LB1135]

SENATOR ADAMS: May I ask one other question? [LB1135]

SENATOR KOPPLIN: Sure. [LB1135]

SENATOR ADAMS: And the question is not designed to be a flippant question. It just came to me a moment ago. If I had a choice, if I were a high school coach and I had a choice between one of my athletes going home at 5:30 or 6:00 after football, basketball, swimming is over with and going to another swim practice or going to work at the local fast food, which would I choose? [LB1135]

KEVIN BRODERICK: I couldn't answer that question to be honest with you. I think it's different for every person. [LB1135]

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

Education Committee
February 25, 2008

SENATOR ADAMS: I know. [LB1135]

KEVIN BRODERICK: I do understand your question and... [LB1135]

SENATOR ADAMS: That's what I'm wrestling with. [LB1135]

KEVIN BRODERICK: ...what you're getting at, but there's a lot of different aspects of this issue, whether it's dealing with injuries, whether it's dealing with time, whether it's dealing with academics, that I'm sure other people will also visit about and talk about that I didn't have time to. [LB1135]

SENATOR ADAMS: Thank you. [LB1135]

SENATOR KOPPLIN: Are there other questions? I have a couple. Just a second. [LB1135]

KEVIN BRODERICK: Sorry, Senator Kopplin. [LB1135]

SENATOR KOPPLIN: Varsity basketball, you run what, 12 players? Maybe. [LB1135]

KEVIN BRODERICK: Twelve players and then 14 for the districts. [LB1135]

SENATOR KOPPLIN: So in a school your size, there's a lot of room for other kids that could benefit from club sports, would that be true? [LB1135]

KEVIN BRODERICK: I'm sorry, I'm not quite following what you're saying. [LB1135]

SENATOR KOPPLIN: Well there would be lots of students that could participate in club activities, but not those 12. [LB1135]

KEVIN BRODERICK: Correct. That is correct. [LB1135]

SENATOR KOPPLIN: So if one of those 12 does...is not the penalty forfeiture of games? [LB1135]

KEVIN BRODERICK: Yes. There is a penalty for participating in extracurricular... [LB1135]

SENATOR KOPPLIN: What about junior varsity, are they under the same rules here? [LB1135]

KEVIN BRODERICK: We have the same rules within our school. Right. Correct. At

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

Education Committee
February 25, 2008

Bellevue West, we cannot allow them to do that, for those individuals on the team.
[LB1135]

SENATOR KOPPLIN: Okay. JV would be the same and your school has varsity. Would that be true everywhere because there wouldn't be a penalty involved, would there? In other words, if I have a varsity student playing and he unknowingly participates in a club sport, that's still a team penalty for those, but that wouldn't be true on JV sports, is that correct? [LB1135]

KEVIN BRODERICK: It is for where we're at. [LB1135]

SENATOR KOPPLIN: For where you are. Okay, thank you very much. Next opponent.
[LB1135]

JIM DOOLEY: Senator Raikes, members of the Education Committee, my name is Jim Dooley from Bloomfield High School, Bloomfield, Nebraska. Please excuse my nervousness, there's more people in this room than are in our town (laughter). I'll try to be really brief. I guess I know your question was not for me about that eligibility situation. If a student plays in a club sport currently, if the school self-reports, that student-varsity, JV, freshman level--will serve typically a one-game suspension, so there's not forfeiture for the team. [LB1135]

SENATOR KOPPLIN: Okay. [LB1135]

KEVIN BRODERICK: In looking at this bill, I understand the concerns from those people who brought it forth. But I do see it as a first step in the elimination of high school athletics. This bill, as I understand it, was brought forth due to a lot of issues in swimming, and it has been endorsed by soccer players and parents. The problem that I see with this bill is it's far too generalized, especially now that the Olympic wording has been omitted. It covers every sport. So if LB1135 were to pass, an 18-year-old varsity football player could compete on a semi-pro team during the football season. I know as a football coach, that would be tough for our program if our quarterback played in a semi-pro game on Thursday night, tried to turn around on Friday and play. A varsity basketball wouldn't be able to play on a town team during the high school season. We have a town team. On the way down here, I was thinking if one of our student athletes--and a lot of them would love to do it, play on the town team--but if they did that, they would be playing, the first week of February, they would have played in nine games. That's beyond what the NBA does. In baseball, a varsity pitcher could pitch seven innings on Monday and Friday for his high school, seven innings on a Wednesday for his club team, even if they had inning restrictions for the pitchers. That would be 21 innings in 5 days, which is beyond what any major league baseball pitcher does, and that guy's making \$45 million a year. One of the recurring themes I heard from a lot of people was "it's my right as parent or it's my right as a player," and to a

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

Education Committee
February 25, 2008

large extent I agree with that, especially in some of those individual sports. And actually, I'd sort of like to see this brought forth to NSAA so we could vote on it in the individual sports. However, as a football coach or a basketball coach or a volleyball coach, we look at it kind of the collective rights of the team and we have to defer to all those team members, and so we're focusing on the name on the front of jersey and not so much on the name on the back. I guess the other issue that was mentioned. There was that addition, the clause an athlete must meet program requirements of his team before he can compete in club. In football, rest is a requirement. We practice at certain intensity levels throughout the week to kind of gauge towards peak performance by game day. We've also have a long season and we've had a successful program, so we gauge it towards the entire season and postseason. We incorporate rest times and that's vital to participation on our team. It is physically impossible to play football, rest, and play on a club team at the same time. There are just physical limitations, there are not enough hours in the day to do that given the demands, 11 hours for school and practice, hours devoted to homework, hours devoted to some football homework. There are a lot of demands placed on student athletes in those sports, and while this might be appropriate for swimming, it might be for soccer, the appropriate venue for this is to go through the NSAA districts. The all-inclusive nature of this bill just makes it a bad idea. And that's all I have. Any questions? [LB1135]

SENATOR RAIKES: Thank you. Questions? Senator Adams. [LB1135]

SENATOR ADAMS: Very quickly, you said at the opening at the outset of your testimony that you thought if this bill were to pass it would spell the eventual demise of high school sports. I want to narrow the focus on that a little bit. You're from a rural community? [LB1135]

JIM DOOLEY: Correct. [LB1135]

SENATOR ADAMS: I guess I could see this having a greater impact in the urban areas than it could in rural. Would you agree with that? [LB1135]

JIM DOOLEY: I would agree, and I think I have a unique situation. I've coached in an urban area, so I've seen kind of both sides of this. But I do think it would have a great impact in the rural area, probably more at the recreational level as opposed to the elite. I think we would get more students who wanted to play volleyball for fun as opposed to continuing on the high school team, or trying to do both then realizing that would be too difficult. Certainly we do have elite teams that exist in our area. There's a basketball team that starts in May. And there's some things up in Yankton, South Dakota. But by and large I see, and I don't think it be any immediate occurrence, but I would not be surprised within 10 or 15 years that some of these teams, elite or recreational, would start to evolve from people who play in the high school sports currently. [LB1135]

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

Education Committee
February 25, 2008

SENATOR ADAMS: Thank you. [LB1135]

SENATOR RAIKES: I don't see any other questions, thank you for your testimony. [LB1135]

JIM DOOLEY: Okay. Thank you. [LB1135]

SENATOR RAIKES: Next opponent. [LB1135]

ROGER SEVERSON: Hello. I'm Roger Severson, that's R-o-g-e-r S-e-v-e-r-s-o-n. I'm director of activities for the Bellevue Public Schools, here to oppose LB1135, and this is coming from our board of education as well as our superintendent as far as their beliefs. Athletics in the high schools really focus on the student athlete, students coming first, athletes coming second. And every student that we heard is a very top student, and I really appreciate that fact. They're able to balance their time, they're able to work what they have and get the job done and they're very focused on what they do. Students who are involved in athletics learn to balance their time in studies and activities. The Nebraska School Activities Association helps to balance that time with their rules and regulations, and as you've heard before, we have not heard this in the NSAA level as far as this recommendation for changes in some of the sports. When that comes before that body, I think this is something that would be very good discussion for those legislative districts of NSAA. The rules and regulations are set up to help students and all students. Our schools are focused on providing activities for all. When we talk about varsity activities, if you're a senior, varsity's the only thing that's available to you. But beyond on that, there's junior varsity, reserves, freshmen, we have intramural programs, and we offer opportunities as well as clubs in the area that offer opportunities for students. Most of our clubs are focused on the high level, it's the top athletes, and I would really like to see this come before the NSAA and be discussed as how we change some of these things. Some of things that I heard from the swimmers is the events that we don't offer at the high school level, why not discuss those events and add those events to the NSAA? That's a possibility, it's a rule that could be changed. Or we could have participation and practice for those who advance along with what we do at the high school level. Our high school coaches are really focused on what they do. On a personal level, I have three sons, and all participated in high school activities with football, basketball, and soccer. They all three went on to play at a college level. Two of them were kickers at the University of Nebraska-Omaha, and the second one played soccer at the West Point Military Academy, went on to play all-army soccer and went on to play all-military soccer. He's had a lot of opportunities, all three of my sons have had those opportunities. They played in Olympic development soccer, that was available through them with the rules that we have set up in the NSAA. They were able to participate in those ODP programs when they needed to during the soccer season, so that was an opportunity that they did have. It's already there. What I'd like to see happen with this is that the discussion come to the NSAA at our district levels. We bring

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

Education Committee
February 25, 2008

up those proposals and we discuss what changes we could make to offer our athletes what they need to have to go on to that next level. Any questions? [LB1135]

SENATOR RAIKES: Okay. Thank you, Roger. Senator Kopplin and then Senator Avery. [LB1135]

SENATOR KOPPLIN: Yes, the last testifier piqued my curiosity a little bit. Often when we think about club sports, we're talking about elite athletes. But the same rules apply to a recreational league, would it not? In other words, if you are on a high school varsity and you play recreational ball somewhere else, that's a no-no? [LB1135]

ROGER SEVERSON: That's correct. [LB1135]

SENATOR KOPPLIN: Okay. Thank you. [LB1135]

SENATOR RAIKES: Senator Avery. [LB1135]

SENATOR AVERY: I'm interested in the rules that govern the granting of waivers. As I understand Mr. Tenopir's testimony, the NSAA makes a recommendation when you get out your request for waiver to the school, but the school, ultimately has the authority to grant the waiver or not. Is that correct? [LB1135]

ROGER SEVERSON: Actually, it's the other way around. A parent would talk to our activities directors at the high school level, asking if they could participate in the Olympic Development Program. Then that activities director would contact the NSAA and say we have this request, they're requesting a waiver. And then the NSAA would decide, and they've never turned us down in the years that I've been in Bellevue. So... [LB1135]

SENATOR AVERY: But the major point that parents are making is that they're out of the decision process. Essentially, they don't have a say in this, it's really a school decision. Is that correct? [LB1135]

ROGER SEVERSON: They're making a request, yes. And then if it's an Olympic Development Sport, it would be granted, yes. [LB1135]

SENATOR AVERY: But all other, I thought Senator Kopplin's question was a pretty interesting one. Even a recreational sport activity, which wouldn't necessarily even be very high organized, would be barred. [LB1135]

ROGER SEVERSON: And that's where the injury thing could come in very easily. For example, you have a basketball player right now who is just finishing up districts. They're playing, they're practicing two hours, two and half hours a day. They go home, they try and do their activities and then they do a recreational game on the Saturday

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

Education Committee
February 25, 2008

when they're off season...a lot of times what happens there is they didn't even tell their parents they were going to play in that game and then they get injured. [LB1135]

SENATOR AVERY: I remember in my experience it was don't smoke, don't drink, don't do drugs, and otherwise stay active and move around a lot, stay in shape. It seems like you guys have taken it another step. [LB1135]

ROGER SEVERSON: Well, they're very, very active. They're staying in shape. You go beyond, you can overtrain as well and put yourself beyond, you can be injury prone then very easily if you overtrain. When my sons, for example, were playing basketball, they were playing indoor soccer at the same time, which is allowed. We had to watch as parents how much participation they had with that indoor soccer team, because they could've been practicing everyday through the weekend. We did have to make a decision on what they were doing, and the coaches were very cognizant of that, the club coaches...they did that off...they didn't have practices, they played games primarily during high school seasons. [LB1135]

SENATOR RAIKES: Okay. Thank you, Roger. Other opponents? [LB1135]

KYLE HOEHNER: (Exhibit 12) Senator Raikes, members of the Education Committee, I appreciate your time and effort in this matter, I know it's not easy. My name is Kyle Hoehner, last name is spelled H-o-e-h-n-e-r. I am presently the activities director and the assistant principal at Lexington High School. Prior to moving to the dark side, I was a head basketball coach in Kearney for 22 years and coached basketball for 26 in that community. A parent of two club sport athletes, kind of seen, I think, all sides and I think there are good and bad things about both, and I think that probably we've been talking about compromise, maybe taken through the right avenues that is a possibility. I am very impressed by the young people that spoke today. Makes me feel very good about the occupation that I've chosen. Outstanding young people with some valid, valid points. I also understand the allure, after 26 years as a basketball coach, to provide extra opportunities for our athletes. We all applaud the young man or young lady who stays around after practice, works on the shot, calls on the weekend to get extra gym time, in my case as a basketball coach. We use those people as examples for others to duplicate, so I understand that. My problem, I have four issues and I'm going to talk specifically about two, but I'll just mention the four. First of all, academics, which I did kind of a personal survey with some of my kids at Lexington High School. For the most part, a lot of our kids were the high achieving, high academic students were kind of relieved that they didn't have to make this decision because it is a tough one. They're finding a tough time finding enough time to do all the things they're involved with as well. But again, that's not scientific. Increased potential for injury, studies abound on the tired body, the near exhausted to exhausted body, once broken down is more susceptible to injury. Now I'm speaking specifically of team sports, of basketball, football, track, baseball, those things that I have coached. The two things that I do want to talk about

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Transcriber's Office

Education Committee
February 25, 2008

are conflicting loyalty to two or more programs. These kids are all great, and they're going to feel the pressure to please two different masters, and that concerns me. They want to please everyone. The people that are high achieving in the classroom, on the athletic field, and the athletic arena, they want to please. They're overachievers for the most part, many of them. And we saw some of those people today, we experienced that first hand. These are going to be people that will be leaders in our communities, I'm sure. My problem is not only the instruction difference, the difference in coaching technique, the difference in time practice, the requirements to participate in both--the inconsistencies that are included. A question comes to mind because I dealt with this firsthand, you have different rules and regulations with school and club. Let's say you have a young man who has been suspended for academic, alcohol or drug violation at his high school level and cannot participate in the high school sport, but yet goes on and participates in his club sport. What kind of a message are we sending? If we could make sure that those rules are consistent and fair across the board where the schools work in concert with the club teams, I can see that being a possibility, but that doesn't happen in the experiences I've had. My second major concern is that of socioeconomic discrimination. I know people talked about grants, giving money to kids. I have firsthand experience. I've coached exclusive teams in the summer, I've been on the other side, I've been on both sides. The one thing that NSAA and its member schools have rules and regulations in place to balance the playing field to some degree, and I'm not saying it has to be totally level. Life is not level. But it does promote the participation for all student athletes. That's not the case with the club sports, the ones that I have experienced. If you are talented, this is the message I get. If you are talented, you have no money, we'll find a way to get you on the team. If you are not talented and you have the bucks, you can pay your way on the team because you're going to play because you have the money. If you are not talented and you have no money, there's no place on the team, and I've seen it time and time again. Part of that is geography, where I live. My kids were involved in soccer programs, elite soccer programs. The money we spent, I'm well aware of it, and the community that I live in, 800 students, Class B, 75 to 80 percent of my student body would be eliminated from participation in club sports simply because of their financial status, and I don't know if there are that many grants out there. So I guess I'm speaking maybe a little selfishly here, but we're not the only school in that situation, but I want to speak for those kids. The NSAA and its member schools have rules and regulations in place to help eliminate that type of elitism. Questions?
[LB1135]

SENATOR RAIKES: Thank you, Kyle. [LB1135]

SENATOR ASHFORD: Just one very brief, this is taking a while, but one...why do you think so many states allow students to participate in these sports? [LB1135]

KYLE HOEHNER: Well, if you listened to Mr. Tenopir, that's a little bit skewed. [LB1135]

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

Education Committee
February 25, 2008

SENATOR ASHFORD: But I doubt, I mean... [LB1135]

KYLE HOEHNER: They were talking about swimming and soccer for the most part. [LB1135]

SENATOR ASHFORD: That's who we've heard the concerns... [LB1135]

KYLE HOEHNER: Right. I'm speaking more on behalf of the team sports. I didn't make that clear. [LB1135]

SENATOR ASHFORD: Okay, so you don't have any real objection to, but I'm curious, I mean it seems like they made a very good case that many, many states allow this to happen. These particular individual sports have national federations that were the AAU, I mean swimming was the AAU and that went down--and I'm familiar with what the AAU athletic circle was when...and I'm very familiar with the swimming organization today. And they reach into the...especially in swimming when you're dealing with young people who are very young internationally who compete in the Olympic-type sports. I mean, to me, it sounds like we're really...I'll just tell you my opinion, we're restricting, unnecessarily I think, the ability of these young people to participate, so... [LB1135]

KYLE HOEHNER: I don't disagree with that, and I can't speak from firsthand experience, but what I would say is this, I feel like where I stand... [LB1135]

SENATOR ASHFORD: I'm sorry I picked you out. [LB1135]

KYLE HOEHNER: No, that's cool, that's fine. Where I am, first of all, it starts with education, and I think that high school athletics and activities are an extension of the educational process, a very important and viable part, but an extension of. If the club sports could work, and specifically, individual, whether it's tennis, swimming, etcetera, could work in concert with the high school programs as an extension of, but not a replacement of where kids have to choose, and work with the high school coach knowing that the high school coach that is their first priority, then I could live with that personally. But then again, I don't know how much power I actually have. [LB1135]

SENATOR ASHFORD: I appreciate your answer, but I am very concerned... [LB1135]

KYLE HOEHNER: It's a good question. [LB1135]

SENATOR ASHFORD: ...about the young people who are in sports with where 12, 13, 14 years old they're competing in the Olympics. [LB1135]

KYLE HOEHNER: Sure. [LB1135]

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Transcriber's Office

Education Committee
February 25, 2008

SENATOR ASHFORD: That concerns me. Thanks. [LB1135]

SENATOR RAIKES: Senator Kopplin. [LB1135]

SENATOR KOPPLIN: You did say that your children participated in... [LB1135]

KYLE HOEHNER: They're 25 and 21 now, so it's been a while. [LB1135]

SENATOR KOPPLIN: Okay. I see little kids in club sports a lot of time in my area. It seems like they're heading to a tournament every other weekend. Who's picking up the tab? [LB1135]

KYLE HOEHNER: I did in my case. [LB1135]

SENATOR KOPPLIN: So what does it cost you as a parent? [LB1135]

KYLE HOEHNER: Oh, it was in the thousands, I mean, each year, and in Kearney, and I can speak to that because I haven't been away for year yet and I lived actually 30 if you count school but...college. But there's a hockey league and we talked to some parents about just that, and again that's off the subject here. But they're talking about \$10,000 to \$12,000 for travel and all the expenses that are involved, but they have to travel a great deal. And that comes back on a lower level to my concern, because I live in Lexington. If I want to play good club soccer, whatever it may be, our kids spent all of our time going to York, Omaha, and Lincoln, and so on. There was nothing west and nothing in town. We could have a club sport in our town, but we'd be competing against each other. You see what I'm saying? It wouldn't probably raise our talent level. On the other side, a young lady mentioned the idea of \$50.00 an hour for a tutor. There are experts in town, but boy there aren't a lot of people that could afford to do that, and so I speak not only from socioeconomic issue, but also a geography issue, but we can't change that. But if we're going to have something out there that is consistently fair for all, then we need to do some regulating and set some rules. If it's just for the elite, and let's stop acting like it's not and just say that is what it is. [LB1135]

SENATOR KOPPLIN: Okay. Thank you. [LB1135]

KYLE HOEHNER: That's my feeling. [LB1135]

SENATOR RAIKES: Don't see any other questions, thank you, Kyle. [LB1135]

KYLE HOEHNER: Thank you. [LB1135]

JOE BLAZEVIK: Good afternoon. My name is Joe Blazevich, B-l-a-z-e-v-i-c-h. I'm from Gross Catholic High School, and kind of what I want to talk to you guys about is

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

Education Committee
February 25, 2008

what everybody's talking here today is that choice. And we are providing that choice for the parents. The NSAA does a great job of working with schools, working with parents, working with student athletes. You know, we have to take into account as educators, as administrators, you know, what is the best interest of the student athlete. You know, just looking at the mission of the NSAA is to formulate, make policies, and we'll cultivate high ideals of citizenship, fair competition, sportsmanship, and teamwork which will complement the members of schools, curriculum, and programs to foster uniformity of standards and earn interscholastic activity competition. Everybody's trying to develop their different things, their specialties. Gross Catholic as a Class B, myself as an activities administrator, I'm continuously trying to get multi-sport athletes because we're a smaller school. Our coaches need that, we need that for teams to field competitive teams. I can't have students specialize, and everybody keeps talking about the scholarships that they need. And if you're a good player, those college coaches will find you. And that's what I keep talking to parents about and that's what I keep talking to students about. The NSAA does a great job of working with the high schools, and if it wasn't for the NSAA, we wouldn't have been able to have a swim co-op with Ralston High School, and we did that five years ago. And we had a family that was going to go to Gross Catholic High School no matter what, but this family had a son who was involved in swimming throughout his grade school years and wanted to continue swimming, was a football player, and a baseball player. By the time he was a senior, he won two gold medals in swimming, and by the time he graduated he got a scholarship to Hawaii, and he's competing at the Division I level. The NSAA does a great job of working with high schools. Colleges know that if there are good athletes out there, they're going to go out and find those kids. And if college like, coming all the way from Hawaii to come to Omaha, Nebraska, and find this student, you know, club sport is not the only place they're going to find these student athletes. So that's all I wanted to say, and if anybody has any questions. [LB1135]

SENATOR RAIKES: Okay, thank you, Joe. Senator Adams has one. [LB1135]

SENATOR ADAMS: One quick one. You mentioned in your testimony and I jotted it down, we want teams to be competitive, and I guess what I'm wondering is this: I can definitely see the role of the NSAA of keeping a level playing field in a competitive environment, but should it be the role of this Legislature to ensure competitive teams from school district to school district? [LB1135]

JOE BLAZEVIK: I don't think so, I think that's the part of the membership. That's the part of all the school boards making sure that they hire the athletic administrators to go to their district meetings, making sure that they attend those December meetings and January meetings, that they were voting and getting all the legislation in place to make sure that it's a level playing field for all the schools. [LB1135]

SENATOR ADAMS: So then if it's not our role to ensure competitive or comparative

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

Education Committee
February 25, 2008

environment, then just to be the devil's advocate for a moment, then shouldn't we move LB1135? [LB1135]

JOE BLAZEVIK: I think it...when the girl was up here earlier and somebody said, this is who you need to talk to and they went to their senator, I think they were a little bit misinformed. Somebody should have taken them right to their high school, that's what I believe, and I don't know if I'm answering your question wrong. [LB1135]

SENATOR ADAMS: That's okay. I'm not sure what my question is exactly. [LB1135]

JOE BLAZEVIK: I think they should have gone to their school board. I think they should have gone to their high school and said, "I think we have something wrong here," you know, "maybe we should go through that legislative process and get this changed." [LB1135]

SENATOR ADAMS: I follow you. Thank you. [LB1135]

SENATOR RAIKES: Okay, thank you, Joe, for being here. Other opponents? How are we doing here? How many more opponents have we got? One, two, three, four...okay. [LB1135]

STEVE BORER: Good afternoon. [LB1135]

SENATOR RAIKES: Welcome. [LB1135]

STEVE BORER: I'll be brief, my name is Steve Borer, I'm the assistant principal and activities director at Seward High School, and I just wanted to throw just a little bit different slant on this. I know the Education Committee is also dealing with assessments and standards and different things relating to student academic achievement and so on, and I want to approach it just a little bit from that standpoint. Our kids are students first, you've heard that several times. You know when I talk to kids, and I've doing this 31 years--I know I look younger than that, but I've been doing this 31 years--and when I talk to our kids, and I've been at all the way from a Class D-2 high school to now a Class B school at Seward. I hear a lot from our kids about stress and overload, whether it's athletics, whether it's activities, whether it's academics, and you know No Child Left Behind, all those things are all playing together, and I guess I'm really concerned about the academic part. And I'm a parent, I know. I've had three kids go through the educational system and I understand about parents' rights and what we choose and how that's good for our kids, and maybe how it isn't. It's just that sometimes I also know being a parent, sometimes we're not very objective when it comes to our own kids. And sometimes this keeping-up-with-the-Jones's syndrome...I guess really that's all I...I'm just really concerned about the academic part. [LB1135]

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Transcriber's Office

Education Committee
February 25, 2008

SENATOR RAIKES: Okay, thank you, Steve. [LB1135]

STEVE BORER: Any questions? [LB1135]

SENATOR RAIKES: Don't see any. [LB1135]

STEVE BORER: Thank you. [LB1135]

SENATOR RAIKES: Thank you for being here. [LB1135]

MARTY ROGERS: Senator Raikes, Education Committee, thank you for allowing us to be here today. My name is Marty Rogers, I'm the activities director at Blair High School. I'll be very brief as well, I just wanted to make a couple comments. I have three children of my own, sixth grader, seventh grader, and ninth grader. I was never so happy once my ninth grader finally got to the point where he was at high school, and I say that because he no longer was going to be competing at the club level when it come to basketball. There were some limits put on how many games you were going to play in a day, how many games you're going to play in a week, there was some sanity brought back into our family as far as going from one place to another to another, traveling all over this area of Nebraska for games. I think we're doing a good thing when we put some limits and regulations on what kids can and cannot do. I think everyone would be fooling themselves if they did not admit to the pressures that are put on kids and put on families to participate more and more and more. That is not always what's best. I use it as an example, the middle school level, and I see it every fall afternoon. We have kids that will attend our middle school football practices for hour and a half, two hours. They will then go to a club practice football for another hour and a half, two hours. I do not believe that is the best thing for those kids. But I also see parents that are not making those choices, and I think that those choices are made because they need to keep with, or the pressure to remain competitive or the best. I don't think that's always what is best. I also agree with what had been said earlier by many people here. There is a process, and a very good process that works when we need to make changes to the NSAA bylaws. At Blair High School what we do, I have the opportunity like every other member school in the NSAA, our coaches have an opportunity to write a proposal if we feel there should be a change. We listen at the local level to our school boards, to our patrons, community members, staff members that attend that district. If we feel that something should be changed and we're getting input locally, then those proposals are written and everyone has an opportunity to vote on them. I do not recall in my 23 years at Blair High School, a proposal such as we're dealing with today ever being addressed. If there are those issues that need to be addressed, that would be the avenue that I believe they should be addressed. One rule never fits everyone. Perhaps the issues that were brought up earlier today should be looked at, but to pass this bill would not be the answer. In my opinion, we would be doing far more damage than we would good for the majority of kids, and that is our purpose. Thank you. [LB1135]

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Transcriber's Office

Education Committee
February 25, 2008

SENATOR RAIKES: Okay, thank you, Marty. Senator Avery. [LB1135]

SENATOR AVERY: Let me go back a little bit to the kind of the governance structure of the NSAA. I think Senator Adams raised an interesting question when he asked where do you get your authority. And seems to me that the authority comes from school administrators, school administrators voluntarily associate with the NSAA, and you make rules binding on the schools. I don't see anywhere in that governance structure for parents. The parents don't really have a voice, and the problem is, it seems to me that the school administrators are the ones who make the decisions. The NSAA when they have a waiver that is being considered deals with the administrators at the schools and you bypass the parents. Is that a fair assessment of the government structure? [LB1135]

MARTY ROGERS: I would not agree with that at all. I can only explain what would occur at Blair. We have an opportunity, we are around coaches, teachers, parents, students, all the time. If we have an issue or someone approaches us with an issue about something that we feel should be addressed at the NSAA level, we have the process that takes place in order to change a bylaw that for instance may not fit or a parent may see should be changed. So to say that a parent would not have a voice, I don't agree with that. [LB1135]

SENATOR AVERY: I think what you're saying is it's a local option. The school administrators can decide whether or not to allow the parents' voice to be heard. There's no formal means by which the parents' voice is heard. [LB1135]

MARTY ROGERS: I think it would be the same as just the normal day to day process of school. We listen to parents. Parents are the people that we represent, the people we work for. And the same thing would be true with a case that would come up athletically that would need to be addressed by the NSAA. [LB1135]

SENATOR AVERY: The NSAA has no formal relationship with the Department of Education. The Department of Education does not have any authority over the NSAA. The Legislature did not create the NSAA. It was created by school administrators, right? [LB1135]

MARTY ROGERS: The history of that would need to be referred back to Dr. Tenopir. But I know that they do have open dialog on issues that come up that would relate to both parties. [LB1135]

SENATOR RAIKES: Any questions? Don't see any, thank you, Marty. Next opponent? [LB1135]

Education Committee
February 25, 2008

JERRY DUNN: Senator Raikes, other members of the committee, I do appreciate the opportunity to visit with you this afternoon. My name is Jerry Dunn, that's spelled D-u-n-n. I'm the activities director at York High School, and I want to try to just make a couple of brief points and then allow for some questions. First of all, I want to congratulate again the students and the parents that we had here before. They are obviously indicative of what we do best with out schools. They're great students and we have great parents, and I want to congratulate them. I'm also a parent; I have a son who's now a freshman down here at the university. And as a parent, I'm physically, spiritually, emotionally invested in that son of mine, and I'd like to think I was a pretty good parent, too, while he was in high school. Unfortunately, as Senator Adams and I would probably agree in our educational careers, for every one of those good parents we had, there was some parents who probably didn't make the right decisions all the time for their kid. Senator Adams probably thinks I was one of them. But by the very nature of who we are, we're blinded a little bit, you know Steve Borer mentioned that a little bit, by the emotional advancement we have in our kids. So we tend to approach our kids with blinders on, we want what's best for our kid, okay? That doesn't mean I'm always going to make the best decision on behalf of my kid. We have had parents testify today who have made excellent choices. We have also not heard from a lot of parents who don't make the best choices when it comes to the decisions and how much time they spend with their activities and those kind of things. And so as a parent, I would like to think I could trust people like my school administrators, my teachers, my coaches, the NSAA to look on behalf of not only my own son, but of all kids, okay? I think they do an excellent job day in and day out for making decisions for all kids, in the best interest of all kids. Just real briefly, we talked about the relationship between club sports and high schools, and for the most part they've been fairly healthy. I really believe that. And right now for instance, if a student athlete is involved in one sport, they can participate in a club sport of another sport during that season. But that hasn't always been that healthy, and I'm going to give a personal account back to my coaching days. I used to coach girls basketball years ago, and at the school I was coaching, not at the one I'm at now, I had a lot of girls that were involved in a club sport and another sport during my season, and I agree that what they do in their time is their business. However, and a comment has been made to me by several coaches who I went against, it was always good to play my team towards the end of the season. And the reason was, my kids were tired because I was pushing them so hard during the week in basketball and on the weekends they were going out and playing their other club sports, and they were tired. And when was the greatest time to play my team? Towards the end of the season, because they're tired. My simple question is when do we give these kids a chance to be a kid? When do they get to go watch a movie on a Sunday? Or go hang out with their other friends? That's the overriding question I think I have of the dangers of this bill, okay? I don't feel it's in your position to have to legislate this. Let these kind of issues come through the NSAA, as been said before. I would have any questions.
[LB1135]

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

Education Committee
February 25, 2008

SENATOR RAIKES: Thank you, Jerry. Senator Adams. [LB1135]

SENATOR ADAMS: Jerry, I have two. The first one you don't have to answer, though. York's a better place now that I'm not there, I'm sure. You don't have to answer that one. Number two, though, you were very poignant here at the end, and I listened to the evolution of all this testimony today, and your point was when do kids have time to be kids? And my 31 years, I was constantly asking myself that question. But here it comes, club sports aside, let's forget about it for a moment. Are we letting kids be kids in sanctioned high school athletics? [LB1135]

JERRY DUNN: That's a very good question, a very fair question. Sometimes, I don't know. I know in the years that I coached I often felt, boy, we're sure taking a lot of our kids' time. And the longer I got into it, back to the dark ages when I was in high school, you know, the summers were we just played baseball, but now they're filled with camps of all sorts of different sports. And I think that's a fair question, one in which I probably don't have a very fair answer to in the sense that even within the constraints that we have provided by the member schools of the NSAA, why would we allow even more activities to be permitted on top of those, I guess is my best way to answer that. [LB1135]

SENATOR ADAMS: Thank you, Jerry. [LB1135]

SENATOR RAIKES: Thank you, Jerry. Next opponent. [LB1135]

JACK TARR: Senator Raikes and distinguished senators, my name is Jack Tarr, T-a-r-r, I'm from Malcolm Public Schools and I want to just give a couple examples of what I fear is going to happen if club sports are allowed to go into the same arena that junior high is now in high school. At Malcolm out there, we have, being so close to Lincoln, we have a lot of junior high kids who attend club sports. In the last three years in the area of basketball, I have had to change my schedules, change a complete tournament once because the people who are involved in club sports have made the determination that their club sports are more important than their school sports. If you tell a junior high student would you like to go to Kansas City for a weekend to play basketball or go to Mead, Nebraska, to play basketball, it's not hard for that student to decide which way they want to go. And so at Malcolm, we end up not having enough junior high students out to put two teams on the floor. As an athletic director on Wednesday, I have to go find another team from another school who can fill in for our school so that the school that we have a contract with, we can honor that contract and find a team to complete their tournaments because that has happened three years in a row for us. It's going to happen the same way in high school. You have a high school student, and my daughter coaches club sports in Colorado, who can go to Palo Alto, Colorado for a volleyball tournament or stay in Fort Collins for a basketball tournament, which one are you going to do? And they go. Questions? [LB1135]

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

Education Committee
February 25, 2008

SENATOR RAIKES: Okay, thank you, Jack. I don't see any. [LB1135]

JACK TARR: Thank you. [LB1135]

SENATOR RAIKES: Thank you for being here. [LB1135]

VIRGIL HORNE: Senator Raikes, members of the committee, my name is Virgil Horne, H-o-r-n-e, representing the Lincoln Public Schools. I'm in opposition to the concept of this bill, but more importantly I'm in opposition to the principle of the bill in the same fashion that I testified a few years ago when this committee was considering placing something in a curriculum in statute. Quite frankly, you have many statutes controlling finances, which I think is very appropriate because you help finance the schools, but there gets to be a point where I wonder what we really want in statute. As an example, and these are two extreme examples, but they are examples that could foreseeably come. Next year I come before this committee suggesting we should have football for all the very same reasons just heard of why we should have competitive swimming: Because it gives a lot of athletes, perhaps the largest group of athletes in the state, an opportunity to further their careers in that sport. Is that something that this Legislature really wants to get involved with? And something that may even be closer to that issue, most coaches are paid by their school districts. Their salaries become a part of the general fund operating expenditures of that school district. After last Friday's report, and the reduction that you're going to be having, would it be appropriate for me as a person on a fixed income next year to come into this committee and say, you know, this Legislature should dictate to schools exactly how many coaches they should have, because after all, if you reduce the coaches, you cut out their salaries, and it helps save money for this state. I would contend that you have elected officials in each one of the school districts that are represented by the NSAA. It is the responsibility of those elected officials to follow up on the concerns of the people who elect them to make sure that their activities program is providing the types of activities and opportunities that the students they serve should receive. For the Legislature to get involved in these types of issues I think will create major problems across the state. You have the state Department of Education that works with the NSAA on a lot of excellent programs. The Sportsmanship Program is just one example of that. And for the Legislature to get involved with this issue, in my opinion, would be a major mistake. Thank you. [LB1135]

SENATOR RAIKES: Thank you, Virgil. Questions for Virgil? I don't see any, thank you. Okay, do we have other opponents? I don't see any more opponents. How about neutral testimony? Welcome. [LB1135]

SAM BROWER: Thank you. I'm not on any list, am I violating any rule? [LB1135]

SENATOR RAIKES: No, we allow nonlisters every now and then (laughter). Yeah.

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Education Committee
February 25, 2008

[LB1135]

SAM BROWER: Thank you very much, Chairman. I am Sam Brower, B-r-o-w-e-r, and I had really not intended to speak today, but I was moved by several comments, and what I want to address is this notion that the proponents are kind of procedurally defective in their argument of bringing this matter to you because they should have first exhausted an attempt to go to the NSAA. And I've had some dealings that suggest to me that when we speak about democracy and what you brought up, Senator, there is no statutory underpinnings to the NSAA. They have no due process, I don't mean to say due process...there is no proportional representation. For example, in Omaha and in Lincoln, there are districts that comprise over 80 percent of the students, but yet they can be outvoted by districts out west that have boundaries that were set up in the 1930s. There is no organization that I can think of that has legislative or representation set up that harkens back to a day before Nebraska had electricity on farms. Yet that's how the NSAA is organized, and they're not bound as you are to the open meetings law. An individual, such as one of these parents, they're only permitted to speak--even speak at a meeting--if one of their school board of control members would permit it. And I can give you examples of where people with interest in particular NSAA activities have gone to the board of control and have not even been permitted to speak. So I think in a perfect world that's where these things should sit. I do agree with the comments made that in a perfect world, these would be subject to conversations at the NSAA, but the way the NSAA is organized, it's not conducive to receiving parental input or objections. The comment was made that it's voluntary. Well, that's technically true, but you need to understand it's voluntary only if you want to have your school participate in Nebraska extracurricular competition. If Gretna for example, Senator Kopplin, wanted to step out of the NSAA because it disagreed with a ruling it made, it would be fine as long as it would play all of its further athletic contests in Iowa or Missouri. So when we talk about voluntary, the rest of the story's important. I'm not here to dis the NSAA, but I just think it's important that you not be left with the impression that there's fertile territory out there that if these had just gone to the NSAA, they would have found a receptive audience. I think ultimately it turns down to whether the comments that were recently made that parents sometimes don't have their children's best interest at heart or they think they do but the question is whether the school administrators have a better sense of that than the individual parents. It seems to me if your view is that they can make better judgments in those regards, then the status quo is fine. Otherwise, I think you let the parents make their decisions. I was thinking in the educational context, if you applied this you wouldn't allow home schools. You'd say, well, the parents think they can teach their kids, but they really can't, they're not qualified teachers. But you as a Legislature have made the decision that there are other interests that are equally or more important and we allow parents those judgments. Apparently today the argument is while the parents can make their children's judgments in a curricular context, once it's 5:00 p.m. and school's over, it's the school districts that should trump the parents in terms of who knows best, whether Billy should be playing soccer on a club team or not. Those are my

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Transcriber's Office

Education Committee
February 25, 2008

comments. [LB1135]

SENATOR RAIKES: Okay, thank you, Sam. Senator Avery has a question. [LB1135]

SENATOR AVERY: Just one question. Do you have any knowledge of parents that have gone to the NSAA and appeal to them on this particular question? [LB1135]

SAM BROWER: No, I have no idea. I assume that folks that said that never happened...or that's the case, I don't know. [LB1135]

SENATOR AVERY: It just seems odd that it would come to us first and never had been taken to the NSAA. [LB1135]

SAM BROWER: I can't comment, sir. [LB1135]

SENATOR AVERY: Yeah. [LB1135]

SENATOR RAIKES: Senator Ashford. [LB1135]

SENATOR ASHFORD: Very brief. I have a question or a comment. I appreciate your comments, Sam, because I think you've made a good a point. To me, I think we do have a legislative interest, and I don't think there is any due process issue or any...I don't the parents who have come here today, because they haven't gone through the NSAA process and somehow can't come here, I agree with you on that. It seems to me that this is an issue that's crying out for resolution, that there are sports, especially swimming and soccer, that the NSAA could make accommodation for and still uphold...I agree with them when they tell us that they uphold the highest traditions of NSAA, which are high and high standards, and I agree with that. Having been involved in high school athletics, as you remember not very well--but I was--but I think there is an accommodation here, and I would urge the NSAA to consider these requests because it seems to me that they're responsible and reasonable, but I appreciate your comments. [LB1135]

SAM BROWER: And my sense too, Senator, is the NSAA is doing its very best, and no one's out there trying to do any harm, I would believe. [LB1135]

SENATOR ASHFORD: Thanks. [LB1135]

SENATOR RAIKES: Okay, I think...no more...thank you, Sam. Any other neutral testimony? Senator Rogert. [LB1135]

SENATOR ROGERT: (See also Exhibits 15, 16, 17, 18) Coaches versus parents, that's what movies are made of. You've seen Hoosiers, Footloose, those types of things. You

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

Education Committee
February 25, 2008

know, listening to testimony, I appreciate both sides. There were a lot of valid points in all directions. I will say, and Senator Ashford you may have just mentioned this, that some things are brought to us because no one else is listening, or no one else cares to make the effort to come to a solution. I would love to see the NSAA hear this issue and talk about changing what they compete in certain events of certain sports. As far as being, you know, maybe questioned as to what we hear in this committee or consider in this Legislature. We decide what's important to us based on what the citizens in our state and our districts bring to us. And if there are processes in place, are they working? Are parents being brushed off? I don't know. I still haven't heard a very good argument against the dual participation in terms of why students are allowed during the winter, but they can't play club volleyball on Sundays during volleyball season. They can play two different things, they just can't do the same thing at the same time. But I also 100 percent agree with the concerns about injuries and academics, I think those are very important. Do I think this bill may be too general? I don't know. Do I think the Legislature should carve out exceptions for a couple sports? Should the NSAA? Maybe. But once again, bills are brought here for us to make changes or for people to make changes regardless of method and the result. And I just ask you to consider that as you discuss this bill, and I thank you very much for your patience and I'll answer any questions that you may have on hand. [LB1135]

SENATOR RAIKES: Thank you, Senator. Senator Avery has one. [LB1135]

SENATOR AVERY: I raised the issue of a possible compromise, what's your reaction to that? [LB1135]

SENATOR ROBERT: The answer, I looked at the numbers of states that just in swimming per se, the number of states that allow training and no competition, it's six. The number just in swimming, the number of states that have no restrictions whatsoever in swimming would be 22, so I think that would answer some of the question. It would fall into a category that's still quite a bit fewer than the rest. [LB1135]

SENATOR AVERY: But you could allow for the training and then certain limits on competition. [LB1135]

SENATOR ROBERT: You do, and then you're broadening your number of states that allow that as you go into certain things like that. It's possible. [LB1135]

SENATOR AVERY: But you wouldn't be opposed to that if we in committee were to decide... [LB1135]

SENATOR ROBERT: We'd definitely be willing to discuss it. [LB1135]

SENATOR AVERY: Okay. [LB1135]

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

Education Committee
February 25, 2008

SENATOR ASHFORD: And it would seem to, Senator Rogert, that this is I think an important issue and especially to these families and to lots of others. It seemed to me that it would be...if this bill for example doesn't advance this year but could next year, that by next year...and this is hypothetical, it might advance, but if it didn't that just because of the time constraints that it would be very, I think, positive if NSAA would address this issue prior to next year. I know some of their scheduling is such that if they'd have to change their rules or something. But if they could address this before next session and try to accommodate some of these families, I think...before we meet again in session next year would be very helpful. [LB1135]

SENATOR ROGERT: I agree. I think it would be. I'm sure there are many of us who would be willing to talk to them about that. [LB1135]

SENATOR ASHFORD: Thank you very much. [LB1135]

SENATOR ROGERT: Thank you, and on just a very sad and lighter note, I've been here a couple years, and Mr. Horne has, I think, testified in opposition to every one of my bills and because of that, he's given up and decided to retire and I'm saddened by that (laughter). So...thank you. [LB1135]

SENATOR RAIKES: Thank you, Senator. Okay, that will close the hearing on LB1135. Seems like we're losing interest here. [LB1135]

SENATOR KOPPLIN: Okay, if we could proceed. We will open the hearing on LB1021. Senator Raikes, would you open please? [LB1021]

SENATOR RAIKES: I would, thank you, Senator Kopplin and members of the...whomever's left of the committee. [LB1021]

SENATOR ASHFORD: There's some left. [LB1021]

SENATOR RAIKES: Ron Raikes, District 25, here to introduce LB1021. This bill would allow an additional option under the option enrollment program if you have basically a couple of situations. One is that you continue current enrollment in a school district, or enroll in a school district in which the student was previously enrolled as a resident student. So you reside in school district A, you move to school district B, and quite often as I understand it, the option enrollment program certainly is not always used this way but it's quite often so that the student can stay in the school. They started out in school A, so the family moves to district B...become residents of district B, they can use their first option to stay in school A. Suppose the family then moves from B back to A, okay? That doesn't take an option because you're attending the option enrollment program, but you've used your options. Suppose then that family, for reasons I can't explain, but

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Transcriber's Office

Education Committee
February 25, 2008

suppose they try district B again. They move to district B. With current statute, at least it's not clear that the student could continue in district A. Now if you move to district B, and then move from B instead of back to A, you move to C...Avery's not following me here, I can tell (laughter). [LB1021]

SENATOR AVERY: I'm trying. [LB1021]

SENATOR RAIKES: ...then the rules would allow you an additional option. I think I cover that here in my notes. Current exceptions are for students who relocate to a different resident school district, so that's district C. Students in an option, our current exception also for students in an option school district that merges with another district, so the district basically becomes no more, and students in option school district that is a Class I district. We currently have no Class I districts, but in statute it is possible for a Class I district to be formed. Okay, again exception would allow another option for a student who moves back to a district in which they previously resided, but only if the student will be continuing their current enrollment or they're optioning in a school district where they previously attended as a resident student. You're thinking there's got to be a story behind this (laughter). [LB1021]

SENATOR ADAMS: Of course. [LB1021]

SENATOR AVERY: What is it? [LB1021]

SENATOR RAIKES: I think we're going to hear it. [LB1021]

SENATOR KOPPLIN: Are you ready for questions? [LB1021]

SENATOR RAIKES: I didn't say that, did I? (laugh) I'm going to leave it there. [LB1021]

SENATOR KOPPLIN: Okay. Are there questions? I guess there's only a couple. Well, I have one real quick one. In other words, you're saying they're not necessarily stuck with one option only? [LB1021]

SENATOR RAIKES: That's true, and actually right now, they're not. I mean there is some effort made in the statute, if that's the right term, to allow that student to continue in that initial resident district, even though the parent moves around. And certainly I would remind you that with open enrollment, which comes about at least eventually in the learning community, you would allow these kinds of options. [LB1021]

SENATOR KOPPLIN: Okay. Other questions? Let's move to proponents. [LB1021]

RUSS BROWN: (Exhibit 13) Mr. Chairman, gentlemen of the Education Committee, I would be the story. I'm Russ Brown. I'm a realtor in Omaha and I run a small

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

Education Committee
February 25, 2008

construction company. As being such, we move around a little bit. We have a nine-year-old and a five-year-old, both enrolled in the Millard Public School system. My nine-year-old started in the Montessori program, a private Montessori, then we put him in the public Montessori within Millard Public Schools when we lived in Millard. We moved to Waterloo, which became DC West, there was a lake out there...that I like to waterski, my wife decides she wants our five-year-old in the same program in Millard. Tried using option enrollment, which we were running our nine-year-old, he stayed in that Montessori program, run the option enrollment program to keep him in the program, put our five-year-old on the waiting list when he was two, and we got told in March the year before that it didn't look good for us to get him into the same program. My wife being adamant about wanting to have both our children educated the same way, I built another house in Millard, moved back to Millard to get him into the same program, which is where I currently reside. I own another lot on that same lake and I want to move out there in two to three years, and I've been told my nine-year-old has used up his one-time option within Millard, so I can't go back there at any point in time. My options are do I want to have two houses, do I want to have one house? I prefer one. I pay too much in taxes already, but that's a different venue. Even though I move around a lot and I know it's not how most families raise their children, one of the stabilities that my wife and I have is our kids have always gone to their same school with their same friends, we thought throughout their entire...even if I don't move back out of Millard, which I'm staying in Millard until I figure out what's going on with the law, but Millard used the one time rule in reference to it. So I'm living in Millard to make sure they stay there right now, so they thought it was done last October, so I called my congressman and seeing what I can get done. So that's my story and any questions I'm game to answer. [LB1021]

SENATOR KOPPLIN: Okay, are there questions? [LB1021]

SENATOR ASHFORD: I just want to know who you called. Or was it call Senator Raikes? (laughter) I wouldn't mind it if he was congressman, but... [LB1021]

RUSS BROWN: I think I called your office and you referred me to Education chairperson and they referred me to Tammy and... [LB1021]

SENATOR ASHFORD: Exactly. Well, we're the referral experts (laughs). [LB1021]

SENATOR AVERY: Yup, pass the buck. [LB1021]

SENATOR KOPPLIN: Okay, seeing no questions, thank you for your testimony. [LB1021]

RUSS BROWN: Okay. [LB1021]

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Transcriber's Office

Education Committee
February 25, 2008

SENATOR KOPPLIN: Is there another proponent? Are there opponents? Neutral testimony? Okay, Senator Raikes, you're back on stage. [LB1021]

SENATOR RAIKES: The good news is his nine-year-old could participate in a club sport (laughter). Are you ready for... [LB1021]

SENATOR KOPPLIN: Are you closed? [LB1021]

SENATOR RAIKES: Yeah. [LB1021]

SENATOR KOPPLIN: Questions? Okay. [LB1021]

SENATOR ASHFORD: To his point though, Senator Raikes, that would address his issue, is that... [LB1021]

SENATOR RAIKES: Yes, it would. [LB1021]

SENATOR KOPPLIN: Okay, we'll close the hearing on LB1021 and open the hearing on LB1151. Senator Raikes. [LB1021]

SENATOR RAIKES: (Exhibit 14) Thank you, Senator Kopplin, member of the Education Committee. Ron Raikes, District 25, here to introduce LB1151. LB1151, the task of LB1151, is to clean up some issues pretty much dealing with the work we did on distance education, LB12-something or other, two or three years ago...but it was, I think, a good piece of work. And you know, I think by and large it's been effective in highlighting and increasing interest in distance education, and it's also been very effective in encouraging, inciting school districts to get updated in terms of equipment and all those kinds of things. There are a couple things here, one is it would provide some budget exception for school districts that are becoming updated in the distance education area so that, and particularly, either in the current year or the year in which they incur those additional expenses, because with the changes and so on, there are some Telcom services, access to data transmission networks, and mainly those two things, I think, that are going to be additional expenses that they've incurred for the first time and would need some budget authority to address them. I will tell you in that connection there is a department approval in here for this, so it's not just a one-time granting of the situation. I will tell you that the work, what we proposed in LB988 would provide some budget authority, or issue budget authority for school districts in a different way than we've done it now, proportionate to needs. That may overcome this need. However, at least for the initial year they become involved in this new distance education arrangement, they may well need this budget authority. So I offer that part of it to you. There is another provision in here that deals with clarifying really a couple of things. One, the requirement in order for you to receive incentive payments for distance education, you have to participate in either sending or receiving distance education

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

Education Committee
February 25, 2008

courses for four consecutive years, and the consecutive is made clear rather than just four years. It's also, there's kind of a almost a grammatical or wording change that involves payment for the incentives that they may be made in the same year as certification, not in each year, namely that if you...there may have been confusion that if you qualified once that you got incentive payments thereafter, whether you continued to qualify or not. So those are a couple of changes proposed in the bill per se. There's also an amendment that's coming around--yeah, there's actually an amendment--and the amendment is to allow for the purchase of distance education...well, or allow school districts to receive reimbursements for purchase of equipment even if they didn't do it directly as a school district but rather through an organization such as an ESU. This I think is certainly very consistent with the intentions in the distance education work. We wanted people to figure whatever ways they could use to get this equipment as efficiently and economically as possible. If they decided to go through an ESU and get it, then they ought to be able to get their reimbursement, which is spelled out in the bill, even though. So this simply makes it clearer that that's a possibility. I think those are the things. [LB1151]

SENATOR KOPPLIN: Okay, are there questions for Senator Raikes? Senator Adams. [LB1151]

SENATOR ADAMS: Just as a ball park, what kind of dollars might we be talking about a school district spending on something like this? Do you have any examples? [LB1151]

SENATOR RAIKES: Good question, and I don't remember. I think in the case of equipment to be purchased, I think our reimbursement went up to \$20,000. So I think they got to buy a...what did they call that gizmo? I have forgotten now, um... [LB1151]

SENATOR ASHFORD: It hooks into something... [LB1151]

SHIRLEY SCHALL: (Off mic) A CODEC. [LB1151]

SENATOR RAIKES: CODEC. There you go, a little help, the audience. You had to buy a CODEC and you know, this was central to the improvements that were made in distance education. We're basically facing a situation in the state where the equipment, MPEGs and JPEGs and some other kind of pegs, were what we had, and they were becoming out of date to the point where the only place you get any repairs was at the junk yard. And not only that, it severely limited the amount of information that could be transmitted. Plus, the organizational structure was very much cubicled. You had little distance education consortia, and you could do fine within that consortia, but as soon as you tried to jump the wall into the next one, you ran into trouble. And of course our deal was that you had distance education consortia and you had ESU's, and they overlapped each other even though sometimes they were doing the same functions and sometimes they weren't. So there was a great deal of work done and maybe some pain incurred to

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

Education Committee
February 25, 2008

get rid of some overlapping structure and to encourage the replacement of all of this equipment, so we got the IP protocol now, which has much greater capacity, allows school districts pretty much to see clear across the state. They can transmit courses from wherever. So I think it's been a tremendous amount of progress made and potential for considerably more because of that work. And if you look at, you know, I happened to look last night--this is a long answer, I don't think you even asked this question--but I looked last night at some of the information we have about school districts we have in this state and the size of those school districts, and we have roughly 250 K-12s now. I think roughly 140 of those have fewer than 390 students, and the average K-12 enrollment among those 140 that are fewer than 390 or whatever it is, is about 220. So we have a lot of school districts in this state that are of the scale in terms of enrollment where it is hard to imagine that they can as stand-alone entities efficiently provide a full range of educational opportunities to students with a staff on ground, so to speak, or at the location. You asked that question, that's what I was answering there. [LB1151]

SENATOR AVERY: Yeah, it was a while ago, but... [LB1151]

SENATOR KOPPLIN: Are there questions? I see no other questions. Okay, let's go to proponent testimony. [LB1151]

SHIRLEY SCHALL: Senator Raikes and committee members, my name is Shirley Schall, the last name is S-c-h-a-l-l. I am director for Educational Service Unit 16's distance learning network, and I want to thank you for the opportunity to come here and speak to you in favor of LB1151. This bill with an amendment that the senator was just speaking about to clarify reimbursement provisions to schools in educational service units for distance learning equipment is something that would serve our districts and our ESUs very well. I've been director for the distance learning network in southwest and west central Nebraska for ten years now, and as the senator so well spoke, we have a lot of districts that are very small. If it weren't for distance learning, I'm not sure how they would provide basic education to some of their students. Through a lot of forethought by superintendents on our representative council, the members of our group began contributing equally to a fund they created 11 years ago in anticipation of equipment replacements, upgrades that we would need in the future, and so on. We also wrote two USDA rural utility services grants in 2006 and one in 2007 to help purchase the new IP CODECs, the camera switchers, echo cancellers, and of the other equipment that would be required to complete these IP networks. Educational Service Unit 15 and 16 have at various times during these past 12 years served as our fiscal agents, and so they have held the funds that the schools put away into that reserve to purchase those new pieces of equipment when we did our conversion and also the grant funds that the ESUs spend out to buy that equipment under LB1208. But we've just been informed by our Nebraska Department of Education accountants that they feel as the statute stands now, to qualify for the LB1208 reimbursement, any hardware or software had to be paid for directly by

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

Education Committee
February 25, 2008

the school or by the ESU, not through a fiscal agent or any other such entity, and if that's the case none of the purchases that we have made, and per classroom our conversion costs were about \$34,000. So none of the money our schools have spent would qualify for those reimbursements because the schools did not personally write the checks because we had our fiscal agent do it, which was as we understood, we should be using a fiscal agent. So that's where our problem has come in and we support that amendment and support LB1151. We know that what we can accomplish through this new network can only benefit all of our kids, and we're hoping that this bill will pass. Thank you for your time. [LB1151]

SENATOR KOPPLIN: Are there questions from the committee? I have...go ahead Senator Adams. [LB1151]

SENATOR ADAMS: You go. [LB1151]

SENATOR KOPPLIN: Just one. As rapidly as the technical aspects of distance learning are happening, how many years can you really get out of the system before you have to turn over equipment? [LB1151]

SHIRLEY SCHALL: Well, our system lasted ten years, and that was I think with duct tape and just, you know, a lot of elbow grease and constantly monitoring the systems. We got to a point where we could not buy used cards for inside our CODEC, send and receive cards, and the company, the vendor for us, Quest Communication, their engineers in Denver would not allow used equipment in those CODECs, and we know that some of the local phone companies were having to look at refurbished equipment because they just could not find new pieces of equipment to replace it. So it was falling apart, literally. [LB1151]

SENATOR KOPPLIN: Well, if you got ten years, I'd say you did very well. [LB1151]

SHIRLEY SCHALL: We did pretty well with what we had. [LB1151]

SENATOR KOPPLIN: Senator Adams. [LB1151]

SENATOR ADAMS: The reality of things, given the number of small schools we have, is that distance education is or will be a necessity... [LB1151]

SHIRLEY SCHALL: It keeps the doors open. [LB1151]

SENATOR ADAMS: ...I don't think it is by any means as good as a teacher in a classroom, but that's a whole other story. I guess what I'm wondering is how many schools truly use distance education. You and I can sit here and say it's needed, it's the wave of the future, particularly for these small schools. But in reality, how many schools

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

Education Committee
February 25, 2008

are really using it? [LB1151]

SHIRLEY SCHALL: Of our 32 school districts, all but 4 are sparse or very sparse to begin with. And so we have small populations. Generally, those districts send and receive more classes than the big schools do. McCook, North Platte, and Ogallala would not have to send or receive anything if they didn't want to. [LB1151]

SENATOR ADAMS: Okay, so out of 30-some schools, you have about 26 that are...is that what you said? [LB1151]

SHIRLEY SCHALL: Yes, all but four districts are sparse or very sparse, and we have some schools that they start 7:00 in the morning and run until basically 9:30, 10:00 at night. And we've got kids that are graduating with 24 hours of college credit right now by the time they graduate from high school. We have a new program we're starting this fall, and actually there will be high school seniors that will also graduate with an associate degree in agriculture. So... [LB1151]

SENATOR ADAMS: Okay, my concern is that I want schools to use this stuff, rather than just we got an opportunity to buy some new stuff, then it sits. [LB1151]

SHIRLEY SCHALL: Right. Well see, I guess perhaps I, at times, have been a critic of that, too, because I know there are some districts that can provide everything their students need. If they want college credit, they've got adjunct faculty on their campuses and they don't need to look anywhere else. But where we live, it is a different situation. [LB1151]

SENATOR ADAMS: Thank you. [LB1151]

SENATOR KOPPLIN: Are there other questions? Thank you very much. Is there other proponent testimony? Is there opponent testimony? Neutral testimony? Okay, Senator Raikes. Senator Raikes waives closing, so that will end the hearing on LB1151. [LB1151]

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Transcriber's Office

Education Committee
February 25, 2008

Disposition of Bills:

LB719 - Held in committee.

LB1021 - Indefinitely postponed.

LB1125 - Advanced to General File, as amended.

LB1135 - Held in committee.

LB1151 - Advanced to General File, as amended.

Chairperson

Committee Clerk