

Transcript Prepared by Clerk of the Legislature Transcribers Office
Education Committee February 26, 2019

GROENE: This committee-- the committee will take up the bills and the posted agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off cell phones and other electronic devices. Move to the chairs at the front of the room when you are ready to testify so that we can keep it moving. The order of testimony is the introducer, proponents, opponents, neutral, and closing remarks. If you will be testifying, please complete the green testifier sheet and hand it to the committee page when you come up to testify. If you have written materials that you would like distributed to the committee, please hand them to the page to distribute. If you are not going to publish-- publicly testify or need to leave early, you can turn in written testimony with a completed green testifier sheet. We need twelve copies for all committee members and staff. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell your name for the record. Please be concise. It is my request that testimony's limited to five minutes. We'll be using the light system in front of you: green for four minutes; yellow one minute; and then wrap up your comments when the red light comes on. If you'd like your support or opposition to be known but do not wish to testify, please sign the white form at the back of the room. Check support or opposed, and it will be included in the official record. If you are not testifying in person or on a bill but would like to submit a written position letter to be included in the official hearing record as an exhibit, the letter must be delivered to the office committee chair or e-mailed to the committee chair of the committee conducting the hearing on or before 5:00 p.m. the day before. We've made exceptions for holidays and on Mondays when we don't have hearings until Tuesday like today. Additionally, the letter must include your name and address, state a position of for or against or neutral on the bill in question. Include a request of the letter to be included as part of the public record when you mail it. The committee members with us today will introduce themselves beginning at my far right.

MURMAN: Hello. I'm Senator Dave Murman, District 38, Clay, Webster, Nuckolls, Franklin, Phelps, Kearney, and southwest Buffalo.

MORFELD: Adam Morfeld, District 46, just Lancaster County.

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LINEHAN: Hi. Lou Ann Linehan, District 39, Elkhorn, Waterloo, and Valley.

WALZ: Lynne Walz, District 15, Dodge County.

KOLOWSKI: Rick Kolowski, District 31, southwest Omaha.

GROENE: And I assume Senator Pansing Brooks and Senator Brewer-- Senator Brewer said he's got a couple of bills in other committees and won't be here very much at this hearing, and Senator Pansing Brooks will probably be joining us later. Our pages-- I'd like to introduce committee staff first. To my immediate left is legal counsel, Amara Block, and to my right at the end of the table is committee clerk, Trevor Reilly. The page is here. Please stand up. Erika Llano is a sophomore at the University of Nebraska Lincoln studying political science and sociology. Maddie Brown is a junior at the University of Nebraska Lincoln studying political science. Please remember that senators may come and go during our hearing as they may have bills to introduce in other committees. It is also remind our committee members to speak directly into the mikes. We are electronically equipped. And as you see Senator Morfeld, he's researching for a bill coming up I'm sure. And you might see some of us on texting for our staff to clarify questions that we want to ask you. Today, we'll start with LB675. It's a cleanup bill from the Department of Ed that's running-- that's running through the committee. Legal counsel, Amara Block, will introduce it, and we'll mostly rely on testimony from the Department of Ed themselves to clarify what's in it and why it's needed. I will be leaving here shortly for a bill I am introducing in another committee, and Vice Chair Senator Walz will be taking over until I return.

AMARA BLOCK: Good afternoon, members of the Education Committee. For the record, my name is Amara Block, A-m-a-r-a B-l-o-c-k, and I am legal counsel for the Education Committee. Senator Groene asked me to introduce LB675 which was brought to us by the State Department of Education as the department's cleanup bill. The vast majority of this bill makes no changing-- no changes to the meaning of the law. It's just cleanup language, simplification. The changes to statutes found in Sections 4, 8-- 4, 5, 8, 9, 10, 13 through 17, 19, 20, 21, 23, 25, 26, 28, 29, 31, 32, 34 through 44, 46 through 50, and 55, I would classify as making no actual changes to the meaning of the law, just changes to phrasing and removal of obsolete provisions. As for the other changes, LB675 primarily does the following. LB675 repeals Nebraska Revised Statute 79-2206 and relevant provisions such as that

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found in Section One. [Section] 79-2206 directs the Department of Education to distribute the funds from the Education Innovation Fund and accept a devised donation or bequest to pay for any and-- or all of the cost of administering the Interstate Compact on Educational Opportunity for Military Children. LB675 also allows school boards to enter into contracts with certain service providers, insurance providers, and providers of material supplies and equipment for up to seven-year periods. The maximum contract period for these contracts right now is four years. The bill no longer requires the superintendent to include in the annual financial report the method used to allocate money to and within poverty-related programs and Limited English Proficiency-related programs. We're just excluding the method they use. We are adding a definition of department for the purposes of the Special Education Act which permits all references within the Special Education Act to simply say "the department" rather than say "the State Department of Education" each time. In Section 15, the definition of child with a disability is clarified that it means a person who has a verified disability beginning from the date the disability is verified and continuing until he or she is 21 years old or until the end of the school year if they turn 21 during the school year. This change is not substantive but the changes in Section 22 could be substantive. Current law states that the Special Education Act applies to a child with a disability from the date of diagnosis or from the date of the school district was notified. Section 22 changes this so that the Special Education Act applies from the time the disability was verified. This change is just making the two statutes consistent with each other. The definition of an interim program school is changed slightly so now that a facility which provides residential-- which provides a residential program, and regular educational or special education services that do not have a special education rate can be considered as interim program schools. LB675 also updates the duties of the Educational Technology Center. The mission of the Educational Technology Center is to essentially help integrate technology in schools and provide technological support to educators. In addition to the already prescribed duties, the Educational Technology Center would be responsible for evaluating open education resources, provide technical assistance to educators with Internet-based resources, provide training to educators in the use of digital devices not just computers as originally in statute, support research and recommendations for digital applications instead of experiment with applications, and seek partnerships of various institutions and entities including the Office of the Chief Information Officer and Network Nebraska pursuant to LB675.

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Additionally, LB675 repeals 79-527 which requires a superintendent to annually-- annually report to the Commissioner of Education the number of students who have dropped out and quarterly on individual student information on attendance. [Sections] 79-1152 and 79-1153 are also repealed under the bill which pertains to the State Department of Education's involvement with residential placement of a child with a disability. It's my understanding that these statutes are no longer necessary due to the changes in the federal Individuals with Disabilities Education Act which requires a much more individualized approach and according to the specific needs of the child. As to why any of these changes are being made, I believe Brian Halstead from the Nebraska Department of Education is going to follow me, and he can provide a little more insight as to the rationale behind this bill. With that, I will conclude my introduction.

GROENE: Any questions? Senator Kolowski.

KOLOWSKI: Thank you, Mr. Chairman. I just wanted to ask-- the bill following this one is a special education getting-- trying to get back to 80 percent funding compared to a 50 percent where we are right now. Is there anything in what you're dealing with there in the statutes that would-- that would help us with the language of the next bill we have coming up?

AMARA BLOCK: Senator--

KOLOWSKI: I mean there's-- there's a great deal of importance to this bill for a great number of us. And I wonder if you could help on that.

AMARA BLOCK: Well, the-- the bill cleans up the statutes relating to education. As for the next bill to come, I think that's LB346. Is it? I believe that statute is cleaned up a little bit in here, but it does not make any substantive changes to that statute. I'm not sure if that answers your question or not.

KOLOWSKI: Well, depending on what happens in the next bill, this one may have to be modified more along the way.

AMARA BLOCK: But potentially-- I mean educational statutes-- as the law changes-- or any statute really may always need to be modified if there's an area of law that affects it. So I could say that potentially with the next bill or any bill that touches education statutes.

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KOLOWSKI: Yeah. Just wanted it touched on. Thank you.

AMARA BLOCK: Yeah.

GROENE: Any other questions? Thank you.

BRIAN HALSTEAD: Good afternoon, Senator Groene and members of the Education Committee. For the record, my name is Brian Halstead, B-r-i-a-n H-a-l-s-t-e-a-d. I'm with the Nebraska Department of Education here as a proponent for LB675. And as Senator Groene and the introducer indicated, this is largely intended to be a cleanup bill with various provisions that the department has discovered or reviewed or have been brought to the attention of the department. I know that in the introduction, there was a-- pointed out about the statute that allows school districts to contract for up to seven years. That was brought to us at the department by some school districts, the School Boards Association, and the school administrators. The evidence we received from them, there were examples where school districts could contract for instructional materials, where the longer the contract period was, the cost actually was less than doing it on a four-year contract. We felt that would be cleanup because I believe it was two years ago, in another cleanup bill this Legislature changed, in the Quality and Accountability Act, the requirement that the state board revise and review and update standards. At that time it required be done on a five-year. You allowed us to change it to a seven-year cycle which aligns largely with the instructional materials that may be the cause for this one that the School Boards Association and administrators would like to have. I would note that language is permissive. It does not mandate any contract be for seven years. So with that, I'll stop because the introduction covered most of the major changes. I'd answer any questions any of you have on any of the proposed changes in the bill.

GROENE: Any questions? Senator Linehan.

LINEHAN: Thank you, Chairman Groene. So Section 3, LB675, removes the provision that the math examination taken by teachers education students does not need to be taken at a standard institution of higher learning. So these are students who are in teacher education colleges, I assume?

BRIAN HALSTEAD: So what you found-- yes, that's correct. Section 7 is part of the statutes for issuing certificates and the definition of a basic skills competency means and the very specific language that

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we're asking to be strict. And there are other individuals who are required to take the basic skills test, but they don't take it at a teacher educate-- as a teacher education student at a standard institution of higher ed. The language that's in the definition is far more restrictive than the people who are required to take the basic skills test. So all we're trying to do is take out that very specific reference to having to take the test at a standard institution of higher ed as a student because you may have to take it if you come from another state and have never demonstrated basic skills. From our perspective, that language that was inserted in a definition is very restrictive. That makes everybody have to go to a standard institution of higher ed to take the test. That's not our intention, and we'd just like to get that out to make it available. Right now, you can take the test anywhere, on-line I believe, by paying the fee, and we just get the scores directly from the testing company. That's all we're trying to do though. There's still a basic skills test.

LINEHAN: OK. So according to staff's handout, she has a Section 6, pursuant to Rev. Stat. 79-258, so superintendents are required to submit annual financial reports to the Commissioner of Education. This financial report is required to include certain information, such as information described pertaining to poverty allowance and then I thought I saw one with English language learners. So we're not going to have them report any more what they're doing? Yeah, explain that to me.

BRIAN HALSTEAD: OK. So if you'll remember, last year, we came to you with no longer requiring school districts submit written plans for how they planned on spending poverty allowance dollars. We didn't catch this reference over-- and they still report to us how they spent all of those dollars, how they went about using the allowance dollars and everything. The accountants and the auditors noted, we don't need this language about their method. I've got to find it exactly. But the accountants and the auditors are telling us that doesn't have to be in any AFR anymore because for the numbers and everything, they don't need the-- the language that we're proposing be stricken. I got to find--

LINEHAN: So can you just tell me how they do report. Let's say that you're-- well, I won't mention anybody, but your school, not-- not in the eastern part of the state, somewhere kind of halfway across the state--

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BRIAN HALSTEAD: OK.

LINEHAN: --a third of the way across the state, and you get a significant amount of money for English language learners in poverty. How does-- how do they report that back?

BRIAN HALSTEAD: So when they report on their annual financial report, they have to break out how they spent the poverty allowance dollars provided under TEEOSA to them by separate accounting codes so you can check to ensure they spent what they needed for those programs and are not using that funding for any other--

LINEHAN: But for a lay person, you'd have to understand all those codes. It's not particularly easy to understand actually what's going on.

BRIAN HALSTEAD: Even-- even for a lawyer, it's not easy to understand the accounting codes but it--yes, there is a breakout of that.

LINEHAN: So they don't have to write any-- it's just that's their only reporting? They fill it out on AFR?

BRIAN HALSTEAD: The AFR includes the accounting of how they spent the monies and everything else. Auditors going in are going to ask to see the actual expenditures if they're doing an audit for which there is other documentation on file to show how they spent it for an audit purpose. But that doesn't all come with the annual financial report to the department.

LINEHAN: OK. All right. Thank you very much.

BRIAN HALSTEAD: Sure.

GROENE: So if an average citizen wanted to know how much money was being spent on English-- ESL or poverty and where it was spent, how-- how would-- if you considered it a program, how would they know that?

BRIAN HALSTEAD: So the AFR would show you the dollar amounts for the whole school year. The school district, when they're spending that money, has to account for it, so they would have the same documentation on file as to the salaries of staff that are coded to that. That all would reside at the school district level which would be subject to an audit because by law every school district has to be audited on a yearly basis. So a citizen could certainly, under the Public Records Act, make a request to come in and inspect the records

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of the school district on file or ask for a copy of all of that for which if it's going to cost money and everything else, then they have to pay a fee. But the Public Records Act, anybody can go in and ask to see the actual records the school district has and how it's broken out for that particular program, whichever one we're talking about poverty or LAP.

GROENE: Senator Linehan brings up a good question. So is there a plan that they'd say to you, we qualified for so much poverty money, so much English ESL money, and here's our plan? Instead of 25 kids in a class, we're going to have 18. In every class, we're going to have a para that's bilingual. How do they-- how do they define to you why they needed the money or do I walk into the school and I walk in every classroom, they got 25 kids in it, they've got a teacher and a para there, and there's no difference? How do they account that they needed this extra money that the state allowed them to have for poverty or-- or English as a Second Language? I know I'm using the wrong term; there's another term for it.

BRIAN HALSTEAD: No. So when the poverty allowance was created and the Limited English Proficiency allowance was created, the Legislature also required a written plan describing what they intended to spend the money on that would improve the education of students in poverty or Limited English Proficiency. And we, for a period of about six years, collected all of the plans. We reviewed them to make a determination as to whether those activities were good educational practice and trying to learn how schools were using that funding. What we largely discovered is they are doing exactly what the statutes say you should do for poverty students or limited proficiency students. So there was no longer a need, from our perspective, to have a separate plan for that and a separate plan for LAP. Just for TEEOSA, the school district itself may already have to have a plan for poverty students. Title I funding coming from ESA and the federal government, you've got to have a plan of how you plan on spending poverty. Same thing is true with the Limited English Proficiency under federal law. So the school districts will have plans. They're no longer required to submit them to the department in order to get the allowance under TEEOSA for poverty or the allowance for Limited English Proficiency. But the laws for school finance still require they have to account for that funding such to justify they spent what the-- they say to get the allowance they will spend on poverty. There are still penalty provisions. If you don't spend it, then we're going to recapture it back and pay it in. But that's all done through the accounting records. You don't need a

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written narrative to explain all of that as part of the accounting. And the reference in this bill, the method used to allocate money to the program and within the program, is still required in the AFR they submit to us and the accountants and the auditors. We don't need to see that to do our work counting and ensuring they're spending the money. It probably should have been struck last year with the bill where you, the Legislature, repealed the requirement for a separate plan for each one of those. It was an oversight on our part and everyone else's.

GROENE: Because what you're saying, they have to give a plan to the federal government.

BRIAN HALSTEAD: For Title I funding, yes.

GROENE: And then, if I remember right, last year we got rid of it because of redundant-- it was redundant. We already had a federal-- you said for both, Title I on the English and the poverty.

BRIAN HALSTEAD: Right, Title I is for poverty. I would agree it was redundant. They were writing two plans for two things even though they both said largely the same thing and that's what we found in the source.

GROENE: So I could go in any school district and ask for the Title I plans?

BRIAN HALSTEAD: Yeah. Oh, absolutely.

GROENE: Thank you. Any other questions? Senator Brewer.

BREWER: Do you have the bill in front of you there?

BRIAN HALSTEAD: Yeah, I do.

BREWER: Jump to a page 6, line 19.

BRIAN HALSTEAD: Page 6. OK.

BREWER: Can you kind of just give me a quick overview on why that was lined through?

BRIAN HALSTEAD: OK. So when the state adopted the Interstate Compact on the Educational Opportunity for Military Children, they did that in 2011. That was the Great Recession. They couldn't find money anywhere

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in the state budget to cover the costs for doing the compact. So when Senator Price worked on that to get it done, they added language in this section that said the department can accept funds from private entities to pay for it which also now exists, I believe still, in 79-2206 which we're outright repealing in this bill. They adopted it and actually used the lottery funds to cover the costs for that which is what 79-2206 still says, that the costs for the compact are being paid for out of the lottery which isn't the case. Our general fund budget has funding for that. So we're just trying to get rid of the incorrect reference that lottery pays for the compact. Now it's in the department's general fund. Bill Drafters cross-referenced and proposed taking this out of a general statute for the duties of the department or the board and what they can do. We're fine with that. It's part of our general fund budget. That was part of the struggle the state had in 2010 and '11 of trying to meet the needs and everything else. So this-- that section there came from Bill Drafters suggesting, well, if you've got it in your general fund budget, you don't need the authority to accept funds from private organizations to pay for it. We're fine with that.

BREWER: Excellent information. Thanks.

BRIAN HALSTEAD: Yep.

GROENE: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thanks for coming here today, Mr. Halstead. I guess I'm interested if you can give a little summary on the-- the part about special education and what's happening with the children and the changes from child with a disability and the discussion of verified disability versus the date the disability is verified.

BRIAN HALSTEAD: So what we're-- if you look to many of these sections that we're asking you to amend, some of them haven't been touched since 1997. And federal laws changed a couple of times since that time, so has the whole world on special education. I think it was two years ago as part of the cleanup bill, there were several sections of statutes we brought forward to strike "vocational" education and insert "career and technical" education because that's now what it's called both at the federal and the state level. Here, in the Special Ed Act, there are a lot of references made to how things were in the late '90s that aren't currently what it is. IDEA has been reauthorized. There is more procedural protection for students and families and requirements for school districts and all of that to

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comply in order to receive the federal dollars. So much of what was in the state Special Ed Act is no longer needed because federal law covers that whole subject. With respect to the language about date of diagnosis or date of verification, if you look at the act, school district officials have absolutely no authority to diagnose anything. They have the authority to verify that the child has one of the named disabilities that's still in the act. So we're just trying to harmonize the correct terminology. Medical professionals may diagnose a child and provide that information to the parent and the school district to use it to verify the child as being eligible for special ed. That's largely all that's going on there. In the definition of a child with a disability that was enacted long ago, the Legislature decided, and I think it was even based on a court case, although the Constitution says until age 21, if the child, actually you're not a child at 21, but if you turn 21 during the school year, they inserted references in all of the statutes to say, oh, OK, and you can go through the rest of the school year. We thought by changing the definition of a child with a disability to include the language about when it starts and up through their 21st birthday or through the school year, it saves you from having to repeat that in multiple statutes. So we shifted part of that back into the definition, so every time you say "child with a disability," you know what you're talking about, even though this is one of those terms, "child." When you're 21, you're an adult, but you're still considered a child with a disability under the act. It's kind of one of those legal terms that you use to make it work instead of using other words. So that's all that's really trying to be done there. We're not trying to change the policy decision of the Legislature that if you turn 21 and you're a child with a disability, you continue to get services through that school year. And we're just trying to say it once instead of saying it multiple times throughout the act.

PANSING BROOKS: Thank you. That helps. And so basically I mean these kinds of bills that have these giant sweeping changes which I think I understand are important because we do want consistent-- consistency. But I am-- I guess I'm-- I just want to clarify that nothing is changing in special ed requirements or in who qualifies or anything on that. I just want that part of the record.

BRIAN HALSTEAD: That is not-- that is not the intent of the Department of Education with any of these changes to change who gets services or how those services are currently to be-- be delivered. We're just trying to get rid of language in statutes that's no longer necessary

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or can be better, more concisely, written today. If you find something or someone finds something where someone isn't, please let us know and we're-- we'll work then with you to make sure that nobody is not getting what they're currently getting today. That's the whole intent of the bill. That's why it's a cleanup, trying to do it with a few less words in a more direct manner.

PANSING BROOKS: Just what I wanted to hear. Thank you very much, Mr. Halstead.

WALZ: Any other questions? Oh, sorry.

LINEHAN: That's OK. Thank you. You just said something that-- maybe it's changed but when my kids were small, I know we're going back a long time, 30 years ago, they-- they had special ed for speech and I don't remember ever having a doctor-- I didn't have a doctor. The teachers are the ones that told me they needed speech.

BRIAN HALSTEAD: So the child--

LINEHAN: So they can't do that anymore?

BRIAN HALSTEAD: Well, a speech pathologist, depending on their training, can verify that a child has a speech, I don't know the proper term, impediment that impacts their learning for which speech pathology services can be provided to the child under the Special Education Act. Whether they diagnose or verify probably depends on if you're, and this is out of my league-- if you're licensed by DHHS, you might be able to diagnose. If you're a speech pathologist certified to us, whether you can diagnose, I don't know the terminology. But the act says you have to both have the disability and meet the verification requirements, so we're just saying verified under the Special Ed Act.

LINEHAN: But it takes a doctor's medical--

BRIAN HALSTEAD: No. Certain diagnoses do take a medical professional to make a diagnosis of a person's medical or--

LINEHAN: Right. OK.

BRIAN HALSTEAD: Right. Uh-huh.

LINEHAN: But some learning--

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BRIAN HALSTEAD: Is not a diagnosis.

LINEHAN: Do you have a list-- is there a list from the feds? Who has a list of these are the-- these are the disabilities that are covered under IDEA? Is there speech on the list?

BRIAN HALSTEAD: I don't know if the feds produce a list. They indicate what IDEA-- that's why your disability-- this Special Ed Act has definitions of the disabilities which aligns largely with federal law. The federal law gives the states some flexibility in how they go about defining those. They're--

LINEHAN: Because there are some school districts-- I mean one was in, again, I'm not going to throw out names, but some 24 percent of kids were in IDEA which seemed very, very high to me because 12 is more normal.

BRIAN HALSTEAD: Um-hum. Um-hum. Well, yeah.

LINEHAN: So that-- do they get lined up with the-- I'm sorry, this is too much for today, but if you could help me find that list, that would be very helpful.

BRIAN HALSTEAD: I'm hopeful maybe on the next bill when you have some special ed people, they might be able to answer those questions about this bill and that bill for you.

LINEHAN: OK. OK. Good point. Good point. Thank you very much, Mr. Halstead.

WALZ: Any other questions? Thank you.

BRIAN HALSTEAD: You bet.

WALZ: Any other proponents? Do we have any opponents? Anybody in the neutral capacity here? And we have no letters for the record. So that ends our hearing on LB675. And now we will open on LB346. Senator Wishart.

WISHART: Well, good afternoon, Chairwoman-- Vice Chairwoman Walz and members of the Education Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t and I represent the great 27th District in west Lincoln. I'm here today to introduce LB346, a bill that would increase federal special education reimbursements over the next three biennium to 80 percent. Colleagues, I brought this bill for two main reasons. First

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being that I believe the state should take a more active role in educating some of Nebraska's most vulnerable students. And second, I see LB346 as an answer-- answer to those seeking property tax relief. Easing the local property tax burden frees up counties and school districts to lower their levy and lower property taxes. In 2018, nearly 60 percent of Nebraskans' property tax dollars were levied by their local school district. Easing the burden on local school districts via the increased reimbursements from the state is one of the more commonsense approaches to property tax relief I've seen, which is the second reason why I brought this bill. I would direct the committee's attention to the fiscal note. The Department of Education outlines the savings that local-- localities would start to see in fiscal year 2021 to 2022. There will be others here to testify to what the added reimbursements would do for their districts, students, and their families. With that, I'd be happy to answer any questions you may have. Thank you.

WALZ: Thank you, Senator Wishart. Questions? Senator Kolowski.

KOLOWSKI: Lady Madam Chairman. Senator, thank you for bringing this. It's very much needed and we look forward to what we'll learn today on-- on this discussion. As little as, pardon me, ten years ago, eight years ago, five years ago, we had different funding sources coming into special education. Do you have a record there of how much it shrunk compared with the last X number of years?

WISHART: You know, there will be some-- some experts-- some in the education space who can talk better to that today.

KOLOWSKI: I will. Thank you.

WALZ: Other questions? Senator Linehan.

LINEHAN: Thank you, Ms. Chairman. And thank you for bringing this. Does the state money include the federal money?

WISHART: So I believe that what we would be doing is we would be increasing the 80 percent of what the state owes.

LINEHAN: So now it's federal plus state.

WISHART: Yes.

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LINEHAN: So that's-- so we would go to 80 percent and then they'd also get the federal money?

WISHART: Yes. Yeah. This wouldn't lose-- we wouldn't lose any federal money by--

LINEHAN: No, I don't mean lose it, but is it included in the state funding or?

WISHART: So I believe the way that it works, and again, those following me can--

LINEHAN: Yeah. Well, that's fine.

WISHART: --but I believe the way that it works is you have matching dollars, and at this point, the state-- we-- we don't pay up to the full percentage of what-- what is due at the state level for the matching dollars. But somebody can-- following can-- can better speak to that.

LINEHAN: OK. OK. Yeah. Yeah, that's good. Thank you very much.

WISHART: Yeah. But we would not be losing any federal dollars.

LINEHAN: Right.

WALZ: OK. Thank you, Senator Wishart. Proponents?

JENNI BENSON: Good afternoon, Senator Groene, Senator Walz now, and members of the Education Committee. For the record, I am Jenni Benson, J-e-n-n-i B-e-n-s-o-n. I am the president of the Nebraska State Education Association. NSEA supports LB346 and thanks Senator Wishart for introducing the bill. Special education today is focused on helping children with disabilities learn. It is tailored to meet the needs of students with disabilities. The service and support received by one child may be very different than what another child receives. As a special educator for over 30 years, you will find, I would guess in most every classroom in Nebraska, a student with some sort of special needs or special education services. Special education programs in our schools are dedicated to giving children the resources they need to make academic progress. Federal law requires students who receive special education services to be taught alongside their nondisabled peers as much as possible. LB346 increases, over the next five years, the amount of state aid the state reimburses local school districts for their special ed expenses. This would help tremendously

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in providing additional state funding for school districts covering these expenses. LB346 would benefit every school district in the state, urban, rural, large, and small. The state reimbursement rate for special education is set at 51 percent for local school district expenses. Historically, the reimbursement rate was set at 80 percent. And over time, the rate and funding provided has dropped during the years of state revenue shortfalls, and past legislative-- Legislatures have sought to achieve a balanced budget. This has happened to the detriment of the special education services provided to our most needy children. LB346 seeks to re-establish the 80 percent as the core-- current rate. Doing so would not only benefit our children, it would become a key part of the solution to some of the property tax issues in Nebraska. The NSEA, on behalf of our 28,000 members across the state, ask you to advance this bill to General File for consideration by the full body. Thank you. And Senator Linehan, I Googled some questions about special ed when you were asking those if you're interested.

WALZ: Senator Linehan.

LINEHAN: I guess I have a question. So on the list or on the--

JENNI BENSON: On the list of what services.

LINEHAN: Oh. What did you find?

JENNI BENSON: So it is multiple disabilities, traumatic brain injury, intellectual disabilities, speech language disorder, other health impaired, Autism Spectrum Disorder, emotionally-- emotional disturbances, speech language, visually impaired, including blindness. Deafness is a separate category. Hearing impairment is a separate category-- deaf, blind, and orthopedically impaired.

LINEHAN: Thank you very much. That's helpful. Are you the one to ask about federal funding?

JENNI BENSON: No, I think you're going to ask Mr. Halstead. Where'd he go?

LINEHAN: OK. OK. All right. That's all I have. Thank you.

WALZ: Any other question? Senator Kolowski.

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KOLOWSKI: Thank you, Madam Chair. Jenni, thank you very much for being here today. Do you know how much we've lost in the last ten years? Can you just kind of go back to 2018 back-- or 2019 back to 2010 or so?

JENNI BENSON: I don't have the exact numbers. I just know it's-- it's shrunk as far as services go. But I also know, as a special ed teacher, that the amount of needs have increased a great deal.

KOLOWSKI: Um-hum.

JENNI BENSON: And as I travel the state, I hear a lot of superintendents and districts talking. Your average teacher doesn't really know about all of the-- where the funding is coming from. They know what the services their students need and how those services are affected by not having the budget to do that. And within those school districts, they have to find it somewhere to provide those resources. And unfortunately, it comes out of the general fund then.

KOLOWSKI: Absolutely. Thank you.

WALZ: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for coming, Ms. Benson. Can you describe some of the, and maybe you did a little bit, just some of those services that come through those dollars?

JENNI BENSON: Sure. So I've taught special ed, and I-- many years I taught, being in a religious order, students who had some severe behavior, in like a self-contained classroom. Through the years, those self-contained classrooms have gone away because they were more expensive to run a self-contained classroom. Then I became a teacher that had maybe seven kids with behavioral disorders on my caseload and twenty other kids that had a wide variety, autism, multiple disabilities, speech language impairments, learning disabilities, all within the same structure of my caseload. And so when you're going out-- when I go out this week, I'm reading in seven schools across Nebraska. Tomorrow, I'm going to Alliance. And I can go into classrooms, and I know the struggles that some of the students are having in their classrooms. And it can be from a child who may be developmentally-delayed in a kindergarten classroom to a kid, at the Career Academy where I taught, who may be really struggling with reading at a-- as a senior in high school taking college classes. Does that help?

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PANSING BROOKS: Yes, I'm interested in-- do some of these dollars go to training teachers?

JENNI BENSON: I would hope that the dollars go to the overall. I know we get the federal funding. I'm not sure. I tried to look that up too to see where we are right now. You know, when IDEA was passed, they promised about 45 percent funding. And that was back with Senator Hagel at the time, right? And the last I heard, it was at 18 percent, but I could be-- yeah, totally different. So-- so that-- all of those dollars should go into training, into services, into all of the things that have to do with special education. But I mean if you have a student who receives not only a resource teacher as myself, but they receive speech language. They may receive OT, PT. They may receive visual impair-- you know, whatever. They may have a one-on-one para. Those children then receive a great deal of-- and cost a great deal more as far as per student goes.

PANSING BROOKS: I'm try-- so now I'm trying to weigh in training for teachers, you know, making sure that kids are safe, looking at some of the not-so-perfect, in fact, not-good-at-all statistics across the state about arrests of special needs kids. How does this all relate? I know it does all relate.

JENNI BENSON: It all relates because for myself, I taught seven-- seven years in Texas and I've taught the rest of my career here in Lincoln. And so through the years, we were able to go to different conferences for exactly those kind of things. You know, if you were working with kids with behavioral disorders-- or I got certified, then, as a behavioral specialist through what would have been similar to an ESU in Texas. Those kind of programs are fewer and far between because the dollars have to stretch a lot farther. So for me to go to my school district and say, you know, can I go to a conference for five days that's going to provide me with this training, there's just not the funding that there used to be. And for NSEA, we're trying to help with some of that training, with some of that professional development because it really has changed. And if you look at the federal dollars then and you look at the Department of Ed, those are exactly like a Title 20 program that was supposed to be designed for teacher training. Those are the programs that are getting cut at the federal level as well.

PANSING BROOKS: So-- so the kids are being placed in mainstream classes generally, right?

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JENNI BENSON: Inclusion classes, yes.

PANSING BROOKS: Yes. And so it seems to me that the training should go to all teachers not just the special ed teachers. Is that the long-term goal, or do you know how that is-- how that all works out within funding if we funded the whole thing?

JENNI BENSON: Well, if we look at-- we talked about-- the last time I was here, we were talking about what does the in-service days look like, right? We have so many in-service days within the school district. Typically those in-service days look like we are getting a new reading curriculum. We're getting a new social studies curriculum. We're getting-- you know, this-- that kind of stuff. So those aren't trainings. Those are in-services for a specific curriculum. And so the actual training part becomes-- even when we were talking-- and that might have been a different-- and maybe that was judicial. I don't remember. But oh, MAT training, did we talk about that here?

WALZ: Um-hum.

JENNI BENSON: Or did we talk about-- so MAT training, I, then, had to miss three days of school. I would go to take MAT training as a special ed teacher. But then, you had to have someone else trained in the building as well, in every school-- every school building so that you would get that. So you would have to go to that three-day training and then you would go every year for two days to be recertified. That-- when you have 70 buildings like Lincoln does, that's a lot of folks going to those trainings. But it's still-- I was taught at MAT-- see, we had 1,000 kids and we had two people who were MAT-certified at that building.

PANSING BROOKS: Can you remind-- I don't remember what MAT-certified is.

JENNI BENSON: So that would be the de-escalation and physical intervention if needed training. So most of it was about de-escalation. But then it was also how to transport a kid from one room to another in the safest possible way so that they could be out of a situation, but that you were-- you were moving them in a way that was physically better for the student and for the teacher.

PANSING BROOKS: So if all teacher-- if we did-- it was inclusive. What is the word that you used?

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JENNI BENSON: Inclusive.

PANSING BROOKS: What?

JENNI BENSON: Yeah.

PANSING BROOKS: Sorry. Inclusive?

JENNI BENSON: Um-hum. So inclusion is what we call it.

PANSING BROOKS: OK. If that is the law, right?

JENNI BENSON: Right.

PANSING BROOKS: It's the law. Then why aren't all teachers being taught this? Because it seems to me that-- that de-escalation and--

JENNI BENSON: The law says that children should be placed in the least restrictive environment. That doesn't necessarily mean the classroom. Unfortunately sometimes, because the resources aren't available, it becomes the classroom because there isn't another-- a different setting because of the services and because of the resources that aren't there.

PANSING BROOKS: Thank you for all your input. Thank you.

WALZ: Other questions? Thank you.

JENNI BENSON: Thank you.

WALZ: Next proponent?

RICHARD HASTY: Vice Chair Walz and distinguished senators, thank you for your time. My name is Richard Hasty, R-i-c-h-a-r-d H-a-s-t-y. I'm the superintendent and special ed director for the Plattsmouth Community Schools. And I'm here on behalf of our school district but also a group called Schools Taking Action for Nebraska Children's Education. It includes approximately 20 schools that serve about 30,000 students. Within the scope of our school representation, we have equalized and nonequalized school districts. So that's one unique thing about our organization, and we're mostly mid-sized schools, mostly B, a few C schools. So I do have a fairly lengthy testimony. I don't plan to read the whole thing, but I do want to hit some key points. And then I'm anticipating there might be some questions. So I just wanted to say that I've been an educator in special ed for over

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20 years. Again, I'm the superintendent but I'm still serving in the special ed director role, particularly for students 5th through 12-plus. But I also assist when our early childhood director is not available. As an educator for 20 years, I can assure you that we have educators in our state and throughout the nation that strive to provide a free and appropriate education for all students regardless of disabilities. The stark reality is that, with the lack of 100 percent funding for this mandate, public school districts must utilize general fund revenues to fund much of the excess costs related to special education. Therefore, our STANCE group is respectfully asking that you support LB346. It provides a stair-step approach to gradually increase the state's monetary commitment to our students that have verified disabilities. It's a viable avenue to show that funding for students with disabilities is an increasing priority within the state of Nebraska. Since virtually all public school districts, as was mentioned prior-- prior to-- in another testimony, all school districts are likely to benefit from a high rate of special ed reimbursement due to increased special ed funding that could have an inverse effect on property taxes in districts, particularly those with low tax levies. Ultimately some districts might be able to implement property tax relief, as was mentioned already, in their local community due to increased special education funding. So I think I'll stop there with the hope that you'll read the letter in its entirety.

WALZ: Thank you. Questions? I have a question. Do you-- do you know offhand what your special education budget is?

RICHARD HASTY: Exactly. It's about \$3 million, but I actually brought that. So for '18-'19, it's \$3,049,689. So for us, reimbursement, it's 51-- approximately 50 percent. So 10 percent increase, as recommended by Senator Wishart, for the next two school years, would be approximately \$300,000 per year. That's-- again, this is specific to Plattsmouth.

WALZ: Sure.

RICHARD HASTY: But obviously other districts are going to be impacted depending on the rate of their special education. We're at 18 percent. The state average for the previous school year, if you look at the Nation-- Nebraska Education Profile for '17-'18, it's 15 percent is the state average, so about \$300,000 a year for our district, obviously other districts, depending on their percentage of special education. That doesn't necessarily give you a clear picture because

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within the scope of that percentage, they could have a lot of students with very high needs.

WALZ: Um-hum.

RICHARD HASTY: Verification is the verification percentage where you really have to drill down and look at the individual students and the needs of the students that are within that percentage whatever that percentage is.

WALZ: Right. So that's \$300,000 per year of property tax relief?

RICHARD HASTY: Could be, for school districts that-- that, you know, have-- have a levy. We're, ironically, we're at \$1.049. Given our situation in Plattsburgh, we have a poverty rate, district wide, just over 40, about 42 percent. So we're kind of in a unique situation. We have a lot of other needs, mental health needs, which could tie into kind of some of the questions that were brought up earlier in training that we have going on for staff. If I might, I'm going to digress a little bit to that question about district-wide training. We actually are district opening at the beginning of the year. Most of you probably know districts have openings. Speakers come in. One of our speakers happened to be Gallup on Clifton Strengths and culture and climate. But the other one was from Project Harmony out of Omaha for ACES, adverse childhood experiences, and educating staff on trauma-informed schools. So that kind of goes back to that question of what-- what does it look like districtwide? If we're supposed to be inclusive, why is everybody not getting the training? In this particular case, they have. And actually they're having follow-up throughout the year, so it's not a one-shot training on trauma-informed schools, and then, OK, go do this. We're having specific follow-up training at the buildings. And I can tell you, I don't think that's unique to Plattsburgh. I think districts across the entire state, east to west, rural, urban, large, small, are doing things similarly, maybe on different topics, whatever is of high need in their district. And that happens to be one in ours and that's why we're doing it.

WALZ: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for being here, Dr. Hasty. I was-- so along those lines, what do you think are the best solutions for dealing with these kids that-- I mean, the statistics that we've received on a couple of bills in Judiciary show that the special needs

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kids are getting arrested at a much higher rate than their proportional-- than their demographic in the schools. What's your answer to that? What's the solution? What's going wrong? I'd like your take.

RICHARD HASTY: I have ideas. I think it's-- it can be applicable to general education also. I know you're talking that it's higher in special ed. I think we need to try to help students in whatever way possible. The students that are having the challenges don't appear to be real connected to the schools. So what can we do to improve them feeling like there's hope for the future and getting them connected to schools? Another item, I happen to be a Gallup-certified strengths coach, so I really believe that getting on the front end of that-- we're actually rolling it out with our staff, and the next step is with students to try to help students understand where their strengths lie because everybody has strengths. But what Gallup does, it helps frame it within 34 signature themes, so there's a common language, common vocabulary. So if you knew what your strengths were with Gallup, we could have conversations of what that looks like if you knew about students. Everybody can have consistent conversations, help students focus on their strengths, look at their career or whatever their next environment is. If they're going from elementary to middle school, middle school to high school, high school to post-secondary, what is that next environment? How can we connect them? And I think focusing on or identifying strengths in a consistent vocabulary and language on the front end is one way to help alleviate students trying to pursue other paths that they believe are going to make them feel more included in whatever behavior they're engaging in.

PANSING BROOKS: OK. So the way to help arrests is to give them the strength-finder test and validate who they are. What about on the other side, the fact that-- that I think teachers aren't getting the training that they need or the support necessarily?

RICHARD HASTY: So that's one thing I'm doing right now with the Gallup strengths training. We've actually had a culture and environment survey, but I've actually trained all-- or about 150 teachers in our school district this school year on the strengths-finder assessment. So they can better understand themselves and one another and have those conversations. So then they can, in turn, support all of the students, special ed and general ed, with understanding their strengths and how they can effectively apply them and utilize them because I'm guessing a lot of the students-- and I really believe

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this. I'm kind of getting on the CliftonStrengths kick here. I truly believe if everybody in the world knew what their strengths are and people highlighted them consistently, we would have a lot less crime. I'm not going to say that there aren't some children or adults that have some mental issues, that it might not impact them as well. But I think we would see a lot less arrests in crime because they feel more connected. They feel hope, engagement. The other piece of it is well-being, I really believe, if we did that on a consistent basis-- and actually, the state of Rhode Island is actually doing that statewide. So I think that is something that could be productive on the front end to try to address it. And then those that are getting arrested if they are in jail or wherever they might be, trying to find out-- OK, and in some cases they may have had people focus on their strengths. But this is an assumption that most of them probably have not. So I don't know if that quite answered your question or not.

PANSING BROOKS: Well, I'm glad some way that we're looking at it. That seems down the road. But being somebody that has one of the strengths being will, I'm really excited about that. I do hope to have that on my tombstone.

RICHARD HASTY: OK. Well, and I think it's working from what I can tell with the conversation here, winning others over so.

WALZ: Other questions? Senator Kolowski.

KOLOWSKI: Dr. Hasty, thank you very much for your-- your work and-- and what you've explained today as far as the product-- the progress you're making in your district. We have great needs in the schools. And my own 41 years in public education and 15-- the last 15 years as a high school principal in Millard, we-- I had the most handicapped-- severely handicapped kids in the district in my building at Millard West High School. They're very special kids. They were wonderful kids to have. And all of our kids reached out to those kids from the very first day because we worked to make that happen. Those things are hard to come by. And it's hard to get that perfect climate in your building that makes those things available. But we find your district up against the levy lid. LPS was the same way. Papillion-La Vista was the same way. Millard Public Schools was the same way. And all those districts ended up overriding, going to a public vote, to get more additional funds to be able to do the things they needed to do for all kids, not just the handicapped kids. And that's the world that we're living in right now where we're up against the wall, don't know where else to go, but we have to go to the public and make that happen.

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Compared to having-- compared to 50 percent reimbursement and 80 percent reimbursement on special ed, that is very-- those are very expensive programs. And you described some of those. And I've also been trained in the strength-- strength-trainers area. And those are-- those are very, very good programs. But we have to realize the challenge that we have in public education, that we're up against the wall in many of these cases, and we're trying to get the very best programs for our kids. At the same time, our needs keep going up. Our funding is not matching those things as far as the chances that we have to make a difference with those kids. But I want to thank you for that.

RICHARD HASTY: Thank you. And a couple of things there. You mentioned the \$1.05 levy. I believe we have a school district that's in STANCE that is 40 cents or below on their levy. So they've got rural farmers concerned about the property tax levy. This benefits all school districts across the board. I know that, at times, there's a division of urban, rural, large, small, equalized, nonequalized. I think this is one bill that would help satisfy needs of all districts. And I want to give you one more example, kind of related to what you're talking about with the very high needs.

KOLOWSKI: Um-hum.

RICHARD HASTY: Districts-- and this isn't unique to Plattsmouth, I'm just giving you an example. Student moved in this school year, needed to be transported from their house, needed a nurse present on that transportation because of their high-level needs. The nurse had to be with them throughout the school day in addition to our teacher and our para support that we had to have for the student. So you can imagine what that looked like. I don't recall the exact number. I believe it was at least \$50,000 it was going to cost us, if not more, for the school year. And there are stories across the state you can hear about that and what that looks like. And those are unplanned expenses because you don't anticipate people moving in. And with the budgets being tight, you can't really allocate additional funding in anticipation of if you're stuck with the lid and the cap and everything else that goes along with it. So there is all those unexpected costs. So that's why I really appreciate the bill and the opportunities that it creates for all districts across the state of Nebraska. It's one way to bring people together and really show an increased priority for the state of Nebraska, for students that have disabilities but then hopefully impacting all.

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KOLOWSKI: Thank you for your work.

RICHARD HASTY: Thank you.

WALZ: Any other questions? I just had a comment real quick. I'm glad that you said that you felt this was the most fair, across Nebraska, property tax relief, I guess, because as we traveled across Nebraska, every single superintendent--

RICHARD HASTY: Um-hum.

WALZ: --said the same thing. They thought that this was the most fair way to provide property tax relief to people in their communities, so I'm glad that you had mentioned that.

RICHARD HASTY: Thank you.

WALZ: Any other questions? Thank you so much for your testimony today.

RICHARD HASTY: Appreciate it. Thank you for your time.

WALZ: Next proponent?

KAMI JESSOP: Good afternoon, members of the committee. My name is Kami Jessop, K-a-m-i J-e-s-s-o-p. I currently serve as the director of special services for Westside Community Schools from Omaha. And I'm here to testify in support of LB346 representing the Nebraska Association of Special Education Supervisors and-- as well as the Nebraska Council for School Administrators as the legislative representative. First, I would like to commend Senator Wishart for recognizing the need for and the benefit that LB346 would have for school districts. And I want to use my time today specifically to focus on a few key things that demonstrate the importance of the increased reimbursement for special education expenditures. Increasing reimbursement, as some of my colleagues have shared, for special education services is truly a win for all students. I think in support of many of the points that each of you have made this afternoon, as a special education administrator, I'm required to ensure that the needs of all children with disabilities are met. That's something that I'm proud to do. It's the right thing to do, but it's also the law. So as directors, we do our best, as Dr. Hasty shared. We do our best to establish a budget prior to the start of the school year, yet the needs of a single child, even within Westside Community Schools and metro-area district, the needs of a single child who come into the district that are significantly involved put a strain on the budget

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that we've set forth for that school year. And we can give you lots of examples of what that looks like. I will mention one of the cases that we have recently been challenged with. We have students that move into the district or that present with significant behavioral concerns and that have a number of challenges. As a school district. We have phenomenal special educators that are tasked with addressing the mental and behavioral health needs of these learners. But once we exhaust all of our in-house options and we try our darndest to make sure that we're providing a free, appropriate, public education for these children, we sometimes are obligated to rely on outside agency supports. For particular children with significant physical aggression or behaviors, we are relying, then, on outside agency support. They're charging us \$200 an hour to provide this type of very necessary support for our learners. So in providing an education for this one child, I'm spending over \$200,000 a year on a-- on a particular student. And that, when you are-- whether you are planning for that or not in your budget, puts a significant strain. I will go on to say that it's important to know that while we provide what students need, when we exceed our budget, we do so at an impact for all of our learners. It's not just the special education. While this is a special education specific bill, it is not-- that's not where it stops, I guess. It's-- it's not that the special education budget is reduced, it's the general fund budget that's impacted. So my fear is that while I appropriate funds in accordance with the student's IEP, or their individualized education program, it's the other students, the general education students, that are required to sacrifice as a result of not having appropriate reimbursements. In closing, you know, I know there have been some concerns around will this change the number of students that a school district determines are eligible. And that is certainly not a priority of ours or a concern that will happen. There are specific processes and procedures in place that help school districts determine whether or not a child needs or warrants specialized instruction and special education services. We truly believe that this bill not only helps districts recoup the funds that they spend, but it also helps to safeguard the education of all of our students across the state. And I do have a handout that, I should have done this before, I'd like to just leave with you: an infographic that shares with you just some of the funding over the course of the last several years, I think, Senator Kolowski, to your point about how things have changed and the increased need in terms of the students that we're serving in our school districts. So thank you.

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WALZ: Thank you so much. Questions? Senator Linehan.

LINEHAN: Thank you, Vice Chairwoman Walz. Thank you very much for being here, Ms. Jessop.

KAMI JESSOP: Um-hum.

LINEHAN: Do you have-- OK, on the list that-- I Googled the list, too--

KAMI JESSOP: Yeah.

LINEHAN: --that Ms. Benson had, but it didn't have really any learning disabilities there. I thought-- so what are the learning disabilities you're finding?

KAMI JESSOP: Um-hum.

LINEHAN: Just--can you name some learning disabilities?

KAMI JESSOP: Sure. Well, I think to answer your question, there-- in the 13 disability categories that you Googled that are contained within Rule 51, specific learning disability, the disability category of SLD, that's where the learning disabilities that a student would present with in the classroom, that's where they would be eligible to receive special education. That's typically the eligibility category they would fall under. So if they had a learning disability in the area of reading, if they had a learning disability in the area of math, writing, those type of things would fall under the category of SLD.

LINEHAN: So you see a student struggling. It doesn't make sense. What's the procedure now?

KAMI JESSOP: Um-hum.

LINEHAN: I know what the procedure was 25 years ago--

KAMI JESSOP: Sure.

LINEHAN: --but what is the procedure now?

KAMI JESSOP: You see a student struggling. Our goal is to start with prevention efforts to make sure that we have strong core-- strong programming for all learners that step into the public schools today. That's a priority of all of our school districts. It's our-- also our

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responsibility to provide screening along the way, to check in with children, so hopefully we notice they're struggling long before it is significantly impacting their education. Once we identify a child that is in need of something different or in need of intervention, then that's the first step that we take. We work directly with parents and with our educational team to provide those interventions so whether that's a small group intervention, whether that's an individualized intervention for children. And then we want to give that a chance to work because we don't want to inadvertently label a child or identify them as having a disability if perhaps they just needed a little additional remediation or intervention. So it's the intervention--

LINEHAN: So that's your pyramid.

KAMI JESSOP: Yep. That's our pyramid--

LINEHAN: OK.

KAMI JESSOP: --provide intervention. And then, if after a period of time that's not working or that's not closing the gap at the right pace or at a fast enough pace, then we would look at taking the next step into, potentially, the world of special education, specialized instruction, or eligibility for something like that.

LINEHAN: So a third of your first graders are struggling with reading, and you test them. And you decide that two-thirds of that third just need extra help?

KAMI JESSOP: Um-hum.

LINEHAN: They don't go into the-- that's not special ed?

KAMI JESSOP: It doesn't-- No. No, if a third of your read-- if a third of your kindergarten class is struggling in the area of reading, I would like to go back and look at how we're delivering curriculum instruction to that population. I would want to make sure that we're doing our due diligence as educators to be providing-- guaranteeing viable curriculum, make sure that our instructional methodology is appropriate because that's a lot of kids who would potentially need intervention. But we wouldn't directly route them to special ed. We would make sure that we're giving them what they need or intervening with them and that we're trying to close that gap. If it doesn't work, then that's when we would pursue, potentially, down the road, special ed.

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LINEHAN: Do you know, offhand, it's OK if you don't, what Westside's percentage of special ed is?

KAMI JESSOP: About 15.

LINEHAN: OK. Thank you very much for being here.

KAMI JESSOP: Um-hum.

WALZ: Any other questions? Senator Kolowski.

KOLOWSKI: Thank you, Madam Chairman. Just another-- another thought on the-- the aspects of parents looking for instruction in special education. And we had this happen in Millard more times than ever. They would look at a program and decide to move into the district because of that program.

KAMI JESSOP: Um-hum.

KOLOWSKI: And so you get the multiple effect of you're doing what's right, you're doing the good work, and that multiplies the number of kids you've got.

KAMI JESSOP: That's true.

KOLOWSKI: And that-- while you're having a decreased budget, at the same time, puts you on a double hammer.

KAMI JESSOP: Um-hum.

KOLOWSKI: You have no idea the impact that has on your district and the amount of money that you have to find-- to come up with to-- to meet those kids' needs.

KAMI JESSOP: That is absolutely a challenge, and Westside is unique in the fact that we have ambassador residential pediatric nursing facility in our district. So children who live residentially within that program come into schools, in Westside Community Schools.

KOLOWSKI: Right.

KAMI JESSOP: But in order for them to come to school and receive their education, to Dr. Hasty's point, they're-- we're required to provide a nurse with them full time. So you know, we're spending half a million dollars just on the nurses that are-- that are responsible to go to and from school and spend the day with them. So it's those type of

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things that you might not have been accounting for, and even if you are accounting for, it's a significant share of your budget.

KOLOWSKI: Thank you.

KAMI JESSOP: Thanks.

WALZ: Any other questions? Thank you so much.

KAMI JESSOP: Thanks.

WALZ: Next proponent?

DANIEL BOMBECK: Senator Walz, members of the Education Committee, thank you for having me here, and thank you for the work you're doing with education. My name is Daniel Bombeck, D-a-n-i-e-l B-o-m-b-e-c-k. I'm here representing Educational Service Unit 2 and its 16 member districts, as well as Nebraska Association of School Education Supervisors, and as a legislative representative for Nebraska Council of School Administrators. We've talked a little bit about the different verification areas. There's 13 verification areas that school districts are required to provide services for under our Rule 51 state special education rule for Nebraska. And many of these verification categories have several subcategories, each of them requiring a little bit of a unique way of serving students and providing those services that-- that require specialized instruction of some sort. Many of the rural districts that I-- I represent, they have-- they serve the districts with the more high incident SLD, SLI. They do a great job with those, and they have those budgeted. And they have those pieces which, when we get into those lower-incident rates, autism, for example, other health-impaired which is an umbrella category that could mean a lot of different things, those are areas that many of the rural districts that I represent, they may have a student, every so often, that they have to provide services. But those students require an inordinate amount of their budget. And we're talking about a small budget to begin with. As an example, I have a district that I serve. They were serving a district-- a student with other health impairment, wheelchair-bound, required nursing. They couldn't provide the programming within their school, similar to some of the stories you've heard today. When it was all said and done, at the end of the year when we did our final financials for that district, they were looking at close to a \$100,000 price tag to provide services for that student. As you can see, I mean that-- that is a significant amount of money for a small district to provide. When

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we look at many of the other pieces, hearing impairments, we're-- we're asking districts that don't have those particular specialties within them to contract out to-- and the issue is relatively fortunate to be located near the metro area and Lincoln area. So they can contract out some of the services to come out and provide those pieces. And when you get into western Nebraska and further out, many of those services are a little harder to come by. The educational service units do what they can to provide those services to the districts, but of course, when we look at special education and those particular areas, they're not required under law to be provided through ESUs. So we are a contract-based service. If a district isn't calling for that or a number of districts isn't calling for that, that's a service we don't necessarily provide. So those are some of the pieces that some of our small districts are trying to work with within their budgets. Overall, the pieces that we talked about today so far, the 80 percent reimbursement would help alleviate some of the districts' burdens on their-- their general budget as well as-- as well as their rural property taxpayers which is one of the areas that I know that we're very concerned at-- with on the legislative side. And with that, I'll conclude my testimony.

WALZ: Thank you so much. Questions? Senator Murman.

MURMAN: Thanks for coming in. I don't so much have a question. I've got more of a comment. I've got a disabled daughter, and she always got all the services through the school district, I mean, from pre-K all the way through age 21. She's 31 now. But Nebraska, as a state, always did a really good job with her. And I just want to thank everyone here that had-- has a part of that. And I do realize also that these services do quite often fall back on property taxpayers in this state, so-- so I just want to say thank you to everyone.

DANIEL BOMBECK: Thank you for your recognition of those individuals that are helping me as--

MURMAN: She was part of that at that time also.

WALZ: Yeah. Thank you.

DANIEL BOMBECK: Thanks.

WALZ: Next proponent?

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EDISON McDONALD: Hello, my name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d. And I'm the executive director for the Arc of Nebraska. We're a nonprofit advocating for people with integrated and developmental disabilities. We support LB346 because we believe that it will help to ensure that special education programs are properly funded. Special education funding, I think, is difficult. I think in particular, it's especially difficult in rural communities. One of our largest call increases that we've seen over the last couple of years has been from rural schools that are under-resourced. While we are able to walk many through some of the basic issues, a lot of things seem to come down simply to funding. Ensuring proper funding for these rural communities would be vital to supporting fully equal education. On a larger level, several studies have found several similar issues. Many rural schools operate with a more restricted budget because of a lower tax base in these areas, according to a 2008 study. And according to a 2009 study by Hodge and Krumm, limited operating budgets in rural schools present additional challenges for rural special education teachers. Teachers may need to do-- may need to make do with fewer materials and resources due to budget constraints. Rural schools may struggle to provide the specialized services required by individual-- individualized programs. And I would just say, as the Legislature continues to discuss property tax relief, I would highly encourage you to consider the role of special education funding in decreasing the reliance on property tax. Otherwise, rural students lose out. If this bill does not independently find its way to the floor, I would consider-- I would encourage you to consider adding it into any of the property tax deals coming to the floor. Thank you. Any questions?

WALZ: Any questions? Thank you. Next proponent?

TAMMY VOISIN: Good afternoon. My name is Tammy Voisin, T-a-m-m-y V-o-i-s-i-n, and I'm representing Nebraska Association of Special Education Supervisors. I am currently in my role as a special education director in Papillion-La Vista Community Schools, and I'm testifying in support of LB346. Increased state reimbursement up to 80 percent would help with the actual costs incurred by local school districts and provide equitable education spending across the entire state of Nebraska. I agree with many of the points that are already made today. One thing that I would like to point out is just some personal experiences in the district. Currently I am responsible for operating a budget of about \$21 million in special education in our district. We're a class A school district. And we do-- we talked about

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a little bit of federal funding. We get about \$2.5 million in IDEA federal funding, and that federal funding is mostly used to help with students with disabilities aged birth to five because there is not reimbursement for those very young children. And we believe strongly in early education and early intervention to catch those students at a very early age in order to support them at that level so that it pays dividends, so that we're not supporting them when they're young adults that are really struggling with-- with a disability. We also have transportation costs of a little over \$1 million as we transport students that are not able to get to and from school like their same age peers. To-- to share some personal experiences, I do believe that it does impact all students. When I sit at our school board meetings and I listen to them trying to reallocate dollars across the school district, they usually don't talk about cutting special education costs. Those students come to us with very specific plans, or we're devising very specific plans to meet their needs. And we aren't cutting those costs or thinking what can this student do without. It's in their-- their education plan that that team puts together. And we must serve the needs of those students. So they're looking at other programs like the arts, or gifted education, reasonable class sizes, or alternative career pathways. So it really does impact all students and the dollars that go to all students. I could share very similar stories. Being in a class A school district, we have many students that come to us across the metro area for some of our inclusive school practices in our district. And many of them do have needs that can be met in the general education classroom, but that comes with a staff with them. At times, it's nurses or interpreters. We are a public school, and we take all students that come through our doors and meets their needs. And it's our privilege to do so. So this bill, again, not only helps districts recoup the funds they spend, but it does help safeguard the education for all students across the state. So I thank you for your time and your service to our great state.

WALZ: Thank you. Questions? Senator Linehan.

LINEHAN: Thank you, Senator Walz. Are you saying you take opt-in kids with IEPs?

TAMMY VOISIN: Yes. We take-- there's the option-in process and if a student has a disability, they can apply to opt-in to our school district like any other student.

LINEHAN: But you take them?

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TAMMY VOISIN: The-- it's gone through the application process just similar to any other student, and if that student is accepted, then, yes, we will educate them just like any other student.

LINEHAN: I'd be interested in how many kids you let opt-in that have an IEP.

TAMMY VOISIN: I don't have that information in front of me now.

LINEHAN: OK. That'd just be one question.

TAMMY VOISIN: OK.

LINEHAN: So on the birth-to-5 federal funding, is that all the federal funding you get or do you get federal funding from 5 to 18 too?

TAMMY VOISIN: I manage the federal funding from the IDEA federal funding for special education purposes. So that about \$2.5 million is the portion that we receive in special education--

LINEHAN: That's all you get?

TAMMY VOISIN: --that I-- that I work with in my budget.

LINEHAN: OK. But you don't know if that's all Papillion-- Papillion and La Vista gets?

TAMMY VOISIN: I am not aware of what-- in some of the other areas. I know there's federal funding in some of the other areas, but it's not earmarked for special education.

LINEHAN: So you're \$21 million, that includes the preschool?

TAMMY VOISIN: Yeah. Yes. The birth.

LINEHAN: And that's your whole budget for special ed?

TAMMY VOISIN: Birth-- to serve students birth to test your students birth through the school year in which they turn 21. Yes.

LINEHAN: OK. That's the whole cost.

TAMMY VOISIN: Yes. I mean including staffing, salaries, and benefits, which is a great percentage of that, but it's all inclusive.

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LINEHAN: OK. Thank you very much for being here.

WALZ: Any other questions? Thank you.

BRIAN HALSTEAD: Good afternoon, Senator Walz, members of the Education Committee. For the record, my name is Brian Halstead, B-r-i-a-n H-a-l-s-t-e-a-d. I'm with the Nebraska Department of Education. I'm here to support LB346. The State Board of Education officially took a position supporting this. What I'd like to do because you've heard from all of the people who work in special education-- I know the Commissioner of Education sent all of you a personal e-mail the last week of January as he was going to D.C. to do lobbying about the special ed, a topic that we have before you today. And he provided you with information that, based upon the 2017-18 school year AFR data, total special education costs for the state of Nebraska were \$550 million. IDEA, the federal funding we receive from the U.S. government, came out at \$70 million or 12.73 percent. State reimbursement, the dollars that this bill talks about, was \$214 million which is 38.91 percent which left \$266 million or over 48 percent of the rest of the cost of special education being paid for out of other sources by the local school districts, whether that be from property taxes, TEEOSA aid, apportionment aid, any other funding sources that they had. So the state board and the department support the bill, recognizing this is not an easy solution to a problem that's been ongoing for years. So I'll stop there, and I'll take any questions.

WALZ: Questions? Senator Linehan.

LINEHAN: Has the State Board of Education been in contact with any of our congressional delegation to increase the federal amount of funding because it's been flat for a while?

BRIAN HALSTEAD: Actually the commissioner, when he was in D.C. the last week in January, actually had a meeting with Senator Fischer's office in D.C. So that was helpful. And I know you're well aware the department came to the Senator Hagel's office numerous times in the early part of this century and Senator--

LINEHAN: Because at one time we were at 20 percent.

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BRIAN HALSTEAD: That's exactly right and we appreciated the great support that Senator Hagel and others in the Senate had in that time. It has, however, not kept pace and gone the other direction.

LINEHAN: So I wrote a bunch of questions over these-- how many of the kids are the high-- how many of the students are the high category, \$100,000 to \$200,000-- \$50,000? Could we get a breakdown?

BRIAN HALSTEAD: I am sure we can get your data on the kids by--

LINEHAN: get the high-- because if you get 20 percent or 15 percent or 5 percent of high-- high needs. They're very expensive like, as the one gentleman from Plattsmouth said, messes up the rest of your whole budget. So that would be good. And then does our-- what the federal-- does our Rule 51-- I'm not a lawyer, so I might not be asking this right. But you're a good lawyer, so you can figure it out. Rule 51, does it might-- mirror the federal law. I mean what we're asking people to do, is it basically what the feds say, or do we add extra?

BRIAN HALSTEAD: Most of Rule 51, I would tell you, is reciting back federal law regulation in a state regulation. There are some things in Rule 51 that the state has chosen to do, whether the Legislature or the state board.

LINEHAN: OK. Could you get me those because when we hear about the mandates we're putting out on special ed, it's not-- most of them aren't coming from the Legislature or the State Department of Education, they're coming from the federal government, right?

BRIAN HALSTEAD: Yeah. I had one-- one I can think of right now. The federal law for students who are enrolled in a private school, not in the public school, federal law allowed you to decide whether you did free appropriate education or equitable services which is less than FAPE. The state board chose, we're doing FAPE for all the kids in Nebraska. So that was a choice the board made. If we did equitable services, then we--

LINEHAN: Would have saved money.

BRIAN HALSTEAD: Well, but the state board looked at, if we're really here to serve all kids, shouldn't we serve all the kids?

LINEHAN: Then, the last question I think, how-- so this is from the STANCE note. And it says, for example, the Department of Education approves service provider rates for typical services, speech therapy,

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I get that. But physical therapy or occupational therapy, isn't that medical cost?

BRIAN HALSTEAD: It is--

LINEHAN: I'm wondering, because is there-- is there a debate between HHS and the Department of Education, who should pay some of this bill?

BRIAN HALSTEAD: So physical therapy and occupational therapy are both practices in Nebraska that are regulated by the Department of Health and Human Services. We at the department have no say on that. Students may need those services in order to get their education, so and when we work to calculate what is the rate at which we will reimburse for OT or PT services, I'll check to see whether we do some consultation with DHHS on that. We may also just be looking at what all of the private vendors and public vendors say it costs and trying to calculate that rate based upon the amount of people the school district-- but I'll get you the details on how we go about setting the rate.

LINEHAN: Because if the students are on CHIP, it should be covered through their insurance, I would think, if it's medical. Anyway, I'm just-- would like to look at--

BRIAN HALSTEAD: Right. And there is-- and as-- if you don't remember, in 2014 the Legislature directed the Department of Health and Human Services to submit a new Medicaid plan to expand the services that students in school districts in special ed could access Medicaid funding to pay for those services instead of those special ed dollars. DHHS has completed that work. And this past December was the first time DHHS paid school districts using Medicaid funds for the students and the costs for those that qualified for Medicaid funding. So yes, there is a use of Medicaid funding for those students when you can show the services meet the Medicaid requirements for those people to get reimbursed. And there is an offset that we have to do every year because what is used in Medicaid, we then send special ed state dollars to DHHS to pay for the early intervention services, coordination services, to provide to families who are not Medicaid-eligible at that level. So there is a balancing act that goes on all the time, and even the state budget director is the one that has to certify that dollar amount. So we are working always with DHHS on trying to utilize all funding sources possible.

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LINEHAN: OK. Thank you very much as always. Very helpful. Oh, one more thing. Sorry. ESUs are not required to provide special ed services?

BRIAN HALSTEAD: They are a service agency. They can provide special ed services to school districts for children where it is more economically and capacity and all of that. There are several statutes under the ESUs in Article 12 of Chapter 79. One specifically said, they can, and they can get paid out of special ed funding. So yeah. [Section] 79-1231 I think speaks directly to ESUs being able to access funding for special education for providing the services to students from member school district.

LINEHAN: OK. Thank you.

BRIAN HALSTEAD: Sure.

LINEHAN: That is it. That's all the questions. Thank you.

WALZ: Thank you. Oh, Senator Murman. I'm sorry.

MURMAN: Well, I was just going to make one more comment. And this is kind of ancient history because our daughter, you know, would have been in in school from 27 years ago until 10 years ago. But at that time, the services we got through the school district in Nebraska-- I mean we went to international Rett Syndrome conferences, and the services we got in Nebraska were as good or better than almost any other state. So whatever you guys or anybody here had to do with that-- nobody here might've been involved. But that was quite a few years ago. But-- but I just want to say thanks a lot.

BRIAN HALSTEAD: Well, I'm glad we were able to serve

MURMAN: We really appreciate it, yeah.

WALZ: Welcome.

STEPHANIE SUMMERS: Thank you. Good afternoon. My name is Stephanie Summers, S-t-e-p-h-a-n-i-e S-u-m-m-e-r-s, and I am here to support LB346. And I'm representing the Davis-- David City Public School Board of Education. I am representing the Nebraska Association of School Boards and the Nebraska Rural Community Schools Association. So I'm wearing a couple hats today. What I'm handing out to you right now there is a letter from Jim [SIC] Moles, the president of NRCSA. I'm also handing out to you my testimony as well as some testimonials from some school board members on the NASB legislative board on how this

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bill would affect their particular districts as well as an informational packet on IDEA in the state of Nebraska in particular David City and rural schools in general. I also was on the Washington, D.C., advocacy trip at the end of January and was able to speak to our representatives at the federal level, trying to urge them to increase funding at that level as well. So that was something that I shared with them and I share it with you also just to help educate you on some of the things that we do in David City and some of the concerns for rural Nebraska. As you know, currently 15 percent of Nebraska students are receiving special education students-- or services. These are special education students enrolled in public and parochial schools across the state, ages birth to 21, who receive a wide variety of services, sometimes in their home, sometimes inside their school building, and sometimes, especially in rural communities, outside of their home district and community at large. Increasing special education reimbursement for Nebraska's public schools will provide significant financial relief to districts large and small. This is a win for urban and rural districts alike across the entire state. Special education funds can be used for special education teacher salaries, special education paraprofessional salaries, transportation costs associated with transporting special education students to and from service locations, books, technology, supplies, all of which are specifically used only by special education students, and of course, the services provided by the outside agencies, and other costs related to providing the services to students on IEPs. Currently the state of Nebraska reimburses schools 50 percent. The remainder of those expenses shift to the local community where the school district is forced to dip into their general fund budgets, possibly raise property taxes, or cut other critical services or programs to make up for the shortfall. David City Public Schools currently serves 135 special education students. This is over 22 percent of our total population. For fiscal year 2018-19, we budgeted approximately \$2.8 million for special education. At the current reimbursement rate of 50 percent, our district will receive about 14-- \$1,400,000 reimbursed next year. If the state were to increase its reimbursement rate to 80 percent, our district would receive an additional-- additional \$840,000 in special education funds to provide the services that we are currently giving to students who deserve a quality education in their least restrictive environment. This is a significant amount. It's about 7 percent of our current budget. Administrators and school boards continually struggle to balance what's best for students, providing them with the most effective and consistent services and being physically-- fiscally responsible at the same time. Special-- special

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education isn't a program that can be cut when it gets too expensive. In fact, by law, schools must increase their special education budget by 5 percent each year. The federal IDEA law requires school districts to serve students ages 5 to 21, but the state of Nebraska has determined, rightly so, that we serve those students from birth to 21. With this statewide effort to provide quality education for students birth to 21 with disabilities, it would be appropriate for the state to help provide resources in which to provide a high-quality education for students with disabilities. I will take any questions you might have. With regard to budget, I know I did a lot of research for the advocacy trip to Washington, D.C. I don't know if I can answer all your questions, but I can sure try.

WALZ: Questions? I'm going to ask a question. So the next year just kind of hit me.

STEPHANIE SUMMERS: Yeah.

WALZ: So if you have a, I'm just going to throw a number out, \$1 million budgeted for special ed--

STEPHANIE SUMMERS: Um-hum.

WALZ: --this year, and you have now a student move into your district that's going to cost \$150,000 to serve, what-- what do you do?

STEPHANIE SUMMERS: You serve them.

WALZ: Yeah. Of course you do.

STEPHANIE SUMMERS: You-- you-- yes, you-- and you-- you find the money. You-- sometimes you might-- I mean I'm not a superintendent, and our superintendent's really great at our budget. You pull from-- you find ways to where you can-- maybe some books that you have bought for your special education students.

WALZ: Right.

STEPHANIE SUMMERS: You are now going to say, I'm going to take this money where I reserved it for this area over here, and I'm going to take it. I'm going to say, no longer can all students use these books, only our special education students can use those books so that we can have that money to help serve the student that has--

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WALZ: Right.

STEPHANIE SUMMERS: --just moved into our district. So you kind of reallocate and sometimes you're going to be cutting programs, cutting things that you-- you wish that you could have done later on because you also don't get any of that money until the following school year--

WALZ: Right.

STEPHANIE SUMMERS: --so it doesn't really help in the budget that you have currently.

WALZ: Yeah. That-- that just hit me when I saw that next year, so thank you.

STEPHANIE SUMMERS: Um- hum.

WALZ: Other questions? Thank you so much.

STEPHANIE SUMMERS: Thank you very much.

WALZ: Next proponent?

ANN HUNTER-PIRTLE: Good afternoon, Vice Chair Walz and members of the committee. My name is Ann Hunter-Pirtle, A-n-n H-u-n-t-e-r, hyphen, P-i-r-t-l-e. I'm the executive director of Stand for Schools which is a nonprofit dedicated to advancing public education in Nebraska. A lot of what I've said has-- or what I've written has already been covered so I'll be brief. Stand for Schools supports LB346 because it would require the state to shoulder its share of the responsibility to fund special education programs. The bill would benefit both urban and rural districts as well as equalized and nonequalized. It would enable schools to use local resources to meet other student needs and would lead to property tax relief. So for these reasons, we support the bill and urge you to advance it to the full Legislature for further discussion. Happy to take any questions.

WALZ: Questions? Thank you.

ANN HUNTER-PIRTLE: Thank you.

WALZ: Next proponent? Opponents? Anybody here neutral? OK. We have some letters from proponents: Beth Carl-- Cordry-Hookstra, the director of special education from Beatrice; Scott Larson of Lincoln; John Hanson of McCook, Nebraska; Peggy Romshek, special services

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director, North Platte; Todd Strom, superintendent, South Sioux City; Jack Moles, executive director, Nebraska Rural Community Schools Association; Jane Davis, superintendent, Hershey Public Schools; Richard Hasty, member, STANCE; Rich Patton of Carter Lake, Iowa and Teresa Matthews of Lincoln, Nebraska. Senator Wishart, would you like to close? Senator Wishart waives closing.

WISHART: Would you like me to close?

LINEHAN: I have a question.

WISHART: Sure.

WALZ: Oh, OK. She can get up here.

WISHART: Yeah.

LINEHAN: Well, I'm sorry--

WALZ: Senator Linehan.

LINEHAN: --because I'm looking at the fiscal note. Do you have it?

WISHART: Oh yeah, sure. It'll be--

LINEHAN: Because I mean I couldn't quite figure out the fiscal note. I think I've got it figured out because it's just 10 percent a year they go up. So it doesn't ever give us a grand total. But then if you look at the one the Fiscal Office did, not the Department of Ed, this is just something I think you need to-- we need to find an answer for. Special ed-- so on the page two of it, special education aid increases. And it goes across-- but then see where it goes, SPED as a local resource. So I don't know what the-- you know, we're saying it helps all equalize or unequalized. That would-- that would-- I would question if it-- and I'm not saying this is wrong or right. I just don't quite understand. Do you have an explanation for that? It's OK if you don't because it's a fiscal note thing. It's OK. That's OK.

WISHART: Yeah. You know, I do not understand TEEOSA as well as probably committee members do here, but I'm happy to-- to get you that information. So what you're asking from-- because I can talk to the Fiscal Office since I'm headed back in that direction. Your question is in regards to this "SPED as a Local Resource for TEEOSA" line on the fiscal note and just how they came to those numbers?

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LINEHAN: Well, I think the way it works, and Senator Groene might tell me I'm wrong which is fine because I might be, but if you get-- if you get more money in your equalize that go-- it reduces your equalization aid. So just so all the schools know what we're talking about here. That's where I think we need some clarification on the fiscal note because if it goes up \$248 million increase in special ed funding, but I think what this is saying it would reduce TEEOSA funding by \$109 million which would come from the equalized schools. So I'm not sure--

WISHART: In my-- from-- from talking with all of the school districts both urban, rural, equalized, nonequalized, my conversations with them is that this is one of the best vehicles for funding schools in a-- in a fair way.

LINEHAN: Sometimes--

WISHART: Huh?

LINEHAN: No. I just-- OK. I believe they said that. I just think somebody-- we need to figure out what this means here.

GROENE: Where's that?

WISHART: Yeah. Absolutely. I'm happy to dig into that with the Fiscal Office and-- and see how they got to those numbers and, again, make sure that all of the schools are comfortable with-- with this legislation because I do see this bill as-- it's the first time in my ten years working in the Legislature as a staff member and then as a senator where I truly feel like this could be a fair way for us to address property tax relief if we're really intentional about it on a local level, but then also, in some areas, to address the needs that schools have with really high-needs students.

LINEHAN: Right. Thank you very much.

WISHART: OK.

LINEHAN: We can figure it out later.

GROENE: Yeah. Thank you. Any other questions?

LINEHAN: Yeah. The Fiscal Office--

GROENE: Any other questions?

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WISHART: No.

GROENE: Thank you.

WISHART: Thank you.

GROENE: That closes the hearing on LB346. Go to LB165 by Senator Hunt. Is she here?

LINEHAN: Yes, right there. There she is.

HUNT: Hi there, everybody.

GROENE: Whenever you're ready.

HUNT: Thank you. Good afternoon, Senator Groene and members of the Education Committee. I'm Senator Megan Hunt, M-e-g-a-n H-u-n-t, and I represent District 8 in midtown Omaha. Today, I'm presenting LB165 with an amendment created in collaboration with various local organizations that serve Nebraska's students, including the Nebraska State Education Association, the Nebraska Council of School Administrators, and the Nebraska Association of School Boards. The amended bill would prohibit the expulsion of prekindergarten and kindergarten students except in limited circumstances. It also reduces the duration and frequency of suspensions for the students by shortening short-term suspensions up to two days instead of five, they were five, we're going to make them two, and long-term suspensions up to five days instead of twenty. So right now in statute, you can suspend a child for 20 days and I want to bring that down to 5 for prekindergartners and kindergartners. The intent of LB165 is to encourage schools to emphasize social learning rather than taking exclusionary disciplinary measures to address behavioral issues among the youngest people in our schools. I also want you to note that it has an operative date of August, 2020. Preschool and kindergarten classrooms are where children first develop a love for education and learn foundational academic and social skills. Unfortunately, as we have seen an academic-- as we have seen academic expectations push social learning and play aside, schools have increasingly relied on punitive disciplinary action to address behavioral issues instead of modeling problem-solving processes for students and teaching them desired social behaviors. This means that children are losing valuable time in the learning environment and are being alienated from their peers. The students who would be affected by this bill are between the ages of three to five years old. I'll say that again. The students who

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are going to be affected by this bill are three to five years old. At this very young age, children have not yet had the chance to develop a sense of morality so their misbehavior is not about being bad usually. It's about not understanding social norms. Often, in these cases, students are simply expressing a need for help in the limited ways that they know how. We should be using these moments as opportunities to recognize gaps in social knowledge and teach them to be better. But instead, we're pulling them out of class and giving them huge disadvantages that, we see through research, follows them throughout life. These young students do not understand that they're being punished or what they're being punished for. They're not learning anything from exclusion except that they don't belong among their fellow students which is a message that's very detrimental to their emotional and intellectual development. In the 2017-18 school year, an estimated 34,000 elementary students were suspended in Nebraska with deep-- with disabled students and students of color disproportionately experiencing the negative effects of this reality. According to a state-by-state study conducted by the U.S. Department of Education, students with disabilities in Nebraska are 2.5 times more likely to be suspended. And African-American or black students are five times as likely to be suspended than their white peers. This puts Nebraska as second-highest in the nation in terms of disparity and suspensions of students by race. This is a shame for the state, and it's one that this bill will address. I want to make this very clear. Expulsion and suspensions do not correct behavior or improve academic performance, especially for 3- to 5-year-olds. To the contrary, research indicates that exclusionary disciplinary practices increase the likelihood that students will misbehave in the future, become truant, fail to graduate, develop substance abuse issues, or encounter the juvenile justice system. This means that instead of uplifting and empowering historically disadvantaged populations, punishment-driven policies are stifling their academic achievement and setting them on an unfavorable trajectory known as the school-to-prison pipeline. That's what I'm seeking to address with this bill as well. We don't want the legacy of Nebraska schools to be one of perpetuated disadvantage. We want the success of our students to reflect our thoughtful approaches to addressing student needs, to reflect the hard work and dedication of our educators and our school boards and our carefully developed curricula. I understand that schools must enforce their rules and provide educators and administrators with tools that promote success. That's why I've included a provision requiring a conference to take place between a school administrator, the parent or guardian of the student, and when appropriate, the student themselves, to address

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their barriers to success. I've also included a data collection measure in this bill. I was really disappointed to find out, when I was preparing to present this, that there's not a lot of existing data available regarding school suspension and expulsion in our state. And I believe that if we can't look at this important information, if we can't see the data about this, then we can't identify the problem and we can't begin to fix it. Early education is critical for building social skills and the early foundations for academic success. The safety, health, and well-being of our children is an unwavering priority for all of us. I know that. Difficult and defiant students who are not a danger to other students should not be punished with an unnecessary interruption of their right to receive an education. Arkansas, Colorado, Connecticut, Maine, Ohio, Washington, and the cities of Chicago and New York City, which I know are not like a lot of cities in Nebraska, but they've all introduced legislation to limit the use of suspension and expulsion in younger schoolchildren. And I think that it's time we do the same, not because it's what everyone else is doing but because it's the right thing to do. And we can see from the data and the results and research that it has better outcomes for students. And with that, I will answer any questions. Oh, I also-- I-- I wanted to say I handed out the amendment that I was talking about, and I also handed out a little fact sheet that-- my office helped generate it to address any questions you may have. Thank you.

GROENE: Any questions? Senator Pansing Brooks.

PANSING BROOKS: Thank you for bringing this bill, Senator Hunt. I was wondering if you had thought about increasing the age.

HUNT: Yes, I would really like to increase the age. One thing that we did in the original draft of the bill is we referred to these students as an early childhood education. We were talking about early childhood education, but of course, early childhood actually goes up to, you know, older grades than kindergarten and preschool. The reason I limited it to these younger ages is because I wanted to bring a bill to this committee that you could vote out of committee. I believe in incremental change. I believe in compromise when we can, you know, find some things to agree on in the interest of youth. I do think that it should go up in age, but I don't think that our body is ready to pass something like that.

PANSING BROOKS: OK. I don't know if I can agree with that yet, but-- because I do think it's important to have it higher. Kids don't-- you know, kids have to understand what they're being punished for. And

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certainly kindergartener-- I mean that's just-- it's amazing. I did not know we were-- do you have actual cases where kids have been suspended?

HUNT: Oh, yeah. Absolutely. Yes.

PANSING BROOKS: OK.

HUNT: Um-hum.

PANSING BROOKS: That are that young?

HUNT: Yes.

PANSING BROOKS: OK.

HUNT: Suspended and expelled.

PANSING BROOKS: OK. The other thing I was wondering about, did you consider putting in, and maybe I've missed it because I've been skimming it quickly, but did you consider putting in consistency across a district of the infractions for which a child might be expelled?

HUNT: That's a really good point. I haven't thought about that. One thing that the bill does include-- oh, I just lost my train of thought. I'm so sick, you guys. I'm sorry. One thing that the bill does include that I was going to mention is-- yeah, I really just lost my train of thought. But I think that's a good point, and it's not something that my bill addresses I don't think. No. That's a good-- that's a good one.

PANSING BROOKS: Because just from-- from experiences within my own family, I know that there are times that kids at one school are suspended for much more serious things. And then at another school, because it's supposedly a "good school,"--

HUNT: Um-hum.

PANSING BROOKS: --they're suspended for a much lower-level offense at the same rate as somebody--

HUNT: That's very true.

PANSING BROOKS: --at another school that is expelled at a much higher-level offense. So it seems to me, if we want kids to understand

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what's happening to them and what their expectations are, there needs to be consistency within the school, across the district, and across the state.

HUNT: I totally agree. And I have anecdotal evidence myself, as a parent of an elementary-school-age child, that that happened in schools in Omaha in my district. But another important part of this bill that I'm very proud of is the data-collection part of the bill. And I think more to your question, Senator Pansing Brooks, we-- if we could quantify and prove that that's happening in schools with this data-collection piece, that would go a long way to making some stronger legislation potentially in the future if not now. But what this-- the data-collection piece of this requires schools to collect how many suspensions there were, how many different kids that was. And so having those kinds of dimensions will really show the actual results of suspension and expulsion so we can make better policy going forward.

PANSING BROOKS: I appreciate that. So I do believe that they have some data on arrests, but what you're saying is that they don't have the data on suspensions and expulsions. Is that correct?

HUNT: Right. That's right, especially for prekindergarten because it's not compulsory.

PANSING BROOKS: OK. I think it's really important when you look at what is happening with arrests and the high number of kids, proportionally, that are special ed kids that are getting arrested and the high number of kids of color that are getting arrested, clearly if we-- I am really pleased that you did add this demographic portion to the bill to make sure what is happening to our kids in the schools.

HUNT: Yeah. So the demographic portion she's talking about is noted on page 4 in that top section there of the amendment.

PANSING BROOKS: Of the amendment?

HUNT: Yes. Yeah.

PANSING BROOKS: Thank you very much for bringing this.

HUNT: Thank you.

GROENE: Any other questions from committee? In Nebraska, it's 2.5 times more likely to be suspended. And African-Americans or black

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students are five times. You just stated that there's no data collection, so how could somebody come up with those statistics if there's no data collection?

HUNT: If I said there's no data collection, I misspoke. We have really incomplete data collection and I have a-- I have a study here from the U.S. Department of Education that talks about out-of-school suspensions, exclusions which is being expelled.

GROENE: But you're not talking about prekindergarten and five-year-olds, you're talking--

HUNT: I'm not talking about prekindergarten here. I'm talking about kindergarten. And so this is another one of those things where, if we had more data on this, we would be able to make better decisions to help kids.

GROENE: So in your statement here, the Department of Education students with disabilities, that's not from K-12, that's just K?

HUNT: It's K-12.

GROENE: All right. So that's the distinction. All right.

HUNT: Thank you.

GROENE: And you said it earlier, most pre-K programs have parameters because they're-- it's our constitution, we don't have to offer or pay for it. So it's by income levels. Some schools have income levels, they'll take you. And some of the after-school programs, they limit the number of them that they will take.

HUNT: Um-hum.

GROENE: But now you're wanting to tell those individuals there's somebody waiting in line to get into a public school pre-K, that somebody who's-- who's not fitting in have priority over the next person in line who wants to get into the pre-K?

HUNT: I think that all pre-K children have a right to a public education. And so I guess that that would be my answer to that.

GROENE: That program isn't compulsory now for public schools, pre-K?

HUNT: Right. Correct.

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GROENE: OK. Thank you. Any other questions? Thank you, Senator. Are you going to stick around to close?

HUNT: Yeah, I will. Thank you.

GROENE: Proponents?

JULIET SUMMERS: Good afternoon, Chairman Groene, members of the committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s, here representing Voices for Children in support of LB165. I apologize. I don't have a written copy for you today. I did e-mail it yesterday but had been out of office with the blizzard and sort of running a little behind on everything today. Education is a key indicator of future opportunity for children. We should make every effort to ensure that our education system is setting students up for success. When disciplinary processes are structured to maximize time in the educational environment, students are set up to succeed in their education. Voices for Children in Nebraska supports LB165 because it will protect very young children from the harmful effects of exclusionary school discipline, setting them on a course for academic success. All children deserve a meaningful opportunity to thrive in their educational environments starting from the very youngest age, and we all benefit when they do so. Procedures and policies that rely too heavily on exclusion from school results in lower educational attainment, not only for suspended or expelled students but for the student body as a whole. All children need to feel safe that they're going to be accepted in their classroom. Studies have shown that schools with a higher reliance on exclusion as a form of discipline actually score lower on academic-- academic achievement tests among the total student body, even when controlling for socioeconomic and demographic factors. Because early childhood education is the foundation of future learning, keeping small children involved in their classroom is crucial to building their future success in school and in life. As you've heard, Nebraska is not alone in considering this policy. Other states and jurisdictions have already adopted the approach of prohibiting suspension and expulsion except in cases of violence or danger. To name a couple of additional examples, Texas passed a law in 2017 prohibiting the use of discretionary out-of-school suspensions for children pre-K through second grade. They saw their suspensions of this very young age drop from over 20,000 down to like a little over 6,000 in the course of just a couple years. Washington, D.C. banned the suspension of pre-K students in 2015 and in 2018 enacted an ordinance that will roll out in 2020

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prohibiting suspensions for K through 8th grade except in cases of bodily injury and starting in 2021, limiting suspendible offenses for 9th through 12th grade. I also want to add our strong support for the data element of this bill. I testified in support of Senator Wayne's LB495 earlier this session, another data bill addressing the issues related to the school-to-prison pipeline, and see this as a natural extension of that work. The-- the issue with the data, sort of to go to your question, Chairman Groene, is there is a federal data-reporting requirement to the Office of Civil Rights and Disabilities that schools are required to participate with. So we do have-- we do have some data on suspension, expulsion, even school-based arrest, use of restraints. However, that database is highly backdated because it's a federal reporting requirement. So you know, the district reports the prior year's data, and then it takes another year for the database to publish all of the information. And it's not 100 percent clear to what extent all districts comply with all reporting measures and how-- how everyone's defining the terms the same way or not. And it's also just a clunky system to navigate to get data. So having a state-based data information system on these points would allow for, you know, for real transparency for Nebraska policymakers but also for, you know, parents and families as they're considering their student's education. So in all, LB165 would ensure that small children remain in the educational environment that will set the course for their future. I'd like to thank Senator Hunt for bringing the legislation and members of this committee for your thoughtful consideration. And I would urge you to advance it. Thank you. I'd be happy to take any questions.

GROENE: Any questions? Dave-- Senator Murman.

MURMAN: Yeah. Thanks for coming in and testifying. You mentioned some statistics about the school-to-prison pipeline. I think that was with pre-K through-- you know, rather than after kindergarten. I'm not sure. And also schools that suspend more often didn't do as well academically. I was-- and I don't know if that was pre-K either, but maybe you can fill me in on that. But also I was just wondering, since you have those kinds of statistics, do you have any that-- statistics that would compare children that stay-- that have a parent that stays at home with them pre-K through kindergarten, how well they do academically compared to the others? Or in the prison to-- or school-to-prison pipeline, you know, how well that-- that adds up also?

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JULIET SUMMERS: So I-- offhand I don't. The-- the information that I referred to in my second paragraph here, there's been some studies done. So they've looked at particular districts or they've-- or jurisdictions. You know, a researcher has done a semicontrolled study, you know, examining different outcomes based on different school experiences. So that's not necessarily based off of like a look at all the national data there is.

MURMAN: Um-hum.

JULIET SUMMERS: I'd be happy to take a look and see if there's been any studies done to that effect. We absolutely have data in Nebraska about, you know, how many-- how many children are living in a single-parent household versus-- a two-parent household versus living with another, you know, relative, guardian, or caregiver. But I don't know that we have those necessarily correlated with academic success since, you know, one piece of data comes from one agency and another comes from another.

MURMAN: Well if you could find any statistics on that, I'd really appreciate it. Thanks a lot.

JULIET SUMMERS: I'll feel-- yeah, I'll see what I can find. Sure Yeah. Thanks for your interest.

GROENE: Any other questions? Thank you.

JULIET SUMMERS: Thank you.

GROENE: Next proponent. Boy, bad roads keeps everybody home. If there's no more proponents, then opponents? Neutral?

KYLE MCGOWAN: Good afternoon, Chairman Groene and members of the Education Committee. My name is Kyle McGowan, K-y-l-e M-c-G-o-w-a-n. Today, I'm representing the Nebraska Council of School Administrators, the Nebraska Rural Community School Association, and the Nebraska Association of School Boards. We're offering neutral testimony simply due to the fact that Senator Hunt's bill is best practice. We'd like to be on record with some concerns. We have some concerns about the overall need for the legislation and some technical aspects. Senator Hunt's office has been really gracious in terms of talking with us and answering our questions and working things out. Using out-of-school suspensions/expulsions from kindergartners and preschool children have very limited effect and would only be incorporated after exhausting

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multiple strategies. But ultimately we must consider other children in the classroom as well as needing to engage parents so that they get involved with their children's behavior. Now Senator Hunt's bill does allow some provisions for suspensions and expulsions, so we think that's important. Of course, I think there is a question that would need to be answered in terms of expanding the current Student Discipline Act to include preschool or prekindergarten references. I did contact NDE and ask them about data on this topic because, as a former superintendent and actually a former elementary principal, all this data is collected by schools. In Crete, I could not only tell you every preschool or every kindergartner by any disaggregating you would want, in some cases what time of day it took place. So collecting this data should not be a burden for schools. And I would like to think every school's already collecting it. It's whether or not NDE would like to take on that information. The previous testifier mentioned a data-collection source, so the fret to-- from the feds-- excuse me, it's the Office of Civil Rights. And this data is collected only every two years. And as she said before, it's collected a year late, so it's somewhat old. I took the liberty of just running off one sheet that has to do with prekindergarten. I thought it was kind of interesting. But please, look to see that it's from 2013-14 school year. And so at the top, and I'll just-- I'm not going to read through this, you can look at it. It's pretty simple once you find Nebraska, but it has all the other states. So this is the number and percentage of public school preschool students receiving one or more out-of-school suspensions. And it's by race, ethnicity, disability, English proficiency, by state. So on that year of data collection, Nebraska, this is alphabetical order, Nebraska had 30 students.

GROENE: Which column is that?

KYLE MCGOWAN: That's the very first one, total students. So the very first is state. The next column is total students. Then it's broken down by race, ethnicity, etcetera. Now I do think it's important to note that 100 percent of Nebraska schools with programs stated they reported. And there is no choice on turning in this data. You have to do it. It's the law. So that's to the far right. Now, it states in here in 2013-14, Nebraska schools have 379 programs. So Crete served, in that year, because I know that year, over 180 students. I don't know how many sections that would be, but just to give you an idea, 379 programs could be a lot of students. I'm on the yellow light. I think the data collection is very important. I commend Senator Hunt for what she's trying to do in taking care of kids. These are just the

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questions and the pros and cons, and that's why this is neutral testimony.

GROENE: Any questions? Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for coming, Mr. McGowan. So you said whether the NDE wants to take on the info. What does that mean?

KYLE MCGOWAN: It means it's there. So it would-- I don't believe it would be an extra burden in terms of finding the information for schools. Schools collect this information and. I don't know what it would mean for NDE to collect it or just store it or disaggregate it or to share it out.

PANSING BROOKS: OK. So I guess the next question is what happens to that info then? You've got information that's collected by a specific school. Does it pass on with the child?

KYLE MCGOWAN: Well, the--

PANSING BROOKS: Does it go through from elementary to middle to--

KYLE MCGOWAN: Well, let me answer that question in two ways, OK? As a school district, we look at that to see what our practices are like. What's taking place when you-- are we getting better at not suspending students? Are we-- are we getting a safer school or are you having a better-behaved school? So that's why we look at the data thoroughly at the individual level. When you're reporting data, common practice is if your sample group is less than ten, it's usually not made public because if I mentioned that we had one kindergarten in Crete that was suspended, everybody would know who that person was if we, you know, reported it. So did that answer either of your questions?

PANSING BROOKS: Not really because I can't quite understand-- so the data's collected for what purpose then?

KYLE MCGOWAN: The data's collected for us to review how our school is behaving.

PANSING BROOKS: For you to review it, and it's not disseminated to the Department of Education? It's not disseminated to a national group?

KYLE MCGOWAN: It's-- it's given-- the Office of Civil Rights collects it for all grade levels, but I could not find the OCR collecting for kindergarten students only. I believe they would collect it in a

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group. Without, you know, looking at it again, there's a lot of information there. It could be K-2. It could be K-5. So they wouldn't have it by individual grade levels that I could find. And when I contacted NDE, they stated that they-- they-- they don't collect or they-- they don't have that discipline information.

PANSING BROOKS: OK. I'm still sort of-- I don't know. I wish that-- I wish that the schools and the teachers and everybody would get together over what to do with all the kids because when they're really young, the administrators are saying, kick them out, take them out of class, that that is an option that you want to be able to have, no? That's what I heard.

KYLE MCGOWAN: Well, I disagree.

PANSING BROOKS: When they're little.

KYLE MCGOWAN: Well, OK. Well, can I reverse this a little bit?

PANSING BROOKS: Yeah. I'd love to hear it--

KYLE MCGOWAN: OK.

PANSING BROOKS: --because we're dealing with these issues on many levels--

KYLE MCGOWAN: Right, but--

PANSING BROOKS: --and we have all these bills.

KYLE MCGOWAN: -- but when you're talking about little kids there's an age appropriateness, right?

PANSING BROOKS: Right. Like kindergarteners and preschoolers.

KYLE MCGOWAN: Yes, absolutely. And so the effectiveness of even a time-out for a three- or four-year-old or a five- or six-year-old is very limited, right? So why would you ever send a student away for a day? How would that impact him? Now first, you've done lots of things. You've talked to the child, right? You've set up programs. You've set up positive programs. You've set up negative programs. You've talked to the parents. You've set up circles of friends. But let's say, because many of us would have had a kindergarten child like I did, a few of them, and even grandkids, so let's say that your daughter comes home, and Johnny's been touching her in some very inappropriate places

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on the playground. So you go to the school, and you talk to Johnny. And boy, Johnny's got some bad habits. So you work with Johnny on everything I just said. But every day, your daughter's getting touched in some very inappropriate places whether that falls into the category of bullying. Now as a parent, I don't like my daughter going to school when Johnny can't get stopped from when we've done one, two, three, four, five, six things. So maybe now I'm thinking, school you're not doing a good job. So the school really needs to encourage that parent to get more active in assisting the school. So maybe that parent needs to keep Johnny home for a day. That's not to say we don't continue on with other things, but sometimes I think that's important to have. Now, again, this is neutral testimony, OK? There's 30 students identified. I do not think it is a-- I can't ever think of a time that we suspended a preschool child. I can't remember suspending a kindergartner, but I wouldn't say it wouldn't happen. So total agree with Senator Hunt in that make sure that you're using age-appropriate methods to correct student behavior.

PANSING BROOKS: I'm not being critical. I know that you have a hard job, and you're trying to figure this all out. But it's-- it's very difficult where on one hand we have teachers-- the NSEA coming in and saying, we want to be able to restrain because the administrators keep sending them back into the schools, and then now this testimony that we're-- we're really needing an ability to continue to suspend. I presume you would not be satisfied if I-- if there was an amendment to increase it to sixth graders.

KYLE MCGOWAN: Neutral testimony, OK--

PANSING BROOKS: I know, but I'm asking, what if, on an amendment.

KYLE MCGOWAN: If the amendment did what?

PANSING BROOKS: Increased the age from pre-- preschool and kindergarten to sixth-- up to sixth graders.

KYLE MCGOWAN: I think that's, again, the wrong part of the equation. I don't think that this is a-- I think schools need to be trusted to do the right thing. And if they're not doing the right thing, I think there is a process in which to correct that. So I-- there are some naughty sixth graders. And everybody in that room-- in this room is probably-- I hope, wouldn't be amazed with some of the things that can happen for ten-year-olds to do. So there should be age-appropriate actions for them. But sometimes we forget about the other kids in the

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classroom and what those parents are saying to schools. Why does my kid have to come back and be bothered by this other student?

PANSING BROOKS: I totally get it. And I think the issue is that, you know, it's just trying to figure out-- I have some kids in my family. Our kids were often placed beside the child that was the most naughty because our child exhibited good behavior. Our children exhibited good behavior. And that was something that was highly disturbing to me because at one point, I asked my oldest, what do you think your job is here at school? And he said, to help the teacher keep the other kids under control.

KYLE MCGOWAN: Wow. You should be congratulated and having pure models, especially in prekindergarten and kindergarten--

PANSING BROOKS: I agree. There's a level to which I agree that they should be the-- the model. But it's also very difficult for those kids. So again, I don't know. I mean here we are. I suppose you all think that we're micromanaging. But we've got teachers complaining that they can't do anything about getting the kids out of the room. And we've got administrators saying, no, let us continue to suspend. I know that it has not been even suspension for the exact same thing across the district in LPS. And so that concerns me. Just because it's a "good school" doesn't mean that what you're suspended for at the good school shouldn't be the same kind of punishment as at whatever they consider a bad school. And I love LPS. I'll fight to the death for LPS, but there-- something has to be done on both sides of this equation both for the administrators and the teachers--

KYLE MCGOWAN: Well, you-- your bringing--

PANSING BROOKS: --and the students.

KYLE MCGOWAN: --you're bringing up-- and that's what it's all about, right?

PANSING BROOKS: Exactly. Yeah.

KYLE MCGOWAN: So and students do best when they understand what the rules are.

PANSING BROOKS: Exactly.

KYLE MCGOWAN: And so trying to develop rules for a school like Crete that has-- well, now we have two elementaries versus a place like

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Lincoln that has, I don't know if they have 50 elementaries. But it's really important to have some standard expectations. You brought up a different bill about allowing schools to have teachers take a student out for up to three days--

GROENE: Two.

KYLE MCGOWAN: --two days. So this would be consistent with this bill, right? Because a teacher could take a student out for two days. There is-- I don't think perfection exists. I would say the sky is not falling. I would say 30 students in 2013-14 out of 395 programs--

PANSING BROOKS: I can't see the 30. I'm sorry.

GROENE: No, I can't either. Where do you come up with 30?

KYLE MCGOWAN: Do you not have the same sheet I do? Total students?

PANSING BROOKS: Total students 13,000?

GROENE: Thirteen thousand fifty six.

KYLE MCGOWAN: Uh-oh. Could I see a sheet?

PANSING BROOKS: Sorry.

BREWER: Yeah. 13 [INAUDIBLE]

KYLE MCGOWAN: Never mind. Here's a sheet.

GROENE: This is good information.

KYLE MCGOWAN: OK. There is some-- I apologize so much for that. So now, I'm totally off on my thoughts. The sheet that you're getting-- the Office of Civil Rights data collection is massive although not massive enough to break things down by what we were just talking about. I think good--

PANSING BROOKS: So it's 30 students over the whole state. Is that what you're saying?

KYLE MCGOWAN: Right.

PANSING BROOKS: OK.

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KYLE MCGOWAN: Right. Right.

PANSING BROOKS: I appreciate your response. I thought it was very thoughtful, and I agree with 99 percent of what you said. Thank you.

KYLE MCGOWAN: OK. I'm sorry. Thank you.

GROENE: Senator Linehan.

LINEHAN: OK. This is preschoolers, and according to Senator Hunt's testimony, you've got 30 kids here that got suspended but 17 of them are African-American. Seems a little-- probably not-- I'm just guessing that--

KYLE MCGOWAN: Well, Senator-- right.

LINEHAN: --that's over 50 percent, not 50 percent of kids in the program, right?

KYLE MCGOWAN: Well--

LINEHAN: Or do you think there are 50 percent of the kids in these programs who're African-American?

KYLE MCGOWAN: No. I think-- I think Senator Hunt's data is undeniable, OK? Now, I mentioned-- the preschool programs that we had in Crete were primarily federally funded. So they're grants and they had to serve the most at-risk kids. So out of 186, my guess is that about 170 of them were of minority status.

LINEHAN: I'm not going to take you down that road. This part of your testimony, and I've heard this before because LPS got in trouble. They were fined or federal-- lost federal funding for disciplining African-American students. So do you argue with this fact, that the black students are five times more likely to be spent-- suspended than their white peers, Nebraska's second highest in the nation in terms of disparity in suspensions of students by race, second highest in the nation?

KYLE MCGOWAN: I haven't argued with any of your facts, Senator. I'm testifying in neutral capacity.

LINEHAN: OK. Thank you very much.

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GROENE: Sir, I think you answered one of my questions. But you were in teaching and administration. You don't ever remember expelling a kindergartener?

KYLE MCGOWAN: I don't. That's not to say-- I mean I was a elementary assistant principal in '89.

GROENE: That's fine. I mean what I'm-- my point is it's rare in the state in Nebraska probably.

KYLE MCGOWAN: Well, I only-- you know, I like data because what is rare to me might be a lot to others. What I brought, and what I intended to give to you, Senators, was this information on prekindergarten which Nebraska collected. So that's-- that's reported data. It's the best information that we have.

GROENE: But it could be skewed because in '13-'14, I know, most rural schools don't have pre-K, predominantly Caucasian. So when you say it's 30, it could be just that the OPS is the only one that reported the information. We don't know.

KYLE MCGOWAN: Three hundred ninety five-- 395 programs reported in the state.

GROENE: All right. So out of 1,000, how many-- how many K-12-- K-8

KYLE MCGOWAN: There's 245 school districts.

GROENE: I know, but how many K-- elementary buildings are there? A lot more than 300.

KYLE MCGOWAN: Oh, boy. Yeah.

GROENE: Yeah, I bet it's 1,200.

KYLE MCGOWAN: No. We're-- we would be 100 percent in favor of the data collection that the Senate-- Senator Hunt's talking about. I mean that's the best way to make decisions and what's happening.

GROENE: So I respect administrators and teachers. If somebody is getting expelled, it's got to be pretty bad.

KYLE MCGOWAN: I would like to think so.

GROENE: Is it also just-- is it violence or is it also hygiene? I've had teachers tell me kids showed up with no boundaries, not even

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potty-trained, and distracting the whole class of three- and four-year-olds. I would think that'd be a good reason to tell, not expelled-- I mean everybody thinks expel means, or remove, that it's because the kid did something wrong. There could be other reasons.

KYLE MCGOWAN: We have potty-trained prekindergarten and kindergarten students in our district before. We never expelled them for that.

GROENE: You haven't?

KYLE MCGOWAN: We-- No. But we-- we've potty-trained. We've changed clothes. We-- we have extra sets of clothes. We've never expelled a student for that. We've obviously, you know, take him out of class to change and do things and-- and worked with families, but never-- never expelled or suspended for that reason.

GROENE: If a kindergartner comes in and doesn't have all the vaccinations, is that a reason to expel?

KYLE MCGOWAN: No, it's-- it's not. It's a reason to tell the parents that they need to fill out a form that says that they have a, what is it, a religious or medical opposition to vaccination so we get that on record.

GROENE: All right. Clarify. The teacher has no control over the two days--

KYLE MCGOWAN: OK.

GROENE: --in LB147, the administrator has a parent meeting.

KYLE MCGOWAN: Sure. Well, and so I appreciate that. It's consistent. And this, again, neutral testimony because there's aspects that, frankly, this is just best practice. You-- you should be using age-appropriate measures with these young children. So the question would be that-- our-- our question would be is-- is-- is this a-- does this warrant, and this is why you are elected officials, does this warrant legislation? If it does, this would be our [INAUDIBLE].

GROENE: In the past, teachers tell me a young person comes to kindergarten just with the foulest mouth in the world. Just will not stop. Is that reason to expel?

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KYLE MCGOWAN: No. See all of these-- little children-- part of growing up is misbehaving, right?

GROENE: So the other kids should learn those bad habits and all that?

KYLE MCGOWAN: Oh. Believe me, I hear from parents saying, my kid's coming home learning a whole new vocabulary after going to your school, right? But we're there to teach. And so that's the good thing. We are trying to teach some social norms. We can't teach if the kid's not there. But eventually, if-- if we're not having an impact, I guarantee you part of it is because we're not having an impact with the parent that this child goes home to. So at some point, hopefully after many, many, many steps, it's-- it's parent then, we need some more help. And so maybe you need to--

GROENE: So maybe, as Senator Hunt said and another bill says, if we dictate that there is a parent conference that isn't in statute now, that might help?

KYLE MCGOWAN: Parent conferences are always good.

GROENE: OK.

KYLE MCGOWAN: They are sometimes easier said than done.

GROENE: I understand that. The reason the child is misbehaving--

KYLE MCGOWAN: If you have a parent involved with the child, 99.9 percent of the time you're getting things fixed. But when I say involved, I don't mean just lip service either.

GROENE: Thank you, sir.

KYLE MCGOWAN: Um-hum.

GROENE: Any other questions? Thank you. Any other neutral? We've had letters: proponents, National Association of Social Workers of Nebraska; Policy Research and Innovation of Omaha; Brian Smith of Omaha; League of Women Voters of Nebraska; Rachel Pinkerton of Omaha, Nebraska; Nebraska Psychological Association; School Social Workers Association of Nebraska; Nebraska State Education Association; Mia Crawford-Gray of Omaha; Juliet Summers, Voices of Children in Nebraska, I think they testified; Gabrielle Gaines, Liwaru of Omaha; Child Saving Institute; Stuart Knight of Omaha; Alyssa Morrison of Omaha; Nikitah Imani of Omaha; S. Wayne Smith of Lincoln. No, excuse

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me, the one opponent is S. Wayne-- Wayne Smith of Lincoln, Nebraska. Neutral is none. Do you want to close, Senator Hunt?

HUNT: Thank you, Senator Groene and thank you, members of the committee. I am bringing this legislation from the perspective that regardless of a student's behavior, they deserve to have an education and they deserve to go to school. That doesn't mean that they're taking the place of another child that deserves to be there more. Bullying is a real problem. It happens in every grade. But students that are aged three to five, we can't hold them culpable in the same way that we hold someone accountable when they're in fifth or sixth or seventh grade. You know, it's just a different age. It's a tender age. And this bill also does not prohibit schools from suspending those children. It just shortens the length and the number of times that they can be suspended. So administrators and schools will still be able to take those steps if necessary. I also wanted to point out, in regards to your remark, Senator Groene, about dictating or mandating something for schools to do, we took the language from this bill from the existing truancy law. And having a conference with parent, guardian, student, administrator, teacher, this is already required in statute for truancy. And so it's something that schools are already doing. We also-- I can conclude from the testimony that we heard that there is a need to collect data on this because there's a lot of inconsistency in the data we're collecting. The federal government collects data every two years on this type of stuff, and the state doesn't have any. We requested data from the Department of Education. They didn't have any. So but we do know that schools are already sending this data to the federal government. And so to me, I think that it would not be an additional burden on schools. And we heard testimony to that. The fiscal note also mentions this, that-- you know, for schools it would almost just be a matter of adding another e-mail to the "to" line, you know, of where to send this data. In today's age of technology and data reporting and the decisions we make in policy based off data, it's really not too much to ask that at the state level, we have accurate, up-to-date information about our state's students and that we don't have to look to Uncle Sam to find all of that all the time. I also-- I worked with a friend of mine on this bill who used to live in Omaha. She used to be a friend of mine in Omaha. And she was expelled when she was in kindergarten and her son was suspended several times for really, honestly, pretty simple disciplinary things. My daughter, who is white, I don't believe would have been suspended for the same things that her son, who was black, did in class. My daughter might have been sent to the principal's

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office. My daughter would've been in big trouble with me. But I don't think she would have been suspended. And I wanted-- I would have loved to have her come testify today, but she no longer lives in Nebraska. And this is a very small reason why. But it's just this kind of climate of not being sensitive to these racial differences that we have in our education. And this is just a way to start closing that gap, get some data, realize that it's a problem, and do something legislatively to help the youngest students that we have in our state. The purpose of this committee is to determine if there's a problem and if this bill addresses it. And I can assure you that when we are ranked second in the country in terms of racial disparity and suspension rates, we do have a problem. And I agree that the sky isn't falling. You know, this isn't the most important piece of legislation that's coming through our body this year. But for my friend and her son, the sky was falling. For people who are affected by this, the sky is falling because when you can't get a good education, that just sets you up for so much failure in life. And I know that I'm not in this committee, I'm not in this room very often to hear testimony on your bills, but you hear that all the time so I don't have to get more into it. I understand that our schools and educators need more support and resources, but we also need comprehensive reform with respect to how we fund our schools. And we can't let our children be plucked out of their learning environments and fall further behind. And this is a first step to addressing that issue and ensuring that all kids in Nebraska can have a bright and healthy future. And I would ask you to please move this bill forward so we can have a full debate on the floor. Thank you.

GROENE: Any questions?

HUNT: Thank you.

GROENE: To clarify, I was trying to be sarcastic.

HUNT: That's OK.

GROENE: I agree with you with the parents teachers. I was trying to make a point with it to [INAUDIBLE].

HUNT: I think I'm still learning your sense of humor a little bit.
[LAUGHTER]

MORFELD: We all are.

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LINEHAN: We all are.

GROENE: Yeah. That part of the bill, I agree with. But anyway, no I-- but I-- but I don't like the conclusions that expulsion is a bad thing.

HUNT: Um-hum.

GROENE: And the reason, historically, we've done it that there's the other, as the administrator said, there's the other 19 students in the class. They have a right to an education too. They are well behaved. And anytime you have disruptions, continued disruptions, they are being harmed. Even if they're not being harmed physically, there was a reason we have adopted these policies that we removed the 1 to protect the 19 so that education--

HUNT: And under this bill, they-- sorry.

GROENE: --and there's no evidence, for sure, that that child, who when parents got involved and they were expelled and you hit rock bottom, that things did change for that student. There's a lot of evidence that happens also. It's not automatically you expel the child, and he ends up in the state pen. I don't like that term pipeline. It's not exactly true. But anyway, I mean you didn't bring it up. I understand you [INAUDIBLE], but I--

HUNT: I will reiterate that the bill doesn't prevent schools from using suspension.

GROENE: Yeah. Your intent is good. Any other questions? Patty, you got one?

PANSING BROOKS: No. I was saying I brought it up.

GROENE: You're the one.

PANSING BROOKS: I will continue to do so.

GROENE: Any other questions for Senator Hunt? Thank you.

HUNT: Thank you very much.

GROENE: That ends the hearings today in the Education Committee. I'd like everybody to leave. We're going to have an exec session.