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Education Committee  
January 20, 2009

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[LB61 LB62 LB72 LB73]

The Committee on Education met at 1:30 p.m. on Tuesday, January 20, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB72, LB73, LB62, and LB61. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Brad Ashford; Bill Avery; Abbie Cornett; Robert Giese; Ken Haar; and Kate Sullivan. Senators absent: None. [LB72]

SENATOR ADAMS: This hearing of the Education Committee, it is 1:30. I want to welcome everyone who is here today. We will be hearing four different bills, and as we move through this hearing, certainly we would ask that all the testifiers, as they come forward to the microphone, if they would be sure that they register and place that registration sheet there in the box so that we know who you are. We also ask that you identify yourself for the record and to very clearly articulate in the microphone your name, and then spell your last name as well, so that we can get that into the record. Today, given the number of bills, and I'm just going to use my best judgment about the number of you here and who may want to testify, I think we'll follow a five-minute rule that each person will get. Typically, we'll have a light system. Mechanically, we're not in operation yet, so you'll have to guess. I'll let you know if you're going too long. I would also ask for sure that you turn off your cell phones or put them on silent so that you don't interrupt the committee's hearing as we go along. Let me introduce the committee and the new members to the committee. First of all, over here on my right, this is Becki Collins. She's going to be the new committee clerk, and she may look over at me once in a while and being new to this and say, make them slow down, or make them speak up, so slow down and speak up, if you would. Next to her, Senator Ashford from District 20. We can be assured that he will be here. Senator Bob Giese, a new senator from South Sioux City, District 17; Senator Abbie Cornett from Bellevue, District 45; Tammy Barry, legal counsel, will be here after a while; myself; Senator Howard, the Vice Chair of the committee, representing District 9; Senator Kate Sullivan representing Cedar Rapids, District 41; Senator Bill Avery from Lincoln, District 28; Senator Ken Haar from Malcolm, District 21; and Kris Valentin as well, our research analyst. And we've got two pages to help us today, so if you have things that need to be handed out, I'd ask that you give those to the pages to be handed out; Sarah McCallister and Brennen Miller are those two. With that, let's begin with our first bill, LB72. And I think Senator Cornett, you're up. [LB72]

SENATOR CORNETT: (Exhibit 1) Good afternoon, Chairman Adams and members of the Education Committee. My name is Abbie Cornett, and I represent the 45th Legislative District. And I'm here today to introduce LB72. LB72 is a bill which would require the Department of Education along with the Department of Health and Human Services to develop and make available policy guidelines for the management of students with life-threatening allergies. There are several items, the guidelines shall include but not limited to: the annual education and training for school personnel on

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management of students with life-threatening allergies, including training related to administration of medication. In developing this part of the policy, training programs offered by other entities may be considered. Procedure for the maintenance of a file by the school nurse or other appropriate school personnel for each student at risk for anaphylaxis; development of communication strategies between individual schools and local providers of emergency medical services, including appropriate instructions for emergency medical response; development of strategies to reduce the risk of exposure to anaphylactic causative agents in schools; procedures for extracurricular programs, such as academic outings and field trips, before and after school programs, and school-sponsored programs held on weekends; a procedure and appropriate guidelines for the development of an individualized emergency health care plan for children with life-threatening allergies which could result in anaphylaxis; procedures for the collection and publication of data for each administration of epinephrine to a student at risk for anaphylaxis; procedures for each school to develop a treatment plan including responsibilities for school nurses and other appropriate school personnel responsible for responding to a student who may be experiencing anaphylaxis; a communication plan for the school to follow to gather and disseminate information on students with life-threatening allergies to appropriate school personnel; description of parental responsibilities; description of school responsibilities; description of student responsibilities; procedures for the placement of students' prescribed anaphylactic medication in a secure, but unlocked location, easily accessible by school personnel, on a field trip, or on a school or bus school-provided, coordinated transportation, or at a school-sponsored function. LB72 would apply to all accredited or approved schools and approved early childhood education programs. It has come to my attention that there was an error in the drafting of the bill that we didn't catch until just shortly before today. I would like to offer the committee an amendment which would add the language, "Immunity from civil liability with respect to all decisions made and actions taken in good faith to implement the guidelines developed pursuant to this section." Again, this section was left out when drafting the bill. There are people here today with children who have life-threatening allergies who can explain why LB72 is important. Thank you for your time and consideration of LB72, and I would be happy to answer any questions. [LB72]

SENATOR ADAMS: Thank you, Senator Cornett. Committee, are there questions? [LB72]

SENATOR CORNETT: I'm going to have the page hand out the amendment. [LB72]

SENATOR GIESE: I would just be interested in what is the current plan that we have right now in place? [LB72]

SENATOR CORNETT: Well, two years ago, I had a bill that was passed in regards to carrying EpiPens and inhalers in schools, and pretty much every...school districts can make, have their own procedures for food allergies. And this would give a standard

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guideline for them to follow. [LB72]

SENATOR GIESE: All right. [LB72]

SENATOR ADAMS: Are there any questions? Senator Avery. [LB72]

SENATOR AVERY: Thank you, Mr. Chair. Senator Cornett, as I understand it, anaphylaxis is a pretty serious life-threatening reaction to an allergy. Could you elaborate a little bit on that for us? [LB72]

SENATOR CORNETT: Yes, anaphylaxis occurs when the body has a serious immune response to something that it is allergic to, and people that have food allergies; in particular, peanut allergies, are very susceptible to anaphylactic shock. Most schools in the state have what are called peanut-free tables where students can go that are allergic to peanut butter. But there are a number of other allergies and food allergies that can cause anaphylaxis. And this would address how the students with those life-threatening allergies, how the school would implement policies to protect them. [LB72]

SENATOR AVERY: Would this also cover such things as allergies to gluten and things like that? [LB72]

SENATOR CORNETT: Yes. [LB72]

SENATOR AVERY: Where you don't have an immediate reaction, but it could be a delayed reaction, and the next day you might miss school because you were exposed to gluten in your lunch? [LB72]

SENATOR CORNETT: No, this is more how the school handles... [LB72]

SENATOR AVERY: Emergencies? [LB72]

SENATOR CORNETT: ...emergencies, the children in, when they're in school and at extra..., and at after-school events and extracurricular activities sponsored by the school. [LB72]

SENATOR AVERY: Okay, thank you. [LB72]

SENATOR SULLIVAN: Senator Cornett? The way it's written right now, it's limited to just allergies, but would this include asthma attacks as well? [LB72]

SENATOR CORNETT: We already covered that two years ago. [LB72]

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SENATOR SULLIVAN: Okay, all right. Thank you. [LB72]

SENATOR CORNETT: We covered carrying your EpiPen and asthma attacks two years ago. [LB72]

SENATOR SULLIVAN: Okay. [LB72]

SENATOR ADAMS: Are there other questions from committee members? Seeing none, then thank you, Senator Cornett. We begin by taking proponents to the bill and would open that testimony now. [LB72]

ANDREA HOLKA: Good afternoon. Thank you so much for your time. My name is Andrea Holka, and I am the parent of two children with both asthma and one child with a life-threatening food allergy. [LB72]

SENATOR ADAMS: Excuse me. Andrea, could you spell your name for the record for us? [LB72]

ANDREA HOLKA: Absolutely. Andrea, A-n-d-r-e-a; the last name, Holka, H-o-l-k-a. [LB72]

SENATOR ADAMS: Thank you. [LB72]

ANDREA HOLKA: (Exhibit 2) I am also the executive director of Attack on Asthma Nebraska, which you may or may not know. This is a nonprofit organization that partnered with the Department of Education about five or six years ago when the State Board of Education set forth a protocol in Rule 59 that had every school be prepared for a life-threatening breathing emergency at school. I do come here in support of LB72, which is the development of guidelines for schools in Nebraska on the subject of life-threatening allergies. I do have two children which I've already stated, both with asthma and one with both asthma and a life-threatening food allergy. My child was the first child in the district nine years ago with a life-threatening food allergy, and what a contentious situation that was! I was asking for education, awareness, and training, and the administrator was telling me no. This, of course, has changed with the implementation of Rule 59 in the emergency response to life-threatening asthma or a systemic allergic reaction which we just talked about, anaphylaxis. Education awareness and training do occur and this is great. However, the protocol is designed to take place once a breathing emergency has occurred. So this is not a preventative management tool. Each school or school district does respond differently to a child with life-threatening allergy. Some schools already have policy and guidelines in place, some don't. Some have a school nurse. Sadly, most cannot afford that resource. Some schools develop an individualized healthcare plan, some do not. My child has never had one. If there is a staffing or administrative change, the whole process can be disrupted

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based on that person's beliefs or experiences or when a family, for example, moves from one school district to another or even one school to another within the same district. More often than not, that parent begins an entirely new process of putting all of those pieces of the puzzle together to keep their child safe at school. Guidelines will provide much-needed management techniques for all areas of a school. They can provide consistency and uniformity regardless of location or administration, and they should be a resource for schools and parents, putting everyone on the same page. This is a public health concern that affects every state. Many states have already passed similar legislation to help schools with addressing the management of children in the school setting with life-threatening allergy. What was passed out to you that I brought is sort of a handout that gives you every state that has passed legislation to date, with the guidelines that have been created and links to those so that you can actually go out and get a visual on what these guidelines look like. They do range anywhere from 20 to 100 pages depending upon how that state has chosen to word them or to deal with them. I would also say that on the bottom of the second page, there is, I think, four states listed that had legislation in 2008 that did not pass. Those were not passed based on opposition. Basically they just didn't make it through the process. So I give you those links as well. As executive director of Attack on Asthma Nebraska, each and every year I take calls from parents of children with life-threatening allergies and from schools enrolling children with life-threatening allergies. Both sides can be frustrated with no clear guidance. It is my opinion that a document of this type will greatly relieve fears on both ends and provide the basis on which the child can physically and psychologically attend school and learn. And I would be happy to answer any questions, if I can. [LB72]

SENATOR ADAMS: Thank you, Andrea. Committee, are there questions for Andrea? Seeing none, thank you. [LB72]

ANDREA HOLKA: Thank you. [LB72]

SENATOR ADAMS: Other proponents? [LB72]

DR. RUSSELL HOPP: Good afternoon, Senators. My name is Russell Hopp, H-o-p-p. I'm a pediatric allergist. I work at Creighton University full time. I've been doing this for 25 years. I take care of children with asthma, food allergies, anaphylaxis, a variety of allergic diseases. Obviously, I'm in strong favor of this proposal. I've been involved with implementing a statewide school asthma program which we dovetailed an anaphylaxis program to. So this is really what I think is the next step to expand the scope of everybody involved with children: parental, physician, and schools, to make sure if they have food allergies, they are safe during the time that they are in the school system. About 4 to 5 percent of children have allergic disease, I mean a food allergy. About 10 percent of children have asthma. So of those two diseases, those are the most common diseases that can cause an immediate situation where medical personnel, school personnel need to be involved. So we're trying to work up front, so to speak, to do

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prevention. Unfortunately, we can't prevent food allergies from happening. That's called primary prevention. So if you eat a very healthy diet and do a lot of exercise for example, you may not develop heart disease. So that's primary prevention of heart disease. So, but once you have a disease, then you have to do secondary prevention, which means you need to put yourself in a position so it won't happen. So you won't eat the peanut, that you know that you're allergic to peanut, that you have medicine available, but that's secondary prevention. Really what we're doing right now in the school system is tertiary prevention which means we have epinephrine available, and we're kind of hoping that everybody doesn't eat peanuts that are allergic to peanuts; but if they do, then we're waiting with their epinephrine. So this bill basically is setting up a secondary prevention shield so that children will be protected when they are in their school environment against their food allergies. So I'd be happy to answer any questions that anybody has about allergies as that's my background. [LB72]

SENATOR ADAMS: All right. Thank you, Doctor. Are there questions? Yes, Senator Haar. [LB72]

SENATOR HAAR: Thank you. Would parents be responsible then for raising this issue with the schools or are you asking the schools to discover the allergies? [LB72]

DR. RUSSELL HOPP: It's really a three-part situation. The schools need to know that they'll have allergic children in their school system since it's about 3 to 4 percent of the population. Unfortunately, not every parent lets the school know. So this really needs to be both, the physicians need to be part of this. The parents need to be part of this. We talk about parental responsibility all the time. But you'd be surprised how often somebody will eat a cookie by mistake, a kindergartner, for example, and nobody knew that child was allergic to peanuts and then the school fortunately has epinephrine available, and they have to give it. And we talk in our quarterly meetings in Omaha public schools, we talk about three or four cases of those every quarter where something comes up. So this is kind of a bill to set up a process by which everybody will be responsible, and it's a cross-check, so including parents to notify the schools that their children have an allergic disease and what may require intervention for that process. But then the school at the same time needs to be prepared and ready to implement if that's true, that they have that process in mind to help that child not to eat peanuts in the school system. [LB72]

SENATOR SULLIVAN: Senator Adams? [LB72]

SENATOR ADAMS: Yes. [LB72]

SENATOR SULLIVAN: Do you know from birth if you have a food allergy? [LB72]

DR. RUSSELL HOPP: It almost never happens in the first couple of months of life,

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although on occasion, it can to milk. Most of the time, it's usually on the first or second ingestion. How you get sensitized is really unknown. It may actually be a transuterine sensitization, so you never eat a peanut and the first time you eat peanut butter at age one, you have an allergic reaction. It may be from the parents eating peanuts in the home or peanut butter in the home and then they're touching their child or kissing their child or handling the child in a normal fashion and they sensitize the child that way. Most of the time, it happens in some fashion that we don't totally understand, and it can be the first time you ever ingest the peanut, for example, that you have a reaction or milk or eggs or whatever happens that you happen to be allergic to. It can happen quite early. Most, I would say my average patient for peanuts is probably about one to two, and milk is probably less than 12 months of age. [LB72]

SENATOR SULLIVAN: So by the time a child enters school... [LB72]

DR. RUSSELL HOPP: It's almost always known. [LB72]

SENATOR SULLIVAN: So really that should be a question that's asked when a child is enrolled in a school district. [LB72]

DR. RUSSELL HOPP: That's absolutely correct, but we still find that, and then the second part of that is the parents are responsible for providing an EpiPen to school for their child, and that doesn't happen. So even though their child has very life-threatening or a potential life-threatening reaction to peanuts or milk or eggs, then they send the child to school and don't provide an EpiPen, and then the little kindergartner, by mistake, eats a cookie and it does happen. So you'd be surprised how often that actually happens. So this is trying to do secondary prevention so the whole process is not wait until it happens, but try to pick it up a little bit earlier. [LB72]

SENATOR ADAMS: Are there other questions? [LB72]

DR. RUSSELL HOPP: Otherwise, thank you. [LB72]

SENATOR ADAMS: Thank you. Other proponents? If not, are there opponents to the bill? Seeing none, is there any neutral testimony? All right, very well, we'll close the hearing then on LB72. And we go on now to LB73 also introduced by Senator Cornett. [LB72]

SENATOR CORNETT: Chairman Adams and members of the Education Committee, my name is Abbie Cornett, and again, I represent the 45th Legislative District. And I'm here to introduce LB73. LB73 would ratify the Interstate Compact on Educational Opportunities for Military Children on behalf of the State of Nebraska. The Interstate Compact on Educational Opportunities for Military Children has been enacted by 11 states and legislation has been introduced in an additional 12 states. The purpose of the

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compact is to put in place commonsense solutions and remove educational barriers that military children and their families face when they move from one base to the other. Quite frankly, many of the proposals in this legislation are best practices from school districts in Nebraska. So you may ask then why do we need legislation? It puts into law what we believe and says to our military families in all of the other states that we believe in doing what is right for our military families and for all children. Some of the provisions in the legislation include: Allow military families to enroll in schools when they arrive and accept their hand-carried records until the official school records arrive. Provide military families the opportunity to be eligible and participate in athletics and extracurricular programs, even if they arrive in the middle of the school year. Allow children 30 days from the date of enrollment to obtain required immunizations. Allow children who have already started kindergarten or first grade in another school district to continue their schooling, regardless of their age. Provide for additional excused absences for a student whose parent is preparing or returning from a deployment. Allow for power of attorney to be acceptable relative to guardianship of a military child. Allow a student who has transferred in the middle of his senior year and unable to complete graduation requirements here, to complete his schooling here and receive his high school diploma from the previous state. Military families on average move every three years. And they don't get to choose when they move. So a lot of times the children have to go to a new school in the middle of a school year. The Interstate Compact would help everyone know the rules from state to state. I have looked at the fiscal analysis from Senator Hilgert, and would like to emphasize the analysis is based on the assumption that a new commission would have to be formed. If you carefully read the legislation proposed, the compact allows for the use of an existing school board or commission. Of the 11 states which currently are involved in the compact, there is a mix of new and existing boards being used. Our neighbor state of Kansas has used a person from the existing school board of education. Therefore, while I don't dispute Senator Hilgert's analysis on how much a whole new commission would cost, I rather question whether we need an entirely new body to be formed and propose that we look at utilizing existing bodies. One example is Colorado, our neighbor, which has a lot more military students than we do, was enabled to enact this compact for \$30,000. Senator Hilgert's note assumes that we would need a whole new staff and a whole new board and office space. John Deegan is here from Bellevue Public Schools to discuss how Bellevue has already done this with basically little or no cost and has recommendations on how the state could do that also with little or no cost. [LB73]

SENATOR ADAMS: Are there questions for Senator Cornett? Yes. [LB73]

SENATOR HOWARD: Senator, it sounds like right now some kids have to sit out and wait until these official documents get there. [LB73]

SENATOR CORNETT: It depends on which school district they're transferring into. [LB73]



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SENATOR HOWARD: Oh, I see. [LB73]

SENATOR CORNETT: If you transfer into Bellevue School District, they do not. Bellevue already follows all parts of this compact and Bellevue does have the majority of military students. I believe the surrounding school districts are also very military friendly. [LB73]

SENATOR HOWARD: Well, I'm glad to hear that because I...in looking at this, it sounded like some kids were sitting out waiting for the papers to get in. [LB73]

SENATOR CORNETT: And it depends, I can only speak for the school districts I've talked to, but I know Bellevue Public Schools does not do that to their military students. [LB73]

SENATOR HOWARD: You'd hate to have them miss too many days of school just waiting for the formalities, the paperwork to be completed. [LB73]

SENATOR CORNETT: And particularly the point on graduation. Different states require different credit hours for graduation, and if someone is a senior in one state, it's really tragic to think that we would not allow them to graduate as a senior on time. [LB73]

SENATOR HOWARD: Well, I would agree with that. We certainly don't want to make it any more difficult on families that have to move, certainly not of their own choice. [LB73]

SENATOR CORNETT: And I can provide all the data from the other states on how they have enacted this, and most of them have done it without the cost that is broken down here. [LB73]

SENATOR HOWARD: Good. Thank you. [LB73]

SENATOR ADAMS: Are there other questions for Senator Cornett? Okay. Thank you, Senator. Again, we'd first of all take proponents to the bill. [LB73]

JOHN DEEGAN: Senator Adams and members of the committee, I'm John Deegan, Superintendent of Schools in Bellevue, Nebraska. And I appreciate Abbie Cornett doing this on behalf of military children. I think it's important that we kind of go back to what the original problem was. If you work around military families, and you deal with all these transfer issues and people move in and out, I mean, there is a lot of people in this country that are doing that. Not just military, but there's a lot of people, and the military; they pay attention to this. Some states are very, very rough on military families. When you come in, they may have a three-year requirement, so you have to be in that school system three years before you can be the valedictorian. So they have a way of sorting

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out military children from being able to compete in what is going on. They also have situations where they say because of cheerleading practice, if you're not here on the first day, you can't cheer or you can't play football; you can't do lots of things. So anyway, in the country there's been a big stir about this, at the federal level. And the stir has come to a head finally where the Department of Defense put up \$5 million to look at studying an Interstate Compact. And the Interstate Compact was...they sat down and decided, we ought to put together some groups that work with these military children. Well, out of Bellevue, we run a national military organization, and it's really all the military students in the nation, their school districts, we coordinate their activity. And one of the things that they asked us to do is asked me to serve on that committee, and I indicated that I had too much going on, but I could appoint a just recently retired superintendent, the superintendent at Fort Hood, Texas. So he would then, after every meeting and every activity, send the material to me and rewrite and I'd rewrite. So the bottom line is when we got all done, we felt like this was a great document because we had a hand in putting most all of it together. We were the only group that actually did work with military children. Everybody else was an advocacy group, like the National Military Family Association, different groups like that, that were promoting it. So what the feeling is--that we had as school superintendents across the country is--we didn't want a federal law to come out and say this is the way we ought to do something at the federal level and pass it on that way. We thought the Interstate Compact would be a good idea. The problem we have in this country is that we--and I don't know if it's a problem or not, but the situation is--there's 20 states have almost all the military students in them. The funny thing is Nebraska is not one of those. But there's 20 states that have most all the military. So if you could do it right for those 20 states, you could probably do it right for the majority of military. But other states are also very concerned because they may have military and Nebraska is one of those. And we believe that this is important for military families and military children. There's nothing worse than, you know, getting to a station or a location and have to have your special ed child sit out or to have someone else sit out because of records or somebody can't participate in the activities. So just approach it from the standpoint of how you would feel if your family was moving, moving, moving all the time, and you were treated differently in all those communities. So they tried to standardize this Interstate Compact, and so we finally felt like we'd kind of come up with the right kind of procedures to deal with records, and Abbie did a great job of pointing it out, but, you know, how you deal with records, how you deal with the opportunity to participate in activities, what about immunizations, and there's a number of other things that we talked about. Now Nebraska has good laws that are in place about immunizations. They have laws in place about kindergarten enrollment, and if you come from another school, you can enroll in kindergarten. But a number of these things aren't covered by our laws. So the idea was that the Interstate Compact would try to pass this compact. Well, 11 states passed it, and so now it's official. There is a compact. The way it was set up was at least 10 had to join it. So now the other 12 states or 15 states, whatever, that would want to get into it, have to make a decision about getting into it. The idea was the Department of Defense, and a lot of

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people at the federal level, were pushing to get it done real fast last year, and that's why a lot of them just didn't finish doing it. But we did have a hearing, and Senator Avery conducted a hearing, and I came down and testified about this matter. And I know that, you know, in the state of Nebraska, there's a lot of people very concerned about this, too, that it turns out right, just like Senator Howard's comment. So the only things that I saw at the time we finally agreed to this whole process was...there are two things. One was they're going to create a commission at the federal, or not at the federal level, but in Tennessee. This would be the one to coordinate all of these states that are part of the commission. And they're going to meet and get together and talk about it like once or twice a year, but the bottom line is they're going to have a fee that goes along with setting up that organization. So they said it would be about a dollar a child for all military children. So as I look at the number of military children in the state of Nebraska, as of the 2007 school year--the most recent--we had about 8,000 students. So that would be about \$8,000 that it would cost the state to belong to that Interstate Compact. That's it, \$8,000. Any of the other, and then also the other aspect was we had to decide upon setting up a commission or a board or something in the state. Well, Senator Hilgert put in his \$650,000 plan to what we need to do for these military children, and I can tell you, we don't need it. In Bellevue, we did all these things without any cost. And so we do not feel that it is essential. I believe the State Board of Education and their staff could handle this very easily because it's a matter of just coordination, communication, and letting people know what's important to do. And so we believe it can be accomplished that way. So Nebraska should be able to put this in place for about \$8,000 a year. And that's what the annual cost would be to maintain that office. So, I'd take any questions people might have relative to the bill. I think it's a great idea and see it from there. [LB73]

SENATOR ADAMS: All right. Thank you, Dr. Deegan. Are there questions? Senator Ashford. [LB73]

SENATOR ASHFORD: John, would you spell your name for the record? [LB73]

JOHN DEEGAN: D-e-e-g-a-n. Sorry about that. [LB73]

SENATOR ASHFORD: I'm kidding. That's all I've got. Thank you. (Laughter) [LB73]

JOHN DEEGAN: Yeah, I've been here a couple of times. [LB73]

SENATOR ADAMS: I'm sorry. I'm sorry. [LB73]

SENATOR ASHFORD: No, no, no. (Laughter) I was just trying to say... [LB73]

SENATOR ADAMS: I'm faltering here. [LB73]

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SENATOR ASHFORD: No, no, no. That wasn't the reason I asked. I was just sort of, to give some frame of reference for John, who has just arrived here. People probably don't remember that he's been here for how many years, John? [LB73]

JOHN DEEGAN: I've been 12 years as superintendent. [LB73]

SENATOR ASHFORD: Yeah, but you've been around for... [LB73]

JOHN DEEGAN: About 37 years in Bellevue. So been around. [LB73]

SENATOR ASHFORD: Yeah. So you have a general familiarity with the military issues. [LB73]

JOHN DEEGAN: Absolutely, yeah, and I deal with the military issues all over the nation actually. You know, people don't know that, but that's another hat you wear, but you coordinate... [LB73]

SENATOR ASHFORD: That's all right, I'm sorry. Mr. Chairman, I was, I didn't want, just a moment of levity, I couldn't help myself. (Laughter) [LB73]

SENATOR ADAMS: And probably necessary. Are there other questions? Senator Avery. [LB73]

SENATOR AVERY: Would the Chair allow me to make a comment in relation to his... [LB73]

SENATOR ADAMS: Sure. [LB73]

SENATOR AVERY: ...instead of a question. Superintendent Deegan, you remember that the Government Committee and Military Affairs Committee had an interim study... [LB73]

JOHN DEEGAN: Um-hum. Correct. [LB73]

SENATOR AVERY: ...on base realignment and closure. And you came and you gave testimony about the organization that you helped form, and Senator Cornett was good enough to introduce this legislation. It's an important part of what we're trying to do to protect Nebraska's military assets, so that when the next round of base realignments and closure starts, we're ready. This is one of the things that we can do to make Nebraska more military friendly. Thank you very much for your work. [LB73]

JOHN DEEGAN: Thank you for having that hearing, too. That was a good opportunity to express the compact and what we're doing. I do think how you treat the military has a lot

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to do with where they stay around. In Bellevue, we feel real proud of the community and the Omaha, Bellevue community that supports the base. And we do our best to do a great job with the kids. And that does come up every time we get into the base realignment and closure, so. [LB73]

SENATOR ADAMS: Senator Haar. [LB73]

SENATOR HAAR: Thank you. Is there any enforcement required here? I would think schools would gladly participate in this. [LB73]

JOHN DEEGAN: You know, I don't foresee schools in Nebraska not doing this already, because there's a lot of good people I know in the education business that say that's commonsense. You ought to do that. You ought to do that. I don't think there's any enforcement that goes along and the idea is if you ever, as a committee, or as a state, decide you don't want to belong to that commission, you can just notify them and within one year, you're out of there, if you don't want to. But to me, it's more symbolic to be able to be part of that, and it isn't hard to talk about, but I would tell you there are states like Virginia is probably the worst. In the state of Virginia, I mean, they pride themselves in the differences of how they treat their kids. And I don't think they treat military kids worth a darn. Yes. [LB73]

SENATOR ADAMS: Senator? [LB73]

SENATOR CORNETT: John, could you please go into a little bit more detail on why you feel that we don't need a separate commission for this? And the amount of work that this takes because it's pretty, from the way you have described it to me, that it's pretty well self-maintaining; it doesn't take a lot of time at all? [LB73]

JOHN DEEGAN: Right. No, I'm not sure if you set up an office and put a whole bunch of people in there, what they'd have to do when they get done. They'd have to come up with work because the bottom line is, you've seen the list of things they talk about and any military child, that means any parent that's active duty, their children are entitled to those benefits. That's not a big issue. The state board could communicate that through their newsletter; could communicate it, have somebody on staff be able to answer questions when they have questions about it, and we as a school district could pledge our support to help any other district that wanted to look at ways to do it. It's not a big deal. They can get it done, so. [LB73]

SENATOR ADAMS: Are there other questions? John, I had one, and I think maybe it's already been clarified for me as I read deeper into this. One of my immediate concerns when I heard about the bill was the latitude of individual school districts to make a judgment call about when a child, at what grade level a child coming in, really needs to be placed at. But am I missing something here? It seems like the grades basically, after

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the first grade through, up to the senior year, school districts still have that latitude. [LB73]

JOHN DEEGAN: Um-hum. Absolutely. Um-hum. [LB73]

SENATOR ADAMS: Okay. So it's really the entrance of school and the exit from school... [LB73]

JOHN DEEGAN: That's correct. [LB73]

SENATOR ADAMS: ...we don't want denied necessarily. [LB73]

JOHN DEEGAN: Um-hum. That's right. [LB73]

SENATOR ADAMS: Okay, thank you. [LB73]

JOHN DEEGAN: That's right. We actually did, we have a number of kids that, you know, from a graduation standpoint, we graduate kids from Hawaii Public Schools right across our stage. It's wherever they complete or want to complete their graduation, we can work with the other school district and do their graduation right there in Bellevue. So we accommodate the families. [LB73]

SENATOR ADAMS: All right. Great. [LB73]

JOHN DEEGAN: Okay. [LB73]

SENATOR ADAMS: Are there other questions? Thank you, John. [LB73]

JOHN DEEGAN: Thank you, Senator. [LB73]

SENATOR ADAMS: Are there other proponents? Are there opponents to the bill then? Are there those who wish to testify in the neutral? [LB73]

JOHN HILGERT: Good afternoon, Chairman Adams and members of the Education Committee. My name is John Hilgert, spelled J-o-h-n H-i-l-g-e-r-t. I am the director of the Nebraska Department of Veterans' Affairs. I am here to appear before you to speak on LB73 in a neutral position. The Department of Veterans' Affairs is currently not able to provide the support staff required for the council, the commissioner, the liaison, with current department staff. We currently have two administrative assistants and one staff assistant to provide support to the director, deputy director, and business manager. Besides assisting with all the necessary functions for the agency such as accounting, human resources, records management, budget, greeting the public, etcetera; each assistant is responsible for programs to assist veterans and their dependents. One

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assistant administers the application process for admission to the State Veterans' Homes, provide support for the county, for the Veterans' Home Board and the Veterans' Advisory Commission, plus assist the deputy and the director with administrative functions. Another process is all the applications from the Nebraska Veterans' Aid Fund and investigating information, and providing appropriate decisions based on that information, plus maintains accounting documentation. Finally, the staff assistant is the person who greets the public both in person and by phone. This person maintains the department's military discharge records. In FY 2008, we received 3,453 discharges from the United States Department of Defense; 2,672 requests from the public for discharge information. This same person also processes 1,529 grave registries; 1,788 Governor's welcome home letters; and 545 applications for the Dependent Waiver of Tuition and Reserve Tuition Programs. Additionally to the three support staff, the department includes salary and benefits estimates for the compact commissioner and the military family education liaison, rather than assuming that these positions are unpaid. Both the current staff work environment, it is necessary to provide a fiscal note to include the salaries and benefits of the compact commissioner, educational liaison, and the three support outlined in the bill. Operating expenses to include new space requirements, furniture, computers, office supplies, and travel. A review of the fiscal note shows the proposed expenditures in FY 2010 is \$426,590 and FY 2011, \$416,446; decrease due the one-time expenditures for furniture and equipment. The Department of Veterans' Affairs is available to assist the veterans and their dependents of Nebraska, but as you are aware, new programs require the staff and resources to bring ventures to the public. Witnessing the testimony that we have heard today, and as our knowledge of the intent of the legislation of LB73, obviously these estimates are on the extreme side, on the high side. We wanted to introduce these cost estimates, not fully understanding that certainly LB73 allows for different appointments to be made that are currently in the field of service currently. We decided to be conservative and try to give you what the maximum might be. We stand ready to assist you and execute any policy that the state decides to execute and will do it to the best of our ability. We did want to provide these estimates not assuming that they were unpaid. And that certainly has a significant impact on our fiscal note, as was noted by Senator Cornett. [LB73]

SENATOR CORNETT: I just want to clarify to the committee that John was asked to prepare the fiscal note because we discussed about, discussed this ahead of time with the assumption that a whole new board, commission, and staff would have to be hired, and he came to me ahead of time and said it was going to be a large note. And we have discussed since that time that this can be done by an existing board, and that Bellevue School District will be willing to donate a lot of time and effort to helping set this up and that the cost would be considerably less. But John has been great to work with, and was more than willing to help us. [LB73]

SENATOR ADAMS: Are there other questions for Mr. Hilgert? [LB73]

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SENATOR ASHFORD: I'm lost, Mr. Chairman. John, what are you saying? (Laugh)  
[LB73]

JOHN HILGERT: I'm saying, Senator Ashford, I'm saying that the fiscal note assumes a paid commissioner, a paid public liaison. If we were going to do in-services throughout the state in different school districts, we assume that that person would not do it gratis.  
[LB73]

SENATOR ASHFORD: Okay. [LB73]

JOHN HILGERT: But that would be a paid position. All the tasks that were outlined in LB73, we assigned a cost to that service. [LB73]

SENATOR ASHFORD: Okay, so you're just... [LB73]

JOHN HILGERT: We have heard that there is services available that will not cost, so therefore, I want to make it clear that our fiscal note is assuming all paid positions.  
[LB73]

SENATOR ASHFORD: Okay. But we probably don't need the paid positions. [LB73]

JOHN HILGERT: That would be a policy decision that I am...would... [LB73]

SENATOR ASHFORD: Or that Senator Cornett is saying we don't, so that's good.  
[LB73]

JOHN HILGERT: I would be very happy to, I would hope that a nice clear legislative intent record be made. (Laugh) [LB73]

SENATOR ADAMS: Are there other questions for Mr. Hilgert? All right, thank you, sir.  
[LB73]

JOHN HILGERT: Thank you. [LB73]

SENATOR ADAMS: Is there other neutral testimony? Seeing none, Senator Cornett, do you wish to close? [LB73]

SENATOR CORNETT: Normally when there's no opposition, I waive closing. But I just thought that I would clarify again that a number of states that are in this compact are looking at going into the compact, currently use a variety of methods to set up the commission or boards. And Colorado, who has a number of military students, the fiscal note came in at \$30,000. I can give you...and that includes the cost of the \$1 per child to be part of the compact. I can provide you with what the other states have done in



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regards to the compact, and how they have established their boards and how they are managing this for their students. But like...I wanted to reiterate that former Senator Hilgert was wonderful to work with, and he was tasked with devising a fiscal note for the worst possible case scenario and creating a whole another level of bureaucracy, which we do not feel is needed in any way. [LB73]

SENATOR ADAMS: All right. Thank you, Senator Cornett. Yes, please, I'm sorry? [LB73]

SENATOR HAAR: Thank you. Yeah, the whole thing here is on your statement of intent when you say compliance with. Depending on what we require in terms of compliance would make all the difference as to whether you need staff, and so on and so forth, or whether we just assume people are going to comply with it and just wait to get feedback, you know, of noncompliance. [LB73]

SENATOR CORNETT: Correct. It's compliance with what the compact has drawn up which were the basic points that I went over. And like we said earlier and Dr. Deegan emphasized, most school districts in the state are already doing this. But when you are looking--and this is something that we investigated in the BRAC committee this summer--the federal government and the DOD do not look at what we're doing. They look at what's in law. And if we do not protect our military families and our military students in statute, they don't consider that they're being protected in the state. Most school districts already comply with this. This is putting it into statute basically. [LB73]

SENATOR ADAMS: Are there other questions for Senator Cornett? Seeing none, thank you, Senator. That will close the hearing on LB73, and we move on to LB62. Senator Avery. [LB73]

SENATOR AVERY: We will open the hearing on LB62 introduced by Senator Greg Adams. Welcome. []

SENATOR ADAMS: Thank you, Senator. Committee, LB62 is the first of what may be several bills that coming forward to try to smooth the transition of the learning community. And what LB62 basically does is this: Under the existing language, when the learning community went into effect, and it is in effect, then option enrollment as we know it in our other school districts in the state, came to an end. Yet, by statute, open enrollment which is to be the world of the learning community is a year down the road. It takes effect in the second year of the learning community. So, in effect, we have a time gap here where option enrollment has come to an end; yet, open enrollment has not begun. What this bill would simply do is to say that in this first year of the learning community we would continue option enrollment, and then begin open enrollment. Now, in so doing, what we will also do is not only allow the continuance of option enrollment for another year, but we have...in the language, we have folded into that the criterion for

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movement that will be found in open enrollment. And what do I mean by that? The criterion for movement will, of course, be number one on the list. Siblings: A student wants to move, if there's a sibling already into that district, and by the way, if there is capacity in the district; if there's space in the district, then the student that has, that wants to move, has a sibling in that district, will be given priority. Second on the priority list is, of course, diversifying. The socioeconomic diversity of that school district becomes a priority. Now those are the criterion that we have for open enrollment a year from now. Where...what this bill would do is, would be to apply that to option enrollment, but we would allow the option enrollment to run for a year. Now, in addition to that, realize that in this bill, because we're going with...we would be going with option enrollment for another year, using the open enrollment criterion, that this would be district specific. A student would option into a district. Whereas a year from now, a student under open enrollment, would be enrolling in a specific building. But we're not there yet; that's a year away. But this would align those dates. I'd take questions. [LB62]

SENATOR AVERY: Questions from the committee? Senator Haar. [LB62]

SENATOR HAAR: Well, for the... [LB62]

SENATOR ASHFORD: It's very simple, I don't know what you're... (Laughter) [LB62]

SENATOR HAAR: At the risk of sounding uninformed... [LB62]

SENATOR ADAMS: Not any more uninformed than I may be in my attempt to answer it (laughter). [LB62]

SENATOR ASHFORD: That's impossible, Senator Haar. (Laugh) [LB62]

SENATOR HAAR: Being a new person in the Legislature, take just a minute to explain the option enrollment to me. [LB62]

SENATOR ADAMS: Option enrollment, as it exists in Nebraska state law, and I may have to defer to our legal counsel here for more detail. Students may option into another school district if that district has capacity for them. [LB62]

SENATOR HAAR: Okay. [LB62]

SENATOR ADAMS: And then that student, as they come in, there is funding that follows them. [LB62]

SENATOR HAAR: It follows. Okay. [LB62]

SENATOR ADAMS: We are, in effect, giving students a choice. [LB62]

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SENATOR ASHFORD: Just for the...Senator Avery, can I? [LB62]

SENATOR AVERY: Senator Ashford. [LB62]

SENATOR ASHFORD: Just for the record and essentially, and we are fortunate that the author of the option enrollment bill, Senator Baack, is here in the back, but I'm sure he doesn't want to comment. But this is a phased-in process anyway. I mean, if a student is in the option enrollment program today, that student remains in the option enrollment program throughout that person's educational history. [LB62]

SENATOR ADAMS: Yes. Yes. [LB62]

SENATOR ASHFORD: He doesn't...that student doesn't become an open enrollment student. [LB62]

SENATOR ADAMS: That's right. [LB62]

SENATOR ASHFORD: So they stay in...until and then. Okay. [LB62]

SENATOR ADAMS: Yep. Other question? [LB62]

SENATOR AVERY: Any other questions from the committee? [LB62]

SENATOR ADAMS: I'm sorry. [LB62]

SENATOR AVERY: Thank you, Senator Adams. Proponent testimony? [LB62]

KEVIN RILEY: Senator Adams and members of the Education Committee, my name is Kevin Riley, K-e-v-i-n R-i-l-e-y, Superintendent of the Gretna Public Schools, and I am here to testify in support of LB62. This summer, the superintendents reviewed the learning community laws and how they fit together, LB1024, LB641, LB1154, and then the new state aid law that came into effect under LB988 last year. And you know this is very complex law. The way those bills fit together was remarkably clean. Tammy and Senator Raikes and the Education Committee have written a clean bill. We did identify a limited number of concerns, one being the one-year gap that Senator Adams referred to. As the superintendents talked about that this summer and into the early fall, it took us a very short time to agree that we wanted to extend that option enrollment into '09-10. And in the spirit of legislative intent of the learning community statute, begin the process of option students contributing to the socioeconomic diversity goal of open enrollment which begins in 2010-2011. As we saw the initial drafted bill, there were a couple of other concerns, one dealing with the application process, and one dealing with possibly an inadvertent extension of opt-in enrollment beyond '09-10 which is nothing

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more than, I think, a language issue. I'd like to thank Senator Adams, Senator Ashford, Senator Raikes, Tammy, Matt, for listening to our limited number of concerns over the past few months. We understand as superintendents that our role in regards to this is to share our concerns with you, and it is our responsibility to convince you that there's a need for improvements, amendments, and revisions. Among the 11 school districts, I would tell you that it's no longer a time for division or gamesmanship, but rather time for collaboration and statesmanship and our concerns will be brought to you in that spirit. I may testify in support of a few other bills that will come in front of you this session. And I think really we're at the point where we're polishing this law. And then I think we have to move on and begin the process of improving the educational experiences of all children in the learning community, and that's up to the council and the 11 superintendents and school boards. Again, I thank you, and I ask that you approve LB62. [LB62]

SENATOR AVERY: Thank you, Mr. Riley. Any questions from the committee? Senator Ashford. [LB62]

SENATOR ASHFORD: Kevin, just a reflective minute on what you said. First of all, thank you for your hard work over the summer and fall. And also Chairman Adams, I think, has put in a tremendous amount of time on this. Let me just say, just for the record, as we start this long period of having hearings--and hopefully you will come back and talk on other issues--I don't think there ever was any gamesmanship. I think what we had were 11 districts working hard for their--including yours--working hard for their constituents, and they didn't always agree. But that certainly, to me, I always felt that everybody was coming at this with the highest level of commitment and integrity, and I think your comments reflect that, so thank you for that. That's all I have. [LB62]

SENATOR SULLIVAN: Excuse me. I just want to clarify that this is limited just to the learning community districts. Is that correct? [LB62]

KEVIN RILEY: That is correct. [LB62]

SENATOR SULLIVAN: Okay. [LB62]

SENATOR AVERY: Any other questions? Thank you, Mr. Riley. Any other proponents? [LB62]

ANGELO PASSARELLI: Good afternoon, Senator Avery and members of the Education Committee. My name is Angelo Passarelli, that's P-a-s-s-a-r-e-l-l-i, and I represent the Millard Public Schools, and we support LB62 and urge your support for LB62. I wanted to give you some idea of the impact it might have in the Millard Public Schools. On average over the last three years, we optioned in about 450 students. We optioned out about 150 students, so about 600 families are impacted by this legislation. I think you've heard the reasons why we want this done, to clear up that unintended consequence,

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and certainly, we are supportive of this legislation and urge you to move forward. Thank you, and if you have any questions, I'd certainly be happy to answer them. [LB62]

SENATOR AVERY: Any questions? Seeing none, thank you, Mr. Passarelli. Any other proponents? [LB62]

STEVE COLEMAN: Senator Avery and members of the committee, my name is Steve Coleman, C-o-l-e-m-a-n. I represent the Papillion-La Vista School District, and we also stand in support of LB62. The efforts have been put forward to harmonize what was meant as very necessary for the efforts to continue, and we can share statistics, but very similar to the other districts in the number of families affected, we certainly urge your support of advancing this bill. I thank you. [LB62]

SENATOR AVERY: Any questions? Seeing none, thank you very much. [LB62]

JOHN DEEGAN: Just the me too, group. As Bellevue Public Schools, we represent the second-largest option program in the state of Nebraska, and we have over a thousand students that option in. And so we want to say how important this is, too. I know it was one of those clarifications, but I appreciate it very much. Thank you. [LB62]

SENATOR AVERY: For the record, he is John Deegan. [LB62]

JOHN DEEGAN: Just in case you missed that. Sorry about that. [LB62]

SENATOR ASHFORD: I think from a longevity standpoint, Mr. Chairman, I thought that was where he'd fit in. That's why I had to ask him to spell his name. (Laughter) [LB62]

SENATOR AVERY: Any questions from the committee? Thank you, Mr. Deegan. [LB62]

JOHN DEEGAN: Thank you. [LB62]

CHUCK CHEVALIER: My name is Chuck Chevalier, and I don't have the longevity so I'll spell my last name, C-h-e-v-a-l-i-e-r. I want to share with you that it is important for the 11 districts to work together on this and we came together and we need this fix. Now, I would say that and make sure you know that we're working together because if option enrollment went away next year, we'd get about 350 kids back to our district. We're negative when it comes to option numbers. So we're actually, in working together, kind of would lose money-wise on it if you don't make this fix. But we feel strongly that, you know, when we work together, there is some give and take in all of the things that we do. And we're very much hopeful that you'll go ahead and move this bill forward and pass this bill so we are for this. I represent South Sarpy School District as their superintendent. Any questions? [LB62]

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SENATOR AVERY: Thank you. Any questions from the committee? Seeing none, thank you. [LB62]

SENATOR ASHFORD: Thanks for your work, Chuck. [LB62]

SENATOR AVERY: Any other proponents? [LB62]

ANDREW RIKLI: Chairman Adams, members of the committee, my name is Andrew Rikli. My last name is spelled R-i-k-l-i. I'm the administrator with the Westside Community Schools in Omaha, Nebraska. I am likewise here in support of LB62, for many of the reasons that have been previously outlined. I won't belabor some of the points that have been made by previous testifiers. Suffice it to say if you're not aware, Westside Community Schools is the single largest participant in the option enrollment program. Not only in terms of the number of students we receive--over 2,000 which represents a full third of our student population--but also in terms of the percentage of students that we receive. So needless to say, we have some skin in the game, and we will be affected every bit as much as anyone else in this room. As previous testifiers have noted, we are fully in support of the learning community. We see this as one of the small incremental changes that certainly will not fundamentally change the bill in any way, shape or form, but just one of those nice cleanups that we feel will enhance the outcomes not only for school districts, but for families also. So with that, I would urge your support for LB62, and I'd be happy to take any questions you may have. [LB62]

SENATOR AVERY: Any questions from the committee? Senator Ashford. [LB62]

SENATOR ASHFORD: Andy, I thought we could keep that under wraps, that 2,000 student deal. [LB62]

ANDREW RIKLI: (Laughter) It's actually a little bit...a little over 2,000 actually, Senator. [LB62]

SENATOR ASHFORD: No, it's good for full disclosure; it's good that you did that, but. Thank you. That's all I have. (Laugh) [LB62]

ANDREW RIKLI: Full disclosure, absolutely. Thank you, Senator. [LB62]

SENATOR AVERY: Any other questions? Thank you, Mr. Rikli. [LB62]

ANDREW RIKLI: Thank you. [LB62]

SENATOR AVERY: Any other proponents? Seeing none, we'll now move to opponents. Anyone wish to speak against this bill? Anyone wish to testify in the neutral capacity? Seeing none, Senator Adams. [LB62]

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SENATOR ADAMS: (Exhibit 3) Thank you, Senator Avery. I'm not sure that this warrants a great deal of closing. I think we have understanding on it. However, I'm going to reiterate something and submit an amendment to you at the same time. Our intention with this bill, as well as with some others that will come before this committee related to the learning community, is to help smooth the way to enactment. LB641 that created the learning community was a big piece of legislation. And to think that we had everything right...there's going to be things that we need to adjust, and this is one of those adjustments. And along the way, we are trying to listen to the superintendent and make some of those corrections. And as a matter of fact, I do have a small amendment to this bill, if the page would hand these out. This is in response to a concern; it's very, very minor, it's a response to a concern that OPS had as they reviewed this language. It's just really clarifying what we were trying to say on some dates in here. Thank you, Senator Avery. [LB62]

SENATOR AVERY: Thank you. That closes the hearing on LB62. We'll now move to a hearing on LB61, also introduced by Senator Greg Adams. [LB62]

SENATOR ADAMS: Thank you, Senator Avery. LB61 is a very simple piece of legislation, but it comes about because of some great complicated situations that we find ourself in. By statute, currently, the state will certify the amount of state aid going to school districts by February 1. So as you can imagine, we've got a lot of school districts out there at this time of year that are on the edge of their seat waiting to see what their state aid is going to be, so that they can build a budget. This comes about...what this bill will do is to change the date for certifying aid by the Department of Education from February 1 to on or before April 1. You know, obviously when you move that time line, the issues become when do we get to know our numbers; it shrinks the amount of time that we have to build our budgets; we have an April 15 personnel deadline that we have to respond to; all of those things become complicated. We wouldn't do this; this bill wouldn't be before us if it wasn't for the revenue situation that we are facing and the forecast that we're seeing. The revenue forecast is not good, and the projections are, it may even get worse. It would be my intention that this committee and our colleagues on the floor be prepared to make the adjustments that we believe are appropriate in the aid formula so that education can do its part. And I want to look at a February forecast so that we really know where we're at. So it would seem to me that to tell the Department of Ed right now, in light of what we're facing, to go ahead, use current numbers, calculate the aid, certify it by February 1, and put it in the hands of school districts; when in reality, those numbers ultimately may mean nothing is probably a waste of time for the State Department of Ed and doesn't give school districts anything that they can really work with. If we move the certification date to on or before April 1, I realize that it causes some issues for school districts. But here's what we need to do: we need to be able to develop a plan for how TEEOSA may be able to contribute to adjusting for low revenues. We need to be able to do that, and we need the Department of Ed working

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for us. As we propose potential changes, we need them doing our calculations, our modeling, so that we can see where we're at with what we're going to propose to the body. And I would much rather have them, at this point in time, focusing on the potential changes we have to make, and telling us how they'll work and what dollar amounts we're talking about, than working on something that probably February 1, would not be true and accurate. The other side of this is very practical as well. These school districts want to know the numbers. I'm being as sympathetic to that as possible. And the reality is, I believe, that the quicker we can get the Department of Ed working on our models, the quicker we can make a decision as a committee as to what we're going to take to the rest of the body, the quicker school districts will get their numbers as to what we're proposing so that they have an opportunity to respond to it. Hence, I'm asking that we move the certification date to on or before April 1. Thank you, Senator Avery. [LB61]

SENATOR AVERY: Senator Adams, do you have a sunset provision in this bill or is this a permanent change? [LB61]

SENATOR ADAMS: I think it's a permanent change. No, there is a sunset in it? One year. Just this year. [LB61]

SENATOR AVERY: Just this year. [LB61]

SENATOR ADAMS: Yeah. [LB61]

SENATOR AVERY: Thank you. Any other questions from the committee? [LB61]

SENATOR ASHFORD: Why did we do that? Sorry. (Laugh) Oh, go ahead. [LB61]

SENATOR AVERY: Senator Ashford. [LB61]

SENATOR ASHFORD: No, no, I'm sorry. I didn't...go ahead. [LB61]

SENATOR AVERY: He's going to defer to you, Senator Sullivan. [LB61]

SENATOR SULLIVAN: To say that the figures that a school district gets on February 1 are not usable, that may be true to one extent. However, it also shows, even though the actual figures that they end up getting may be incorrect; ultimately, it still shows them how the formula will work, right? [LB61]

SENATOR ADAMS: It can do that, yes. [LB61]

SENATOR SULLIVAN: Isn't that a benefit? [LB61]

SENATOR ADAMS: Oh, there's no question that there is some benefit. And what I've



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had to do here in my opinion is to weigh the cost versus the benefit. And I don't mean to slight school districts, I think that the Department of Ed needs to give us on this committee all the attention that we need to develop the numbers that we're going to have to have to take up on the floor to make adjustments for the revenue shortfalls rather than working on something else that may, most probably wouldn't be true. So there is a trade-off here, Senator Sullivan. There's no question. It weighed heavily on my mind. [LB61]

SENATOR SULLIVAN: Okay. [LB61]

SENATOR AVERY: Senator Ashford. [LB61]

SENATOR ASHFORD: That was a good question. And to follow up on that, last year, just so we put it into some perspective, we had the February numbers that came out based upon what the bill, the state aid bill said. [LB61]

SENATOR ADAMS: Correct. [LB61]

SENATOR ASHFORD: And then at that time...then we changed the bill essentially, between February and April, which resulted in, well, in a decrease in state aid. Is that the kind of problem you're thinking about here? [LB61]

SENATOR ADAMS: In essence, trying to avoid some of that problem. If you remember what happened last year on the floor, we put those numbers out and people started going to the bank, and then all the sudden we were back to the drawing board and... [LB61]

SENATOR ASHFORD: Yes, the banks probably aren't worth going to, but. (Laughter) [LB61]

SENATOR ADAMS: And there was, that's right. And in part, this is an attempt to avoid that situation and get their attention directed here so we can make our corrections. [LB61]

SENATOR ASHFORD: And that's why we're thinking about it as a one year. [LB61]

SENATOR ADAMS: That's correct. [LB61]

SENATOR ASHFORD: It isn't necessarily...Senator Sullivan is right in her point, however, that that... [LB61]

SENATOR ADAMS: Yes. [LB61]

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SENATOR AVERY: Any other questions? Thank you. Proponent testimony. [LB61]

JOHN BONAIUTO: Senator Avery, members of the committee, John Bonaiuto, B-o-n-a-i-u-t-o, executive director of the Nebraska Association of School Boards. This is a bill that board members like the fact that we have a date. February is an important date--getting that information--so that boards, when they're doing budget preparation and planning can make important decisions. They have to make staffing decisions, as Senator Adams has said, by April 15. If they're going to notify any staff that they would not be able to afford to keep that staff member, they have to notify them at that time. So we're appreciative of the fact that a date prior to the staffing deadline has been selected. We have had years when the February 1 numbers were released, and it became apparent that those numbers were not going to be the numbers that were going to be used, and in a long session like this, the serious budget discussions don't occur until later in session. And so we've had years when we passed April 15 and still not had good information to make the important decisions that boards have to make. So having the numbers is important. You know, that obviously the February numbers, if those numbers are run, they're going to be a lot bigger numbers. But they're not going to be real numbers, so we would rather have the real numbers to use. So that would...there will be others that will speak to other aspects about how important it is to still have the February information. We're sensitive to the fact that we do have a date that we can count on to get some numbers to use for the planning process. With that, I'll conclude my testimony. [LB61]

SENATOR AVERY: Any questions for the witness? [LB61]

SENATOR ASHFORD: Just for clarification, they are real numbers, to Senator Sullivan's point, but they may not reflect what the Legislature is going to appropriate. Is that? [LB61]

JOHN BONAIUTO: The February numbers, yes, that is. [LB61]

SENATOR ASHFORD: Do not...that's your point? [LB61]

JOHN BONAIUTO: They would not reflect... [LB61]

SENATOR ASHFORD: But they're real numbers, it's just... [LB61]

JOHN BONAIUTO: They are real numbers and the April numbers would. The February numbers would speak to... [LB61]

SENATOR ASHFORD: Or maybe better do. They may not absolutely, but they're...okay. [LB61]

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JOHN BONAIUTO: Yes. [LB61]

SENATOR AVERY: Any other questions? Thank you. [LB61]

JOHN BONAIUTO: Thank you. [LB61]

MIKE DULANEY: Members of the committee, my name is Mike Dulaney. I'm the executive director for the Nebraska Council of School Administrators. I do have handouts. [LB61]

SENATOR AVERY: Would you spell your name please? [LB61]

MIKE DULANEY: Yes, I will, Senator Avery. Dulaney, D-u-l-a-n-e-y. We are here in support of LB61, and we recognize the situation that this committee faces and the state of Nebraska faces. Historically, just for frame of reference, the February 1 certification date came about in the late '90s. That's when the certification was moved to that time, and the idea is to allot as much time as possible to get accurate numbers and so it was moved to that point. So since that time, we've had a number of instances where we've had to, because of the economy in the state of Nebraska, we've had to have a bill that would void the certification, February 1 certification and cause a re-spin of the numbers based on a revised formula. We've seen that a number of times in the 2000s and of course, in the late '90s, we've had that. So the difference, of course, in this approach is that we have a separate bill that changes the date and then a separate bill to be introduced that would cause the distribution formula to be changed. Typically, all of that is in the same bill. Historically, that's the way it's been. We appreciate the fact that Senator Adams is doing this because it does give our members, our school districts, notice that this is what we're going to do. And now they have to...you have to get to the major task of changing that distribution formula accordingly. So we want to let you know that we support what's going on here. We know that there's very complicated discussions yet to happen, and we want to be a part of those. So Senator Avery, that's my testimony. [LB61]

SENATOR AVERY: Thank you. Any questions from the committee? Seeing none, thank you. [LB61]

MIKE DULANEY: Thank you. [LB61]

ALAN KATZBERG: Good afternoon, Senator Avery and members of the Education Committee. My name is Alan Katzberg, K-a-t-z-b-e-r-g, and I'm the executive director of the Nebraska Rural Community Schools Association, and I simply want to add a me too to the support of this bill. We believe that changing the certification date from February 1 to April 1 is an appropriate course of action, given the economic uncertainty in the state. We would like to emphasize and request and would hope that the February 1 numbers

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would be made available to the school districts as soon as they are available. We need those to see how the state aid formula that was developed previously would affect our districts and use that for future planning. So, having said that, that concludes my remarks. [LB61]

SENATOR AVERY: Thank you. Any questions? Seeing none, thank you. [LB61]

ALAN KATZBERG: Thank you. [LB61]

SENATOR AVERY: Any more proponents? All right. We'll now take testimony from opponents. Anyone here wish to testify in opposition? Anyone here wish to testify in the neutral capacity? [LB61]

MARY CAMPBELL: A gentleman and a scholar. Mary Campbell, C-a-m-p-b-e-l-l, testifying as a registered lobbyist for the Lincoln Public Schools. I apologize for neutrality because I think that's often not as forthcoming as it should be, particularly since there is an awkwardness to it in this instance, in that Lincoln Public Schools is supportive of moving to the April 1 date for the reasons stated by previous testifiers. We are testifying neutral so that we could address a concern which has also been hinted at. And that is, as you well know, particularly those of you who are returning senators, LB988 was an extremely complex piece of legislation, and it did bring to the formula many important changes that we are very appreciative of and supportive of. But we spent the better part of the interim trying to forecast those, trying to model them, and with difficulty. And so our plea, if you will, is that we want the opportunity to verify LB988 as it was intended through its passage last year. And so we think that to take our forecasting system and match it up against numbers that--it is our understanding will be available within days--not certified, but available online for us to consult, to compare, to contrast with our own homework. And so we would like that; that would help us to get a leg on the budgeting process that we're already in the midst of undertaking and will be doing soon with our boards as well. So the sooner the better from our perspective, and we really do see it as an important budgeting tool, and think that it would not be imposing any additional time, money or efforts on the part of the department to release those to districts who want them now, and then go forward with the April 1 math. So that is our request. [LB61]

SENATOR AVERY: Any questions for Ms. Campbell? Seeing none...oh, I do have one. Senator Haar. [LB61]

SENATOR HAAR: Thank you. So you're asking for the February 1 anyway, knowing that it's not the final one? [LB61]

MARY CAMPBELL: Knowing that it will help us to see if our own forecasting system is valid as it is applying the new elements of LB988, and yes, recognizing that the dollar

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amounts in those categories very, very likely will change. [LB61]

SENATOR HAAR: It's kind of my understanding, though, that preliminary figures are often interpreted as final figures and the perception anyway, do you...? [LB61]

MARY CAMPBELL: I think we're all political realists and know that these numbers will not have finality until the end of the session. [LB61]

SENATOR HAAR: And she signed that piece of paper, right? (Laughter) [LB61]

SENATOR AVERY: Any other questions? Thank you very much. [LB61]

MARY CAMPBELL: Thank you. [LB61]

SENATOR AVERY: Mr. Lindsay. [LB61]

JOHN LINDSAY: Thank you, Senator Avery, members of the committee. For the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing on behalf of Omaha Public Schools. Our testimony is very similar to Ms. Campbell's testimony. And that is that while we're here in a neutral capacity, we understand, appreciate, and are fine with delaying the certification date. As a matter of fact, we don't disagree with the reasoning that Senator Adams set forth in his opening. What we do have is, and it was raised a little bit by Senator Sullivan, is that that data that the department has, whatever they have spun to date, has value and allows us to model what kind of changes LB988 brought about last year. LB988 was a significant change to the formula. We think good changes to the formula, and we appreciate that at least Senator Adams' indication was that he's going to stick within the structure of LB988. Having access to that data would help us model what kind of impact the tough choices that you have coming the rest of this session that (inaudible) we are political realists as well and realize the first number is not probably close to what...that we'll end up with. But it does...it would be able to tell us, if you change here, what impact is it going to have overall. What...how are various districts going to be impacted by various changes that all of you are going to have to deal with as you go through the process. So we would, again, no objection to the bill. We would just join in with Lincoln and NRCSA and others who would like to have access to whatever the department has done to date. We're not asking for them to continue working. Senator Adams is correct that maybe they need to focus on modeling changes that you'll have before you. But whatever is done would be helpful to the districts out there in trying to see how LB988 actually did work, because this is our first real exposure to how the changes you made last year work. So with that, I'd conclude. [LB61]

SENATOR AVERY: Thank you. Any questions from the committee? [LB61]

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SENATOR ASHFORD: It seems unbelievably logical. [LB61]

SENATOR ADAMS: I must not have stuck to the notes then. (Laughter) [LB61]

SENATOR ASHFORD: You must have missed a few of the notes. (Laughter) [LB61]

SENATOR AVERY: We need to start over. (Laughter) Any additional questions or comments? Thank you, Mr. Lindsay. [LB61]

JOHN LINDSAY: Thank you. [LB61]

SENATOR AVERY: Senator Adams, do you wish to close? [LB61]

SENATOR SULLIVAN: Can I ask one question, Senator Adams? [LB61]

SENATOR AVERY: There is a question for you, Senator Adams. Would you mind coming back? [LB61]

SENATOR SULLIVAN: Senator Adams, do you think that if we were to accommodate the concerns of LPS, OPS, and NRCSA, that we'd have to have an amendment to this bill? [LB61]

SENATOR ADAMS: I don't think so. I think it really amounts to what the State Department of Education has got in hand; how far along they are. [LB61]

SENATOR AVERY: Any other questions? Okay. [LB61]

SENATOR HAAR: Yeah, thank you. Again, being new to the process, if the appropriations bills aren't finally passed until the end of the session, why do we have April 1 now as a valid date? [LB61]

SENATOR ADAMS: With state aid, the numbers that we set in the formula drive the appropriation. And as we set that, those then get folded into the Appropriations budget. And I have been working closely with Senator Heidemann as we have speculated how all of this may fit. And I certainly don't want to deviate from the fact that the aid drives the appropriation. [LB61]

SENATOR AVERY: Excuse me, Senator Adams. Isn't it also true, though, that hiring and decisions like that need to be done by the 15th of April? [LB61]

SENATOR ADAMS: There is an April 15 deadline for letting employees know, and we try and be very sensitive to that in the way that we bring things together and take things to the floor in the next several weeks. [LB61]

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SENATOR AVERY: Anything else? Oh, Senator Giese. [LB61]

SENATOR GIESE: Senator Adams, I appreciate your work on this bill and for this change. And just...I'd like to just make the comments that my district would rather have the date moved back than an early amount set and then have that changed. So I think in essence what we're doing is accommodating them, and so I'm happy to see that the Legislature is addressing the issue and moving that back. Although the numbers may not be what they were looking for, at least we're addressing that, and in the proper way, I believe, so thank you for your work. [LB61]

SENATOR SULLIVAN: One more question. How was the April 1 date arrived at? [LB61]

SENATOR ADAMS: Well, I think for one thing, we needed the February forecast, the end of February, and we're going to need time on the floor to work through all of these things. [LB61]

SENATOR AVERY: Senator Ashford. [LB61]

SENATOR ASHFORD: Yeah, I just want to second what's been said. I,...first of all, going back many years in this process and being on the Appropriations Committee years ago, I think what Senator Adams, Chairman Adams has done here is, well, obviously spent an inordinate amount of time in working with the Appropriations Committee chair to come up with a viable course of action. And it's really the best course. There isn't...you can't, April 1 is really about the only date to still give the school districts time, and hopefully are reflecting what's going to come out in the legislative process. It's not often done, so I commend Senator Adams and Senator Heidemann for their leadership in this matter because it is going to make it easier for us and for the districts which is not for us necessarily but for the districts. And it's a good move and Tammy and Senator Adams need to be applauded for it, so thank you. [LB61]

SENATOR AVERY: Seeing no more questions, that ends the hearing on LB61. [LB61]

SENATOR ADAMS: That will conclude the hearings for today. Committee with...we need to exec for a few minutes, if you'll stick around. [LB61]

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Disposition of Bills:

LB72 - Placed on General File with amendments.  
LB73 - Placed on General File with amendments.  
LB62 - Placed on General File with amendments.  
LB61 - Placed on General File.

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Chairperson

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Committee Clerk