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Transcriber's Office

Education Committee  
January 26, 2009

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[LB20 LB102 LB197 LB206]

The Committee on Education met at 1:30 p.m. on Monday, January 26, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a hearing on LB206, LB20, LB197, and LB102. 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. []

SENATOR ADAMS: (Recorder malfunction)...take a seat, and I'd encourage you to turn off your cell phones or put them on silence for the course of this hearing or whatever portion of it you plan to participate in. To begin with today, let me introduce our Education Committee and staff members. First of all, over here on my right, our committee clerk, Becki Collins, and next to her will be Senator Ashford. Senator Bob Giese is here from South Sioux City; Senator Abbie Cornett will be here in just a few moments; Tammy Barry, the Education Committee legal counsel. I'm Greg Adams. Next to me is the Vice Chair of the committee, Senator Howard; Kate Sullivan is here from Cedar Rapids--Senator Sullivan; Senator Avery from Lincoln; Senator Haar from District 21 in the Malcolm area; and Kris Valentin, our research analyst will be here in due course. Our pages today are Sarah McCallister and Brennen Miller. As we proceed through the hearings, we have four bills that we're going to hear today. As a matter of course, be sure that if you choose to testify, that you come forward to the microphone; be sure that you place, in the box there next to Becki, your intent to testify. State your name for the record and spell it, if you would, so the transcriber, we're clear about that, and give us your testimony. I think what we'll do is we probably won't use the lights today. I'm just making an observation that it doesn't look like we have a whole lot of testifiers. We won't use the lights. And I think I'll stand by, probably, about a five-minute rule unless for some reason we get a flood of testifiers. I think we can do that today. And I'd like you to be sensitive to that time so that everyone that's here that wants to testify has an opportunity to testify. We'll hear the opening, then we'll move to proponents, then opponents, then neutral testimony, a closing if the opening senator chooses to do that, and then we'll move on to our next bill. With that out of the way, let's move on to our first bill to hear today which is LB206. Senator Nantkes. []

SENATOR NANTKES: Good afternoon, Chairman Adams, members of the committee. My name is Senator Danielle Nantkes, representing the "Fighting 46th" Legislative District. That's spelled N-a-n-t-k-e-s. I'm here today to proudly introduce LB206. This creates the In the Line of Duty Dependent Education Act for the benefit of children of Nebraska law enforcement officers and firefighters who have been killed in the line of duty. The intent of this bill is to recognize the sacrifice Nebraska's law enforcement officials have made during the performance of their official duties by providing a postsecondary educational benefit to surviving children to attend state universities, colleges, and community colleges located right here in Nebraska. This act would waive tuition and fees at state universities, colleges, and community colleges in Nebraska for

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children who have lost a parent in the line of duty. Children of deceased Nebraska law enforcement officers or firefighters would be eligible if the child is 25 years of age or younger, a full-time student pursuing an associate or bachelor's degree, and also not receiving benefits under any federal act providing for similar payments. Just for the committee's information, I do want to draw to your attention the fact that there is a related federal law and federal program in this regard. That being said, this assistance is fairly limited in scope and requires a very arduous application process which we've heard from a variety of different potential first responders who would be affected by this legislation that there is a great need that still exists on the state level to provide a complementary program to the federal level that does exist. In fact, 44 other states have provided a similar educational benefit on the statewide level to address this very issue. In fact, Nebraska is only one of six states that do not have a similar law on the books at this time. Only Iowa, Hawaii, New Hampshire, Vermont, Wyoming, and Nebraska are without corresponding state legislation. Nebraska's law enforcement officers, firefighters, and emergency medical service providers are committed daily to protecting our lives and our communities and our property. This is what I believe is the very least we can do to honor that sacrifice by providing an educational benefit to their surviving children in the event of their untimely death in the line of duty. I would also draw the committee's attention to the fact that the fiscal impact on this legislation is quite negligible, and that is something that I always look at very carefully as a member of the Appropriations Committee too. I am very hesitant to bring in bills that have a large spending tag to them because I think it sends a mixed message. But while the fiscal impact is minimal, the public policy opportunity that we have to send today is great with this legislation. With that, I know that there are many passionate advocates here to share their thoughts and opinions on the legislation, who will come after me today, so I urge your support of LB206 and am happy to answer any questions. [LB206]

SENATOR ADAMS: Thank you, Senator Nantkes. Committee, if you do wish to ask questions of any of our testifiers today, if you would let me recognize you so that I can get your name into the record. That helps the transcriber later on. And so I would open it up. Committee, do you have questions? Yes, Senator Sullivan. [LB206]

SENATOR SULLIVAN: Yes. Senator Nantkes, could you expand a little on what the current federal benefits are? [LB206]

SENATOR NANTKES: Well, I think that there's going to be some experts in the field who will come after me, Senator Sullivan, so I'll leave that question for some of them. But the federal law and the federal program is called the Police, Fire and Emergency Officers Educational Assistance Act, and that does provide a similar financial assistance for higher education of dependents for those who were killed or permanently disabled in the line of duty. However, again, I think the difference is, and the need for state legislation is the fact that it's somewhat limited in its scope in terms of who qualifies for that benefit, and it's a very arduous application process which can, in fact, have the

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impact of disqualifying some seemingly deserving family members from utilizing this assistance. But I think that the benefit of our legislation as drafted is that it encourages those who may be eligible for such programs to first apply for that, and then to also have this available as a supplemental backup in case for the difficulty in navigating that process or the eligibility standard might not fit the specific facts. [LB206]

SENATOR SULLIVAN: Also, in addition, this issue has apparently, from what I've read, been brought forward before. [LB206]

SENATOR NANTKES: It has. [LB206]

SENATOR SULLIVAN: Are there particular differences that maybe will make this more palatable now? [LB206]

SENATOR NANTKES: It is my understanding that this legislation has been introduced a number of times in the past before this body. And I don't think in particular it was any specific opposition to the public policy ideals contained in the legislation, but probably just a lack of attention in priority being paid to this specific piece of legislation over the years. And it's my hope, with an early introduction and an early hearing here today, that we'll have a chance to shepherd this through the process and finally enact some real justice and some real recognition for these families who have a parent making the ultimate sacrifice on behalf of our citizens. [LB206]

SENATOR SULLIVAN: Okay, thanks. [LB206]

SENATOR NANTKES: Um-hum. [LB206]

SENATOR ADAMS: Other questions? Senator Haar. [LB206]

SENATOR HAAR: Thank you, Senator. Question here. Would this also apply to volunteer firefighters, do you know? [LB206]

SENATOR NANTKES: It would. It is my understanding that our definition would be broadly utilized to apply to really all first responders, professional firefighters, volunteers, and then law enforcement officials as well. [LB206]

SENATOR HAAR: Thank you. [LB206]

SENATOR ADAMS: Senator Ashford. [LB206]

SENATOR ASHFORD: Yeah, this bill was brought before, and I remember supporting it years ago and I'm...absolutely support this and will vote for it again, unequivocally. The only question that I have is, does this in any way adversely affect awarding of

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scholarships? The scholarship is subtracted, but is that...I mean, would a scholarship not be granted if this were in place? I just don't know how that interfaces. Maybe somebody else can answer that question. [LB206]

SENATOR NANTKES: Well, Senator Ashford, thank you for your past support and continued support of this important legislation. In terms of how it affects potential eligibility for other financial aid considerations, I imagine that would probably be on a case-by-case basis. But I think my ultimate intent and those who brought this legislation to me would be to provide a recognition and assistance for those families in need. [LB206]

SENATOR ASHFORD: Yeah, and I'm just wondering if it doesn't need an amendment to say that nothing would preclude other state scholarships, for example, from being awarded. [LB206]

SENATOR NANTKES: Sure, and we'd be wide open to working with the committee in that regard. [LB206]

SENATOR ASHFORD: Thank you. [LB206]

SENATOR ADAMS: Senator Giese. [LB206]

SENATOR GIESE: Thank you. Senator Nantkes, you mentioned that other states had these...or waived these fees. Are they all, the entire fees, waived in these other states or? [LB206]

SENATOR NANTKES: I haven't had a chance to review the legislation in all 40-plus other states that have enacted similar complementary legislation on the state level, so I imagine it takes a slightly different approach in each of those areas to best fit and be harmonious with their existing statutory framework. But I think overall it generally follows the same train of thought and line of thinking in terms of what's proposed in LB206. [LB206]

SENATOR GIESE: Thank you. [LB206]

SENATOR NANTKES: Um-hum. [LB206]

SENATOR ADAMS: Senator Avery. [LB206]

SENATOR AVERY: Thank you, Mr. Chair. Senator Nantkes, I'm looking at this. It appears to me that it would apply only to state colleges, universities, community colleges; not private? [LB206]

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SENATOR NANTKES: That's correct. [LB206]

SENATOR AVERY: I don't know if Tip O'Neill is here or not, but I suspect he might be, and would have something to say about that. Not that I agree with him necessarily. [LB206]

SENATOR NANTKES: Sure, I can appreciate that. [LB206]

SENATOR AVERY: But I did wonder if you intentionally left out trade colleges or trade schools? [LB206]

SENATOR NANTKES: I don't think that there was any intention to try and leave out qualifying institutions, but rather a focus on getting a program in place that can be something to start from. And, of course, we have some jurisdictional issues in terms of regulating what happens in private institutions wherein we have a greater ability to implement a program like this on the community college, state college, and university level. But again, we'll be very open to working with the committee to make sure as many potential eligibles could qualify for this, if adopted. [LB206]

SENATOR AVERY: But it is, as it's written now, it does not cover for-profit schools like Kaplan University, which is really not a university anyway...I don't know why they use the name. [LB206]

SENATOR NANTKES: That's correct. [LB206]

SENATOR AVERY: But there are a number of things like the College of Beauty and all that, that train people in trades. [LB206]

SENATOR NANTKES: Right. Personally, I am very supportive of continuing education in any regard, but this legislation is limited in scope to our state colleges, our community colleges, and our universities. [LB206]

SENATOR AVERY: Um-hum. Okay. And I think I would agree with you, that's where that would be. [LB206]

SENATOR NANTKES: Okay. [LB206]

SENATOR ADAMS: Senator Howard. [LB206]

SENATOR HOWARD: Thank you. Thank you, Mr. Chairman. I've been here long enough now that I, too, can remember when this bill has come in before, and I've supported it in the past and will continue to support it. My question is, will this cover children retroactively? Is it children who have had this unfortunately occur in their

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families, will they be covered, as well, or is it only going to be from the date that the bill is signed, forward? [LB206]

SENATOR NANTKES: Sure. Senator Howard, and thank you for noting your past support and continued support. Just so that those in the audience know, Senator Howard is also a cosponsor of this legislation, so I thank her for her support in that regard. And if you'd refer to your technical notes which have been provided by committee staff, I think that it correctly addresses the retroactivity question. And the legislation was crafted to not be retroactive, but rather a proactive piece of legislation. So, unfortunately, that will exclude some very sad circumstances in some families who may have benefitted from this legislation. And maybe past support would have been enough to get that in place, we could have helped more people, but I think, again, our main purpose is getting a starting point into the law and trying to look forward to provide appropriate recognition. [LB206]

SENATOR HOWARD: Thank you. Thanks for bringing this in again. Thank you. [LB206]

SENATOR NANTKES: Sure. Thank you. [LB206]

SENATOR ADAMS: Other questions from committee members? Senator Ashford. [LB206]

SENATOR ASHFORD: Could I follow up? [LB206]

SENATOR NANTKES: Sure. [LB206]

SENATOR ASHFORD: I wonder how many...how many children we're talking about if we did apply it retroactively? [LB206]

SENATOR NANTKES: Senator Ashford, I'm not sure. I don't have any solid information in that regard. I think that it would probably be something that might be discernible with additional research, but... [LB206]

SENATOR ASHFORD: Might be...it might be at least a general idea or something. [LB206]

SENATOR NANTKES: And there may be some folks who could provide some additional information in that regard. But I think in terms of the legal framework and just the potential problems in crafting a retroactive piece of legislation, that... [LB206]

SENATOR ASHFORD: There wouldn't be anything unconstitutional about going backwards on something like this, would there? [LB206]

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SENATOR NANTKES: I'm going to defer to committee counsel on that question. But no, I appreciate your angle in that regard and I haven't studied that angle in great detail, but in terms of definitions and other concerns with retroactivity, in general, I think we're just looking forward. [LB206]

SENATOR ASHFORD: That's fine. Okay. Thank you, Mr. Chairman. [LB206]

SENATOR ADAMS: Are there other questions? Seeing none, thank you, Senator Nantkes. [LB206]

SENATOR NANTKES: Thank you. [LB206]

SENATOR ADAMS: The committee would now hear proponents to this bill. [LB206]

DAVE ENGLER: Good afternoon, Chairman Adams and members of the Education Committee. My name is Dave Engler. That's E-n-g-l-e-r, and I'm the president of the Nebraska Professional Firefighters Association. We represent 1,300 career firefighters throughout the state of Nebraska. The Nebraska Professional Firefighters would like to thank Senator Nantkes for sponsoring this bill in honor of children who have lost their parents in a line of duty death. As she said, there are 44 states that have bills similar to this, and all are to a varying degree. Many not only cover tuition or waive tuition, but also room, for dormitories; books; and other educational or other associated costs, which I'm not sure what those associated costs are, but each piece of legislation...or some of them do talk about the other associated costs. This bill only really waives tuition. And one of the reasons that the bill was crafted in the manner it was, is we wanted...we didn't want it to appear like it was going to be a very expensive bill out there. And so that's why some of these things were set forward in the bill. It requires that a student does apply for state or federal grants. The only federal grant that they cannot apply for and receive is the PSOB benefit, the education benefit that excludes the student from taking part in this one; but otherwise, it encourages such as Pell Grants and those types of grants to help offset the cost of the education. So possibly the full tuition wouldn't be waived but some of it may be taken care of in grants. And the narrow focus, again, was to make sure that we are not creating an unfunded mandate on Nebraska taxpayers. Clearly, we would love to have...we would love to be able to provide more. But obviously, when you start associating costs with these bills, it tends to turn people off, and so we believe, as the fiscal note says, that this is going to be very minimal. To answer your questions on how many people would if this were to go retroactive, it's a little bit of a tough answer because there are, and I can speak only from the fire side because I don't know all the law enforcement side, but we do have some families out there who have some young children and their parents have died in the line of duty. And we have one in Omaha that you'll hear about and potentially some throughout the state. I'm not sure what age their kids are, but at some point in time they're going to reach the college age. So the actual bill, if it were to go retroactive, it

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doesn't appear that there is going to be just a sudden surge of people. We have very few, thank goodness, line of duty deaths in Nebraska, and we have...some of those line of duty deaths have children, some don't, and some are of varying ages. So if this were to go retroactive, it's possible that we wouldn't even see anyone get the benefit for several years, potentially, not knowing what the ages of the children are or if they're going to qualify for that PSOB benefit. The federal PSOB benefit, as Senator Nantkes said, is pretty strict and there's a certain protocol that people have to follow to qualify for the benefit itself. We have state legislation that declares line of duty deaths that don't necessarily meet that. And that's what we're trying to do. We're trying to make sure that children are not left behind when it comes to these line of duty death situations. We want to make sure when they lose a loved one and a provider, that they have every possible chance of getting an education, because obviously the loss of a parent is going to create a financial hardship on that family. So that's really what we're trying to do here, and I'll be happy to answer any questions if you have any. [LB206]

SENATOR ADAMS: Committee? Senator Ashford. [LB206]

SENATOR ASHFORD: Could you find out for me and provide to Senator Nantkes how many line of duty deaths there have been in the last ten years, for example, with families with children? [LB206]

DAVE ENGLER: I can give it a try. [LB206]

SENATOR ASHFORD: In the fire...on the fire side...just. [LB206]

DAVE ENGLER: Yeah, I will do what I can to find an accurate answer. I'm not sure about... [LB206]

SENATOR ASHFORD: Or as accurately as you can. [LB206]

DAVE ENGLER: Sure, I'll do my best. [LB206]

SENATOR ASHFORD: Okay, thank you. [LB206]

SENATOR ADAMS: Are there other questions? Mr. Engler, could you give me an example? You said that the federal statute is more prohibitive. [LB206]

DAVE ENGLER: Right. [LB206]

SENATOR ADAMS: Give me an example, would you? [LB206]

DAVE ENGLER: Well, the federal Public Safety Officer Benefit applies mostly to deaths that are traumatic in nature. In the last couple of years, they've added the Hometown



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Heroes Act which included heart-related and stress-related deaths. But one such death that is very prevalent in the fire service is deaths related to cancer. And Nebraska State Statute 35-1001 has a cancer presumption that, because of scientific evidence, says that firefighters are more prone to certain types of cancer. So in those cases, that firefighter would be declared a line of duty death when, in fact, it may not at this point apply to the Public Safety Officer Benefit. I think in the future it probably will, but at this point in time the federal government hasn't caught up with what a lot of states are doing. So that would be one such example. And another one, just to give you an example, too, is the PSOB does require that an autopsy immediately be performed after the death. And there have been cases where the families weren't aware of it, an autopsy didn't get performed, and so, therefore, even though it was clearly a line of duty death, the death wasn't declared that by federal standards. So those are some examples, and I'm sure there are many more out there that I'm unaware of. [LB206]

SENATOR ADAMS: Thank you. Are there other questions? Seeing none, thank you. [LB206]

DAVE ENGLER: Thank you. [LB206]

KORBY GILBERTSON: Good afternoon, Chairman Adams, members of the committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the State Troopers Association of Nebraska in support of LB206. I will try to be brief. I wanted to try to answer a couple of questions, specifically Senator Ashford's question regarding the retroactivity. In the earlier drafts of this bill which were introduced by Senator Redfield, there was retroactivity, I believe in the first two. And that specifically was the reason why it didn't make it out of committee, I think, the first year. So I believe in the later drafts that was the primary reason why it was taken out because of questions of how many children would be qualified to receive the benefits. And I also heard your question about finding out how many in the line of duty deaths there have been, and I actually already sent off an e-mail to try to get the information for you, so I will get that to you as soon as I can. [LB206]

SENATOR ADAMS: Are there questions for the testifier? Thank you then. [LB206]

KORBY GILBERTSON: Great. Thank you very much. [LB206]

SENATOR ADAMS: Next proponent? [LB206]

TREVOR TOWEY: Thank you, Mr. Chairman and other committee members for the opportunity to speak here today. My name is Trevor Towey, T-r-e-v-o-r T-o-w-e-y. I'm an Omaha firefighter, and I'm here today representing the Professional Firefighters of Omaha. I'm here today to speak in favor of LB206 and to give you an example of why

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this bill is so important to public safety workers of this state. Omaha has had 55 line of duty deaths in its 150-year history. Fortunately, we've only had two in the last 15 years. And I say fortunate, but that's still two too many. It was April 1996 when Captain John Goessling died of a roof collapsing as he was fighting a structure fire. It was September 2003 when firefighter Rick Blodgett succumbed to his cancer that was job related. It is firefighter Blodgett that left behind two daughters and it is his death that proves significant in relation to this bill. His death was due to cancer that was linked to a chemical plant fire he battled early in his career. Now Mr. Engler stated earlier that the state of Nebraska classified his death as a line of duty death because of Chapter 35 of the state statute. His death was also recognized as a line of duty death by the city of Omaha and the National Fallen Firefighters Memorial. However, it was not recognized as a line of duty death by the federal government. Therefore, because it wasn't recognized by them, he did not receive or his family did not receive the Public Safety Officer Benefit. His daughters therefore were not eligible to receive the educational assistance that is offered through the Department of Justice. If, at that time, LB206 had been in place, it would assure that his daughters, although they had lost their father and their primary income for their family, they could still obtain postsecondary education if they so chose. This benefit, although very significant to that family, is actually cost neutral to the state, because in its very basic form it really requires an extra desk put into the classroom and small administrative costs. We all know that firefighting is a very dangerous occupation. We protect the citizens, their property, and in some cases, the tax base of this state; all in the name of basically providing for our families. It is the passage of LB206 that would assure that our children's education would be provided for them if we are not here to provide it. So again, in closing, I ask that you support LB206. I thank you for your consideration, and I hope that you advance this legislation. [LB206]

SENATOR ADAMS: Thank you. Committee, are there questions for this testifier? Going to let you off the hook, I guess. Thank you. [LB206]

TREVOR TOWEY: Thank you. [LB206]

BRUCE BEINS: Good afternoon, thank you for this opportunity to testify. My name is Bruce Beins, it's B-e-i-n-s, and I represent the Nebraska Emergency Medical Services Association. There's about, between 8,000 and 9,000 licensed emergency medical providers in this state. About 85 percent of those are volunteers. They're providing service to the people of the state without compensation. This bill does cover emergency medical providers. On page 3, towards the bottom, underneath the definition of a firefighter, it does say "or a member of a medical emergency services ambulance squad." So to answer a couple of questions, if you don't mind if I ramble a little bit, in about the last ten years there have only been two EMS-related line of duty deaths that I'm aware of, and one of those was also a firefighter. He was a firefighter and EMS also. So the only one in the last ten years I can remember would be the helicopter crash that happened in Norfolk which has been about ten years ago. So the impact overall from

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this legislation, I believe, is fairly small, and I'm thankful for that, that we are fairly safe. It is dangerous out there. I mean, we take a certain amount of risk every time we respond, whether it be from traffic, auto accidents, or other accidents that could happen. So obviously, the EMS providers are in favor of this legislation, and we thank Senator Nantkes for bringing this forward. There is a couple of points in the bill that I would like to bring up. On page 5, starting on about line 8, it's the description of when the benefit is available. It does say a "law enforcement officer or firefighter must have been engaged in his or her authorized law enforcement or fire suppression duties." I do believe that needs to be amended to also say "or EMS duties." Where we do have some services that provide fire only, we have some services that provide EMS only, and we have some services that provide fire and EMS, so I would ask you to consider that. And then also, on page 7, it would be line 11...or excuse me, line 10, where it is asking for certificates from the law enforcement...excuse me, "certificates of eligibility for the children of firefighters shall be obtained from the State Fire Marshal." I think also that needs to say "or Health and Human Services Regulation and Licensure" because that would be who regulates and licenses the EMS providers in the state. So with that, I'd be happy to ask any questions. I urge you to support this legislation. [LB206]

SENATOR ADAMS: All right. Are there questions from the committee? I have one. So if EMS is to be included, then does that mean then that a community that goes out and contracts with a private EMS service, those folks in that private service would also be covered under this? [LB206]

BRUCE BEINS: That is a very good question, and I don't know that I can answer that without studying the legislation a little bit. There are those that do just that. Good Samaritan Hospital in Kearney is actually what we would call a third party. So there are those that do that, so I would have to assume that, yes, those people are covered. [LB206]

SENATOR ADAMS: Okay, thank you. Are there other questions for this testifier? Thank you then. Oh, did you have a question, I'm sorry. Yes, please. Senator Giese. [LB206]

SENATOR GIESE: Thank you very much. The...along the same lines as that, an EMS person, what about a community service officer then? Would they, would they then qualify under this if they unfortunately were killed? They are, some cities hire community service officers that do the work of help with the police department, enforcing? [LB206]

BRUCE BEINS: I don't know what the statutory definition of that is. I always assumed that they were members of law enforcement. But I won't trust my assumptions. I don't know exactly what the statutory definition is. [LB206]

SENATOR GIESE: Thank you. [LB206]

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SENATOR ADAMS: Are there other questions? Thank you. [LB206]

BRUCE BEINS: Thank you. [LB206]

JERRY STILMOCK: (Exhibits 1 and 2) Good afternoon, Senators, my name is Jerry Stilmock. J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k. I am a registered lobbyist appearing on behalf of the Nebraska State Volunteer Firefighter's Association in support of LB206. Certainly, thank you to Senator Nantkes for introducing this measure. Several of the questions have already been asked and answered, but we want to reiterate, of course, the firefighters and law enforcement officers place their lives in harm's way each and every time they are called to duty. If death occurs in the line of duty, this would be one way, LB206, to recognize the ultimate sacrifice made by a volunteer firefighter, a paid firefighter, or a law enforcement officer. The passage of LB206 would help alleviate some of the financial hardship for those family members left behind by someone killed in the line of duty. The portions, the remaining portions of my written testimony, my prepared testimony go to the fact that firefighters do much more than suppress fires. And the legislation in LB206 requires that a firefighter must be engaged in fire suppression, and then it makes the statement "including arson investigation." And we would request consideration by the committee that the term "killed in the line of duty," as it's described in the bill and refers to those official activities engaged in by firefighters, that that would be sufficient. So my testimony goes over and particularly identifies that firefighters for the city of Fremont, they may be engaged as a rescue dive team. The volunteer department of Raymond, they have a rescue dive team. And so that we have firefighters that do so much more, that they have, unfortunately, the exposure to being killed in the line of duty. And because it's written that a firefighter must be engaged in fire suppression, including arson investigation, I think that unintentionally narrows what hopefully is the desired result. The gentleman prior spoke in terms of cancer. And obviously that wouldn't...given the language in LB206, I would hope that that would be uncovered. But because it doesn't deal with fire suppression specifically or arson investigation, I'd ask the committee to consider those items as well. I have another handout. The Senator asked about the number of the in-the-line-of-duty deaths. Since 1981, Senator, that there have been 22 deaths in Nebraska, at least as I've been able to put together, and the information was from a national organization that it calls upon each state to report. And I've had an opportunity to look at the handout that's being distributed now, and certainly the most recent volunteer firefighters killed in the line of duty are represented there. They are in alphabetical order and set forth the names, and some of them even the faces, the photographs of those killed in the line of duty in Nebraska since 1981. I'd ask the committee's consideration in advancing this bill after due consideration, if you would, in terms of the item that I had addressed regarding engagement in fire suppression and arson investigation. Thank you. [LB206]

SENATOR ADAMS: Senator Cornett. [LB206]

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SENATOR CORNETT: Mr. Stilmock, the Heart and Lung Act, where firefighters and police officers can apply for disability...be eligible for disability, would that cover some of the concerns that you raised in regards to whether this act would apply or not? Because it gives benefits to firefighters and police officers under that, even though heart disease, cancer, lungs are not nearly something that is directly involved with suppression. [LB206]

JERRY STILMOCK: The Heart and Lung Act, Senator, that you're referring to, I don't recognize that, if that's federal or state. [LB206]

SENATOR CORNETT: Okay. [LB206]

JERRY STILMOCK: But...if it's the intent of Senator Nantkes as introducer, Senator Howard as cointroducer, and the committee, that it should encompass other than those firefighters engaged in fire suppression. Because it's not unusual in a small community for a firefighter, just as well as in Omaha, for a firefighter to go to the scene of the motor vehicle accident. And as we talked about last week in a different committee, if that firefighter were struck while attending to a motor vehicle accident, if that firefighter were struck and killed, obviously by definition they're not engaged in fire suppression, but yet they would be killed in the line of duty because they were tending to, you know, one of their emergency services. I'm not sure I answered your question, Senator. [LB206]

SENATOR CORNETT: I was just wondering because you were talking about the firefighter that had died of cancer had been brought up in the previous testimony, that there are long-term effects of being a firefighter and a police officer on health, on their health, and that is recognized under the Heart and Lung Act and other areas like the Pension Board has recognized cancer as a direct relation. You don't feel this bill currently covers those? [LB206]

JERRY STILMOCK: I just, my only thought was as I was preparing my testimony was that if it's intended to assist with benefits for someone killed in the line of duty, then perhaps don't peg it just to fire suppression. Just make it as it actually is stated already in the bill: killed in the line of duty while engaged in...I'm looking for that specific language. [LB206]

SENATOR CORNETT: Would death resulting from line of duty activities cover that? [LB206]

JERRY STILMOCK: Oh absolutely. Yes. Yes. [LB206]

SENATOR CORNETT: Thank you. [LB206]

SENATOR ADAMS: Are there any other questions? Jerry, then just as a matter of

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clarification. So I'm in a small community and I'm a volunteer, and the fire horn goes off and I'm going to jump in my car or my pickup and I'm going to get to the scene as quick as I can to help suppress the fire--and I have a wreck along the way. Now am I in the line of duty? [LB206]

JERRY STILMOCK: I would say yes--and my backdrop to that is I heard from my right that they said yes. My second indication is, under Nebraska workers' compensation law, once that page or siren is activated and the firefighter, the volunteer firefighter, begins movement to respond to that call, that person would be covered under workers' compensation. So based upon that logic, that I would say yes. [LB206]

SENATOR ADAMS: Okay. Senator Cornett. [LB206]

SENATOR CORNETT: How many...when you're talking...this is a list of volunteer firefighters killed in the line of duty. [LB206]

JERRY STILMOCK: That should include paid, as well, Senator. I don't know if it's all-inclusive. [LB206]

SENATOR CORNETT: Paid also. Have there been any deaths before someone reached the scene like an accident that Senator Adams asked about? [LB206]

JERRY STILMOCK: I have to refresh my memory to see if it's...by the name of the town. A person was killed and I don't know if they were responding to the scene or coming from the scene in an ambulance, and that's one of the gentlemen that's included in the 22. But I don't know which it was, and whether or not...I believe he was in an ambulance though, Senator. [LB206]

SENATOR CORNETT: So one person in about 30 years. [LB206]

JERRY STILMOCK: That would be correct. Unfortunately, we've all seen these circumstances. There are two ladies in Wood River that I've been in communication with that they lost their husbands in 2004 in an incident, and they have two children. There's two children in each family: Mr. Heminger's family and Mr. Woitalewicz's family. And those boys are, you know, looking for some help. They have each...each of those families have qualified under the Public Safety Officer Benefit program under the federal system. But hearing that voice from the surviving spouse, I wanted to share with you her feelings of frustration and dire need for some assistance. [LB206]

SENATOR ADAMS: Are there other questions for the testifier? Seeing none, thank you. [LB206]

JERRY STILMOCK: Thank you, Senators. [LB206]

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SENATOR ADAMS: Are there other proponents? Seeing none, are there opponents to the bill? Neutral testimony? If not, Senator Nantkes, do you wish to close? [LB206]

SENATOR NANTKES: Senator Adams, members of the committee, thank you so much for your kind attention to this important issue this afternoon. Also a big thank you to all of the people who took time out of their personal schedules to be here today and lend their support. In wrapping up, I wanted to draw the committee's attention to just a few things. In section 8, on page 4 of LB206, there is an existing definition that we have utilized for what types of actions would be considered to be covered for in the line of duty. We heard, well, we may need to have some amendments in terms of arson investigation or fire suppression activities. I believe that this section is broadly written and broadly defined to encompass all of those specific amendments that have been suggested here today, and for a good reason. I think that this legislation utilizes a broad definition to cover the many "what if" scenarios that were posed by the committee here today, to ensure that the broadest definition of eligibility is utilized for those first responders involved in any aspects of the scope of their employment. That being said, I, of course, want to reiterate that we are happy to work with the committee for any technical or substantive amendments that you think may be necessary to advance this legislation. But I also want to pose a final "what if" question to the committee. We've heard about specific examples in Nebraska, heartbreaking examples where first responders and their families have not had the ability to qualify for the federal program for a variety of different reasons; and thus, those families are left without an educational benefit to assist them. What if we don't take action on this legislation? What if we don't move forward? What if we allow perfection to be the enemy of success, in terms of helping to ensure that Nebraska does send a significant, important, and positive public policy message to our first responders saying that we've heard this legislation before; now is the time to take action. Get a program in place, see how it works, and hopefully, if we need to make changes down the road, we can be responsive to that. But we've got to take the first step. LB206 offers you the ability to take that first step. Thank you. [LB206]

SENATOR ADAMS: (See also Exhibit 11) Thank you, Senator Nantkes. Committee, any last questions for the Senator? Very well. That closes the hearing on LB206. And we'll proceed on now to LB20. Senator Harms. Committee, while we're waiting--Senator Harms is on his way--when we're done hearing these four bills today, we'll adjourn, but then tomorrow I'd like to Exec when we're done with committee hearings so that we can review what we've been over so far before they get too far out of our memory. Welcome, Senator Harms. And now with the introducing Senator here, we will proceed on to the hearing on LB20. [LB206]

SENATOR HARMS: (Exhibit 3) Thank you, Senator Adams. My name is John, J-o-h-n N. Harms, H-a-r-m-s. LB20 amends the Access College Early Scholarship Act that we

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approved several years ago. And what it does, it gives the Coordinating Commission for Postsecondary Education the ability to limit the number of scholarships awarded in each term as well as limit the number of scholarships that each student may receive. This program has been very successful and beyond what I ever hoped when we introduced the bill, but it's been very rewarding to see what's taken place and the number of students who have participated. For those of you who don't recall this bill, this bill was designed to provide low-income students the opportunity to take classes while they were still in high school...take college classes while they were still in high school. And the public schools have an interesting system in regard to these kinds of academies--high school academies. They pay differently. Some schools would pay for students after you finish the class. Some would pay for only books. Some would maybe only pay for fees. Some schools would only pay maybe if you completed a class. Some would pay if you got a certain grade point average. So what really happened here is that the...some of those students that we were missing were low-income students. They just couldn't take the risk, couldn't afford to do it. And that's what this program is about. And students have done very well. When we did the research in regard to early enrollment of high school juniors and seniors into college, what we found is the states that had been involved in this process...that, if I can recall the statistics, the Afro-American students who took early classes, about 70 percent of those students would go on to college; Latino, Hispanic, whatever term you would like to use, about 68 or 69 percent of those students go on to college. It's a great way to put students who do not have family support, students who have difficulty in the kind of background they come from, it puts them in an environment that's really good. It puts them in an environment that gives them hope. It puts them in an environment that supports them experiencing what college might be like. So that's really what this bill is about. It's just simply to go on and to make the adjustments. The adjustments are basically because I don't think we can have enough money to be able to support all the students who are taking it. If we were in better times, I would be asking for an amendment to place about \$150,000 to \$200,000 more into this program because it's needed, but during these times there's just not any way that's going to happen. And most likely, we would not have that kind of support in the Appropriations Committee, if it's an A bill trailing. So that's basically what this is about. You do have...we did ask for the Coordinating Commission to do a couple of reports. One was, and I think Senator Avery, if you recall, brought this up in the process, is how are you going to evaluate how these kids do? That was one of the reasons why we brought it up. We wanted to see how they did as far as grades were concerned. And the other factor was, we want to make sure that these kids are moving on towards college. And that's the report that you do not have because we're not that far along, but probably in another year we'll be able to provide that report to you so you can see what's happening and whether or not we're following what the national trends are. So I'd be happy to answer any questions. I know that Dr. Hill is here that probably could answer some of the more technical questions about the program itself. [LB20]

SENATOR ADAMS: Are there questions for Senator Harms? Yes. [LB20]



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SENATOR SULLIVAN: Just a quick question. If I'm understanding what you just said in the bill's summary, you're wanting to limit the number of scholarships awarded because there aren't funds available. [LB20]

SENATOR HARMS: Yes, I think that's true, and some of the students are probably...I don't know, you'll have to ask Dr. Hill about that. But that's what I'm assuming that that's what that's about. There's just too many students taking too many classes, and we need to limit that amount. [LB20]

SENATOR SULLIVAN: Even though it currently says that applications will be accepted until funds are depleted. [LB20]

SENATOR HARMS: Yes. I think they want to limit the number they are taking. Some students could take, you know, if the counselor would allow it, could have 15 credit hours and then go full time, and so I think that's part of the problem. And the one thing I don't think you want to have, you don't want to pull them completely out of that high school environment. The beautiful thing about this is that you keep these students in an environment. Not only is the public school working with them, but then the college then flags that student coming in: they're a high school student. And they're counseled pretty well. I know one of the questions that Senator Avery asked when we first introduced this was, what about...how do you take a student...how do you handle a student that is enrolling in the institution, what criteria do you use? We use the same criteria that you would use whether you're going to come in full time or not, whether you're in high school or not. It doesn't make any difference. In some cases, you go through the same battery of tests to make sure that you have the capabilities, making sure that we don't program you to fail. And there are going to be students who are going to fail, as you can see, I think, in the results. But that's just part of college, and that's part of getting started and also finding out what skills they need to have. A lot of students have no idea, when they enroll in a college, what skill sets they need to have. This really brings it home, and it does give them the opportunity to experience it. So is there any other further questions, Senator Adams? [LB20]

SENATOR ADAMS: Are there other questions for Senator Harms? Yes, Senator Giese. [LB20]

SENATOR GIESE: Thank you, Senator Adams. Senator Harms, how does this then apply to homeschooling? It may be addressed in here, but I apologize, I don't have that. [LB20]

SENATOR HARMS: Homeschooling, unless Dr. Hill would correct me, I think they'd qualify. The homeschool students go to the community colleges. They go on to higher education. They're involved. A lot of the homeschool students will enroll in community

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colleges because they don't have and cannot provide the kinds of education. I can tell you, in my previous life some of the best students we ever had were homeschool students. They came and took calculus. They took trigonometry. They took some of the sciences that they cannot provide in their home. It's a great program. And their programs are good, but it just supplements it, and I would see no reason why they would not qualify. [LB20]

SENATOR GIESE: Thank you. [LB20]

SENATOR ADAMS: Other questions for Senator Harms? [LB20]

SENATOR HARMS: Senator Adams, because of where we are in our Appropriations, I would choose not to close unless we think this is going to be an issue. [LB20]

SENATOR ADAMS: Thank you, Senator Harms. [LB20]

SENATOR HARMS: Thank you. [LB20]

SENATOR ADAMS: We'll first of all take proponents to the bill. [LB20]

MARSHALL HILL: (Exhibits 4, 5, and 6) Good afternoon, Senator Adams, members of the committee. My name is Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l. I'm the executive director of the Nebraska Coordinating Commission for Postsecondary Education. We have a number of new committee members, so if you don't mind I'd like to take the first minute of my allotted five and just give a few points about the Coordinating Commission. We are not a peculiarly Nebraskan invention. Every state but one has some entity somewhat like the Coordinating Commission. Most of them started in the mid-sixties to deal with people like many of us: early age baby-boomers. Legislators and governors saw that they were going to have very rapid increases in the numbers of students attending their postsecondary institutions. They knew they were going to have to be starting new colleges and universities. They wanted someone to ensure, first, that there was efficiency to the way that process was carried out; that there was not unnecessary duplication. And in many, many ways, they wanted some entities to stand between themselves and very aggressive college presidents. Coordinating commissions tended to begin then in about 1965. Nebraska was rather late to that. The Nebraska Coordinating Commission in its present form was started in 1991. It was...we were added to the Nebraska Constitution, so our authority rests in the constitution as well as in state statutes. So what do we do? We do statewide academic planning. We are charged by you to develop a statewide comprehensive plan for postsecondary education. We administer all the student financial aid programs that the Legislature provides funds for. We approve new degree programs from the public institutions. We approve proposals for construction projects that rely on tax funds. We review institutions' budget requests to the Legislature and provide our recommendations about

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that. We analyze state data on higher education and produce numerous reports to the Legislature and the Governor. We try to do a wide range of publications. One I hope you're familiar with is our actually legislator-targeted "Bird's-Eye View of Nebraska Higher Education." We have some of these extra here for you if you haven't seen one. The commission itself is made up of 11 commissioners appointed by the Governor and confirmed by the Legislature. We have 13 staff, which makes us the smallest agency of our type in the country. No, those are a prop. (Laughter) So now that your attention has been drawn to this, this is the stack of students who applied for the Access College Early Scholarship Program and for whom we did not have funds to serve. As Senator Harms indicated, this is a relatively new program, started in 2007, to replace a program which had been ineffective. It provides, as Senator indicated, college tuition for needy high school students. These are students who, if they were attending college, would be eligible for financial aid: federal financial aid or something else. But because they are high school students attending college, either as separate college classes or as dual enrollment courses, there is no particular way to ensure that all of the capable ones who need that assistance have it. Several recent studies, national studies, indicate that the students who enroll in these types of programs and attend college classes while still in high school do all the things we would like to accomplish. First, they are remaining in high school at higher rates than their colleagues who do not participate in the programs. They graduate at higher rates, they attend college at higher rates, and they come back for their sophomore year at higher rates. Programs are not established long enough to measure whether or not the graduation rates are higher, but I suspect they would. That's why it's becoming increasingly common for states to provide assistance. Our neighbor to the east, Iowa, provides about \$10 million a year to support high school students who want to take college courses with no means testing involved. Minnesota does exactly the same. This past fall semester, we had \$115,000 in state General Funds to allocate. That's the entire state appropriation for this fiscal year. The Coordinating Commission applied for and received federal funds of \$360,000 for improving access to higher education. We decided to use \$100,000 of those funds for each of the next two years to add to this program. So this past year, the program supported 756 high school students from 150 high schools in Nebraska who attended 12 colleges and universities. You have a handout which shows the colleges they attended and the high schools from which those students came. Average student award was \$285. We have 182 applications here that we were not able to fund. LB20 makes two small changes in how the commission allocates the money. It does seem counterintuitive that we would want the flexibility to lessen the awards. The original legislation said that the commission would allocate all funds on a first come, first served basis. And that would allow several unfortunate things to occur. One, if we did not have the funds that we have gotten from federal funds, we would spend all of our allocation in the first semester. We don't think that's advisable. We would like to divide it, if needed or necessary, between the first semester and the second semester. Second, it allowed students to take two, three, or four or more classes as individuals. We would like to, if need be, limit the allocation to perhaps one or two per student depending upon the

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amount of funds that we have. So those are the requests that we are asking. We are not specifically enumerating those requests in that manner, but rather asking that you grant us the flexibility to make those kinds of adjustments as the program matures. Lastly, I have provided you an attachment which gives our looking into the future guesstimate of the financial resources necessary for this program, and remind you that it's targeted only for students who are significantly needy. Either they qualify for free and reduced lunch or for some other proxy for that. Having said that, I would be pleased to respond to any questions you might have. [LB20]

SENATOR ADAMS: Thank you, Marshall. Are there questions? Senator Ashford. [LB20]

SENATOR ASHFORD: Just, could I just understand this. This is money from the lottery? [LB20]

MARSHALL HILL: No, sir. \$115,000 is a direct state appropriation from the General Fund. [LB20]

SENATOR ASHFORD: So there is no lottery money? [LB20]

MARSHALL HILL: No, sir. Not for this. [LB20]

SENATOR ASHFORD: I'm reading the wrong... [LB20]

MARSHALL HILL: Our lottery funds come to the Nebraska State Grant Program but not to this program. [LB20]

SENATOR ASHFORD: Okay. Now how...where does that...what comes...what money comes where now? What did you just say? [LB20]

MARSHALL HILL: For this, there is \$115,000. [LB20]

SENATOR ASHFORD: No, I got that, but the other... [LB20]

MARSHALL HILL: The other, the additional funds? [LB20]

SENATOR ASHFORD: Right. [LB20]

MARSHALL HILL: We identified, this past summer, a federal grant program which we were eligible to apply for on behalf of the state, and from the U.S. Department of Education we received \$330,000 to use to improve access to college. We've done a number of things with it. A series of many grants to several institutions for that. [LB20]

SENATOR ASHFORD: And that's a transitional? [LB20]

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MARSHALL HILL: That's an only a two-year availability. There's no likelihood for it to increase. [LB20]

SENATOR ASHFORD: No, but that's for transitional from seniors to college? [LB20]

MARSHALL HILL: That is how we have chosen to use \$100,000 of it. Yes. That \$330,000, we have pulled out \$100,000 of that federal money to add to the state's \$115,000. [LB20]

SENATOR ASHFORD: So it's \$215,000 then? [LB20]

MARSHALL HILL: Yes. [LB20]

SENATOR ASHFORD: Which goes to transitioning young people... [LB20]

MARSHALL HILL: Which goes to these students who are dual... [LB20]

SENATOR ASHFORD: Dual programs. [LB20]

MARSHALL HILL: Yes, sir, who are high school students who are taking college courses. They either take college courses directly or take them as what are called dual enrollment or concurrent enrollment courses. [LB20]

SENATOR ASHFORD: And that's the only money available for these programs statewide do you know, that you know of? [LB20]

MARSHALL HILL: That is the only statewide source of funding for this. Some school districts provide some support to their students who do take dual enrollment courses. There were some scholarship entities. The higher education institutions generally moderate their tuition for students in this circumstance, but this is the only one. [LB20]

SENATOR ASHFORD: You know, where we should get some money for this is the, you know, that employment, that 15 percent, that \$15,000 credit for--that we passed last year--for hiring poverty, people out of poverty, young people out of poverty, you know. If some of that could go to dual programs...would be a...anyway I'm just... [LB20]

MARSHALL HILL: We would welcome any funds that the Legislature can identify from most any source. [LB20]

SENATOR ASHFORD: Well, I mean, that would be...I mean, because what you're doing is you're...this is a key, key issue. And what we're doing here is these are the kids that are really...were pulling out of situations where they can matriculate into college,

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hopefully, and get jobs. [LB20]

MARSHALL HILL: Yes, sir. And it works, frankly; it does work. As I mentioned, the students that participate in these kind of programs do all that we would like them to do, even when you adjust for socioeconomic status. [LB20]

SENATOR ASHFORD: And how many do you have for this? [LB20]

MARSHALL HILL: We have 750. [LB20]

SENATOR ASHFORD: That's pretty outstanding. [LB20]

MARSHALL HILL: What we've done is take a program for which there was initially \$50,000 legislative appropriations to a community foundation scholarship program. We were never able to distribute all of those funds because of the complexity of applying. Working with Senator Harms, we've started this program, and in two years we have this opposite problem which is a good problem. [LB20]

SENATOR ASHFORD: And you can't take care of that pile, is that what you're saying? [LB20]

MARSHALL HILL: We have no money for these students. [LB20]

SENATOR ASHFORD: That pile is gone. [LB20]

MARSHALL HILL: Right. [LB20]

SENATOR ASHFORD: Okay, thank you. [LB20]

SENATOR ADAMS: Senators, other questions? Seeing none, thank you Marshall. [LB20]

MARSHALL HILL: Thank you. [LB20]

JAMES CAVANAUGH: Mr. Chairman, members of the Education Committee, my name is James Cavanaugh. I am an attorney and registered lobbyist representing Creighton University, and I am here appearing in support of LB20 on behalf of Creighton, and at the request of Tip O'Neill on behalf of the Association of Independent Colleges and Universities of Nebraska to which we belong. As you probably know, Creighton is the largest private university in the state. We produce half or more of the state's doctors, dentists, PTs, nurses, pharmacists, lawyers, and many other healthcare professionals. We do this with a minimal amount of state support to the private higher education sector in Nebraska. We currently rank in the high forties in terms of the support given by the

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state to private higher education and students attending private colleges and universities. Consequently, when we see a program like this, we are encouraged and, in turn, encourage you to support it. The changes made here, although they don't enhance the funding, are necessary and, as you heard from Dr. Hill, would help the program. And hopefully in the future we can grow this, because as Senator Ashford pointed out, these are exactly the kind of students we want to encourage to go on and better themselves and stay in Nebraska. There's no doubt that the students who can get a head start in high school by completing college or university-level credit have a better record of success in college completion. But beyond that, they have a better record of success in life, and they have a higher potential contribution available to them to make to the state, not only in taxes but in a million different ways. It's particularly important to support these students with significant financial need in this endeavor, and the Independent Colleges and Universities of Nebraska look forward to either beginning or continuing to participate in this program. Currently, I believe only one of our 13 constituent members are participating. And that's not because of lack of application, but as you see, it's because of lack of capacity of the program to absorb more students. We thank Senator Harms for his foresight in introducing and getting this program for students established, and we support his continuing efforts to assist students in their efforts to obtain college credits. I'd be happy to answer any questions you may have. Thank you. [LB20]

SENATOR ADAMS: Are there questions? Seeing none, thank you. [LB20]

JAMES CAVANAUGH: Thank you. [LB20]

SENATOR ADAMS: Are there other proponents? Seeing none. Opposition? Neutral testimony? [LB20]

MARIAN BORGMANN-INGWERSEN: Good afternoon, Senators. Thank you for allowing me this time. I am Marian Borgmann-Ingwersen. I am a representative of Wesleyan University. The last name is B-o-r-g-m-a-n-n I-n-g-w-e-r-s-e-n. First of all, I'd like to thank this committee and the Legislature as a whole for providing funds for these kinds of programs. I am the director of the Wesleyan Honors Academy, which is a concurrent enrollment program. I would like to also thank Ritchie Morrow who is always very helpful in this process of awarding these scholarships, and I know he has a lot to do. I'm testifying neutrally, not because I have decided whether the one class or more than one class is the right way to go, but because I have some concerns in general about the funds and how they get distributed. If I piled \$215,000 on this table and said, go for it, and let you all scramble to get it, everybody in this room--not necessarily the most needy person in the room--would get the money that they need. And that's the way this is right now. It's a scramble competition. The first year it was out, Northeast Community College's program got 75-78 percent of the funds. This year it's a little bit more evened out. But you can see that more schools have started applying for it. We have more need than we have money. I think there could be a better way to distribute

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the funds that would ensure that students who need the money, get the money. There are...I found it interesting that Senator Harms brought up minorities. And I just got these documents that you have also from Ritchie today, and I was looking, for example, at Blue Hill, Nebraska, who had 19 students get scholarships as opposed to East High, which is one of our schools that we work, where three students got scholarships. I would argue that there are probably more minority students, more students in need of funds at East High than there are at Blue Hill High. But that's a whole other issue here, I realize, but it seems like there ought to be a way to distribute these funds to these programs in a way besides scramble competition. And I would like you to consider that, as you consider whether this bill should go forward or not. If we give each student one course, that does cut down on, let's say, one of the college's programs, getting the majority of the funds to some extent. And I think that's what the Coordinating Commission tried to do early this year. But just to give you an example of how that doesn't always work out very well, students who take Wesleyan Honors Academy credit sometimes take a yearlong course in high school that counts as two college courses. For example, they might take a senior English class that meets five days a week, 50 minutes a day, August through May. And that course may translate into actually two college courses at Wesleyan University, for example. So the question comes, well, they only get to fund one course. And the course isn't, like, first semester is this course and second semester is this course. It might be the whole year constitutes two courses at Wesleyan University. So they have to decide, can they come up with the money for the second course; do they just get the one course; do the two courses at Wesleyan count as one course with the Coordinating Commission, etcetera. So this year, for example, we were told, no, only one course to start off with. So by the time we got some of those students enrolled, registered, talked to them about whether they could afford to take the second course on their own, we're told: Okay, we'll get you paid for the first course, we'll see about the second course. The second course comes up for enrollment in January. We tell them, yes, apply again. We sent out our registration forms for January, January 5. Told them to apply for A scholarships. Well, the A scholarship money is gone January 26. So then they're in the process, they've applied to us, they've applied to ACE. They are talking to two different entities. Ritchie is doing the best he can to coordinate with us whether or not a certain student got their money or didn't get their money. So it's kind of confusing to the students. I think if every counselor in the state was completely on board and completely aware of what was going on, it would be more helpful. But it isn't...it doesn't always work out that way. So I would suggest that this body consider a different way to award these monies. Or that the Coordinating Commission, maybe they're the ones who get to make this decision, might consider, instead of this scramble competition, saying, okay, which programs are involved; what's their average enrollment. I would be even willing to go through each one of my schools and look at their percentage of free and reduced lunch students, something like that, where we could report to the Coordinating Commission and say, we provide a program to this many schools; this percentage of our students are free and reduced lunch; can you work out some sort of a, you guys get this much of the pie, you get this much, you get



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this much. And then the Coordinating Commission gives each of the programs some of that fund, and then we work with the students and the counselors to see who are in the most need of these funds. And that way the student is only applying to us. We're the only ones they have to worry about sending their paperwork to. We then go to the commission and say, we have this many students; here are their names; here are the courses they're taking; here are the hours they're taking; here are the funds we've decided to award them, etcetera, etcetera. They would get the same data that they get now but it would be a less cumbersome way to award the funds. I would entertain any questions. [LB20]

SENATOR ADAMS: Are there questions? [LB20]

SENATOR ASHFORD: It's not just free and reduced lunch, obviously. The people that get these scholarships. [LB20]

MARIAN BORGMANN-INGWERSEN: That's probably the most common criteria. [LB20]

SENATOR ASHFORD: Oh. [LB20]

MARIAN BORGMANN-INGWERSEN: They also look at a family hardship... [LB20]

SENATOR ASHFORD: Okay. [LB20]

MARIAN BORGMANN-INGWERSEN: ...like if a parent has died or lost a job or something like that. [LB20]

SENATOR ADAMS: Anyone else? Seeing none, thank you. [LB20]

MARIAN BORGMANN-INGWERSEN: Thank you. [LB20]

SENATOR ADAMS: Is there any more neutral testimony? If not, then we will close on this bill, LB20. And we will move on to LB197. Senator Fulton is the introducer. Whenever you're ready, Senator. [LB197]

SENATOR FULTON: Good afternoon. Thank you, Mr. Chairman and members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I represent District 29. I am bringing this bill on behalf of the State Treasurer: LB197. The bill is meant to clarify provisions regarding the administrative fund for the Educational Savings Plan. The primary goal of this legislation is to provide a process by which the amount appropriated by the Legislature to the Educational Savings Plan administrative fund for operations expenses may be segregated from the remaining funds in the administrative account...or in the administrative fund. The segregated funds would then be placed in a separate Educational Savings Plan Operations Cash Fund for payment of operational

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costs associated with the plan. The Treasurer may then make a direct payment from the Operations Cash Fund to the Nebraska Investment Council to cover the council's investment management fee. In conclusion, this will help with planning in the Treasurer's Office, and it will discontinue, hopefully, the need for deficit requests which really is how this came to my purview in the first place. In the past, it's very difficult to plan, on the part of the Treasurer, because an appropriation is made to the Investment Council and the Treasurer's Office at the same time; whereas the Treasurer has to guess what kind of appropriation is being made to the Investment Council. So in past years we have had a request for deficit spending in the off-year of our biennium. We hope that this will relegate that to a thing of the past, and further, that advantages can be taken in the endowment fund that aren't being taken now. So with that, I'd ask that you'd move this forward. If there are any questions, I will try to answer them. This bill, as you are reading through it, may well have been referenced to Appropriations also, but be that as it may. If there are any questions I will try to answer them, and there will be people following me who may also be able to speak intelligently to the bill. Thank you. [LB197]

SENATOR ADAMS: Thank you, Senator Fulton. Are there questions for Senator Fulton at this point? It doesn't look like it. Thank you, Senator. [LB197]

SENATOR FULTON: Thank you. [LB197]

SENATOR ADAMS: Those who wish to testify in support of this bill. [LB197]

JASON HAYES: (Exhibit 7) Hello, Chairman Adams and members of the Education Committee. My name is Jason Hayes, spelled J-a-s-o-n H-a-y-e-s, and I serve as Deputy State Treasurer. I believe it is fair to say that this is more a technical bill dealing with an appropriation matter than it is a College Savings Plan bill. The State Treasurer first brought this matter to Senator Fulton, and appreciates the Senator's attention to it. This bill represents the culmination of discussions between the Treasurer, the Governor's Budget Office, and the Legislative Fiscal Office. For the past few years, there has been an issue in how the Nebraska Investment Council charges a fee to the State Treasurer for its management services of the Nebraska Educational Savings Plan Trust. Currently, the Investment Council first calculates the percentage of the savings plan assets to the total assets of its managed portfolio. At the end of the last fiscal year, this represented 13.7 percent based upon trust assets of \$1.98 billion and total council portfolio assets of \$14.44 billion. The Investment Council then sends the State Treasurer an invoice for roughly 13.7 percent of its appropriated budget amount to cover its management services. A problem arises in that it is very difficult for our office to calculate ahead of time what that percentage amount will be in order to include it within the Treasurer's Program 505 budget. To approximate this amount accurately, we would have to estimate what will happen in the stock, bond, and money markets, as well as estimate how much people will contribute into their College Savings Plan accounts

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for the upcoming two years. Because this has been difficult at best, we have had to submit deficit spending requests because we receive the Investment Council's fee after our budget has already been set by the Legislature. A solution to this problem was arrived at by the Treasurer, the Legislative Fiscal Office, and the Governor's Budget Office, and that was to pay the fee out of the trust's administrative fund rather than out of the operating fund containing appropriated dollars. Because this fee is based upon an amount appropriated to the Investment Council, there is already oversight by the Legislature in setting the council's budget. LB197 helps to simplify this fee transfer process by transferring the fee directly out of funds received by the State Treasurer for the administration of the trust rather than a separate and additional appropriation. I have distributed a handout attached to my testimony showing that the Investment Council's fee last year was over \$209,000. It's the last page of the packet. This fee amount has sharply increased during the previous two years, making it difficult to determine an accurate trend line for budgeting purposes. Finally, there are two additional technical-type changes within this bill. First, the bill helps to clarify in statute that there is both an administrative fund and an operating fund. The administrative fund is already created in statute, but it was suggested another fund should be established representing the appropriated balance for Program 505. Second, the bill clarifies another suggested change, that a transfer may be made from the administrative fund to the endowment fund. The trust's endowment fund has existed since the inception of the trust, but there was never a mechanism to appropriately fund it. This change would permit the Treasurer to fund the endowment at a later time if there were sufficient funds available within the administrative fund to do so. Thank you for your attention to this matter and I'll be happy to take any questions. [LB197]

SENATOR ADAMS: Committee? I hope we understand it well enough to ask the questions. I lost track of the dollars about midway through your testimony. [LB197]

SENATOR SULLIVAN: Chairman. [LB197]

SENATOR ADAMS: Yes. [LB197]

SENATOR SULLIVAN: So does this situation exist with other investments as well? [LB197]

JASON HAYES: I'm not sure if it necessarily exists with other investments. I guess in some of our discussions it was said that there are remedies in statute so that it goes directly to certain funds to be paid out of. To answer your question, there may be other instances where this affects agencies, but it certainly has caused us some difficulties and headaches. [LB197]

SENATOR ADAMS: Senator Howard. [LB197]

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SENATOR HOWARD: Thank you. Thank you, Mr. Chairman. I have to ask you this question. Why have these fees increased in such a...? To me it looks like a large amount since 2005. I remember this trust fund as always being...or this investment fund always being advertised as having such reasonable fees. And are these still reasonable? No, you'll probably say yes. Right? [LB197]

JASON HAYES: Well, there is a couple of different fees because one, there are fees that are within the program manager's contract that are assessed to plan account holders. And the money that is used to pay for these fees right now are dollars that the State Treasurer's Office receives or the State of Nebraska receives for the right for these distributors to...sell these funds or, you know, to find investors for these funds. So they don't...aren't necessarily...they don't necessarily come to the plan holders themselves, the account holders themselves. In terms of why have they increased so dramatically? Well, the Investment Council fees are derived from how many funds are invested within the College Savings Plan. So because of the success of the plan itself in getting--earlier this year, we crossed over the \$2 billion mark or last year--that's certainly going to have an increase in the amount of fees that are charged. To the extent that the College Savings Plan assets grow at a faster pace than retirement funds or other endowment funds within the state, that's also going to have an impact. [LB197]

SENATOR HOWARD: So are you telling me that the fees have gone up proportionately to the money that's invested in the fund itself? [LB197]

JASON HAYES: That's correct, versus the amount of all the assets managed by the Investment Council. [LB197]

SENATOR HOWARD: So if we still had the same amount that we had in 2005, the fees would still be \$60,000? [LB197]

JASON HAYES: No, to the extent that we have a larger percentage. I...well, okay, yeah, two things. I guess the other point that you mentioned is the fact that as the appropriation, the appropriate amount for the Investment Council increases, that's also going to have an impact. But I think if you look at the proportional increase, why is it much larger now than it was before, I think that's attributed to the success of the plan as well as the growth of the Investment Council's budget. [LB197]

SENATOR HOWARD: It might have been helpful to have it in terms of the percentage of dollars and growth rather than the overall, because it...it just seems so extraordinarily high. It's almost three times...increased by three times. [LB197]

JASON HAYES: Well, we, you know, being the entity that receives the bill for this or the transfer request, we've, you know, it's been very hard to budget, particularly between the 2007-2008 cycle. [LB197]

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SENATOR HOWARD: What a jump. [LB197]

SENATOR ADAMS: Senator Cornett. [LB197]

SENATOR CORNETT: Related to what Senator Howard is asking, what is your percentage cost for managing this fund? We... [LB197]

JASON HAYES: The percentage cost in terms of what our overhead in the office is? [LB197]

SENATOR CORNETT: In proportion to the fund. We have been looking at some of these types of issues in Revenue with the Petroleum Remediation Act. And they said it's 1.25 percent of the total amount in regards to managing that fund, and some funds run all the way up to 5 percent. What is your percentage of the total that you're charging in regards to? [LB197]

JASON HAYES: I don't think I have that exact number for you, but I...you know, in just breaking down all the fees that are charged, certainly there are some fund manager fees that are charged. There are program manager fees that are charged. Right now, Union Bank is the program manager for the College Savings Plan, as well as they're, in some cases, if it's advisor-sold, there may be some broker fees. In terms of what the State Treasurer's Office, I don't have the exact percentage of what that is. But certainly that's an amount that is reviewed by the Legislature and we...it is subject to an appropriation every year to our office, or every two years. [LB197]

SENATOR CORNETT: Okay. Thank you. [LB197]

SENATOR ADAMS: Other questions? How often do we reevaluate? You say Union Bank is one of our private investors. How often do we evaluate those entities and their success and the fees that they charge? [LB197]

JASON HAYES: Well, just to give you some background, the current Union Bank program manager agreement was a ten-year contract. Was it? Yeah, a ten-year contract that the State Treasurer has just notified Union Bank that they'll be going to RFP on. So we'll have a chance to reevaluate these fees in the next year through awarding a new contract. [LB197]

SENATOR ADAMS: So there is an RFP process, and it's competitive. [LB197]

JASON HAYES: Correct, correct. But I think it's important to note that the fees that we're talking here are those fees that are directly charged by the Investment Council to the plan and are outside of the program fees. [LB197]

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SENATOR ADAMS: Okay. Are there other questions for this testifier? Seeing none, thank you. [LB197]

JASON HAYES: Okay, thank you. [LB197]

SENATOR ADAMS: Are there other proponents to the bill who would like to testify? Then I'll ask for opponents. If there are no opponents, what about neutral testimony? Is there anybody who wants to testify in the neutral? Seeing none, Senator Fulton, would you like to close? [LB197]

SENATOR FULTON: This time I'm going to speak English. The language can be somewhat confusing and so I would be open to sitting down and maybe putting forward more understandable language. I'm going to try to spell out my understanding this from an Appropriations Committee member's vantage. There are two entities at play: the Nebraska Investment Council and then the Treasurer's administrative cash fund. We on the Appropriations...well, we in the Legislature make an appropriation to both. And as you know, those appropriations come at the same time. The Investment Council charges a fee to any of those entities of state government that they invest money for. And the way they arrive at that fee is by saying a certain percentage of our overall investment package is due to your agency. So that percentage that's being invested of the Nebraska Investment Council, that is of the purview and responsibility of the State Treasurer's Office, specifically this fund. That is how the fee to the Treasurer's Office is charged from the Investment Council. So from the Treasurer's Office, they have this administrative cash fund, and they have to guess what that fee is going to be based on all of the monies that are being invested by the Nebraska Investment Council. And so that's why, in past years, they have to come back...the Treasurer's Office has to come back for a deficit request because they've been missing, missing low because of the success of this program. So what we are proposing by way of this bill is to set up a separate cash fund that's called the Operations Cash Fund. And then from year to year, they're able to utilize that cash fund to meet what may be fluctuating up or down, that percentage in the Investment Council's bill to the Treasurer's Office. So this really comes to be a planning, a bill for planning on the part of the Treasurer's Office, as well as the Appropriations Committee. So if I could draw a picture, it would actually look a lot easier. But we can't do that, so we'll be glad to work with you to come up with any amendments necessary for the bill to explicate that more clearly. [LB197]

SENATOR ADAMS: All right. Thank you, Senator Fulton. Senator Avery. [LB197]

SENATOR AVERY: I'm sorry I missed your opening, but you still don't know how much money to put in this cash fund though, do you? [LB197]

SENATOR FULTON: That's right. But with a separate Operations Cash Fund, if there's

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money unexpended at the end of the year, that comes before the Appropriations Committee as well as the Fiscal Analyst, and we can allow them to keep a certain amount in that cash fund. Whereas if the Treasurer's Office comes to us with unexpended money, I'll tell you, I have a tendency to say, well, you must not have needed the money so you're not going to get any more, this appropriation. We've had problems...well, I mean, that's the spend it, lose it theory and philosophy. [LB197]

SENATOR AVERY: The Governor changed that for the next biennium. [LB197]

SENATOR FULTON: But...so if we make a cash fund, then if there is unexpended money in that cash fund, then at least we know that that unexpended money is specifically for the bill that they're going to receive from the Nebraska Investment Council. Whereas if it lies in the administrative side, there are any numbers of things that could be used for administration. And it's very difficult, from my vantage as an Appropriations Committee member, to scrutinize whether those monies indeed were spent efficiently in the first place. [LB197]

SENATOR AVERY: Are these funds in the cash fund that would be set up, would they be invested in interest-bearing accounts? [LB197]

SENATOR FULTON: They could be. And that provision is provided for, assuming that we are able to make another cash fund. That is, oh, in the green copy of your bill, page 5. I think it's line 2, 3, 4, and 5. Actually it's on page 5. So that is contemplated also within the bill. [LB197]

SENATOR AVERY: Thank you. [LB197]

SENATOR ADAMS: Are there other questions for Senator Fulton? Senator, your conclusion was more powerful than the intro. [LB197]

SENATOR FULTON: Pictures tend to be better. [LB197]

SENATOR ADAMS: (See also Exhibit 8) You did a good job of painting that picture. Thank you. That concludes the hearing on LB197. And we'll now move to the last bill for the day which is LB102. [LB197]

SENATOR HOWARD: Senator Adams, welcome. You're going to bring us LB102 today, if you're ready. [LB102]

SENATOR ADAMS: (Exhibit 9) I am ready. Thank you. Committee, LB102 was brought to me, and as I contemplated its introduction I could see a benefit. And let me just briefly explain, first of all, what LB102 does, and then move into the benefit. Understand, first of all, that this proposed legislation in no way takes away from the obligation and

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privilege of each secondary institution in the state to determine their graduation requirements. Each high school decides this is what our diploma will take. This doesn't change that. What this bill does is to expand admission into four-year institutions by broadening the eligibility. And specifically what it does is to, in essence, say that if a student has completed an associate's degree from a community college, then they become eligible for admission and for financial aid at a four-year institution. It's really quite that simple. Now the benefit to that, as I see it, is that it assists some of our nontraditional students who maybe don't have a high school diploma or a GED in hand, but yet they have gone the community college route; they have acquired an associate's degree. Then the four-year institution would say, in this case, you're eligible for admission, you're eligible for financial aid. That really is the essence of the bill. If you notice also in the bill--and I have an amendment--there is specific language about four units of English, three units of math, that language. The amendment that I'm handing out would exclude that. It would take that out of the bill and it would simply say "an associate's degree," which typically is going to include those kinds of things. With that, I'll try to answer questions, and there are those who are here to testify that can be more specific than I. [LB102]

SENATOR HOWARD: Committee, do we have questions for Senator Adams? Senator Avery. [LB102]

SENATOR AVERY: Thank you, Madam Chair. [LB102]

SENATOR HOWARD: You're welcome. [LB102]

SENATOR AVERY: Is it possible to get an associate's of arts or an associate's of science degree at a community college that did not require some basic core courses in the liberal arts? [LB102]

SENATOR ADAMS: I'm going to answer that by telling you I don't think so, but there may be other testifiers come later, Senator Avery, that could more specifically answer that. [LB102]

SENATOR AVERY: I'm particularly thinking about whether or not somebody could get an associate's degree in automobile mechanics and then they want to go to the university. They don't have a high school diploma and they know how to fix cars, but they can't read very well. [LB102]

SENATOR ADAMS: I would still think that in that program there are some basic gen ed requirements that are there. But again, I'd ask others that follow me to be more specific. [LB102]

SENATOR HOWARD: Anyone else? I actually have a question. What's in place right



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now under these circumstances? How would it work at this time? [LB102]

SENATOR ADAMS: At this time, you've got to have a high school diploma. [LB102]

SENATOR HOWARD: Okay. That would be the big difference, I understand. [LB102]

SENATOR ADAMS: Right. Or a GED. [LB102]

SENATOR HOWARD: Okay. Anyone else? Okay, thank you. All right, proponents of LB102. [LB102]

RON WITHEM: Senator Howard, members of the Education Committee, my name is Ron Withem, R-o-n W-i-t-h-e-m. I am with the University of Nebraska, here to ask you to support LB102 and to thank Senator Adams for introducing it, and maybe to apologize to him for some overzealous drafting that I think caused some confusion about the bill. So we're very much in support of the amendment he's offering that I think maintains the essence of the bill and eliminates some of the confusion. We're bringing this bill because of a very specific program that has been negotiated between the University of Nebraska and the Nebraska Community Colleges which guarantees admission to the university upon completion of an associate of arts or an associate of science degree. This...thinking back, this in some ways moves us along in the continuum of encouraging those students for whom a community college experience is a superior experience than coming to the university immediately, but then moving them into the University community and allowing them to complete their four-year degree. Our purpose here is to get more Nebraskans to complete two-year degrees and, ultimately, four-year degrees. The problem that needs...the very practical problem that needs to be corrected is when that student comes to us from the community college, sits down with an admissions officer, starts talking about financial aid and fills out the FAFSA form, the federal form that you use to qualify for financial aid. There is a question on that form saying, are you a high school graduate? And if the individual is one who didn't complete high school, then went back to the community college and got the associate degree, even though that person has what would probably be a higher degree than a high school degree, they have to say, no, and they don't qualify for financial aid. Currently there are two ways in Nebraska of becoming a high school graduate. You either graduate from high school, a typical Nebraska high school, or you take the GED. This would open up a third way for these students who have the associate of arts and associate of science degree. Now, originally, when we drafted the bill, we thought it important to...because of very...very definitely the question Senator Avery was asking, we thought it was important to spell out these academic requirements in the bill. But what that caused was some confusion and some debate and some controversy over what should be included and what shouldn't. What we then found out, and I believe Mr. Baack will corroborate this when he comes up here, that you don't get an associate's degree from a community college for these technical types of programs. You have to

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have the academic basics. We also put in...I put in--I shouldn't say we--I put in, when it was drafted, reference to accredited high schools. And if there's anybody in the state of Nebraska who should know better than to reference only accredited high schools, it's me, because of the experience I had in this room several years ago dealing with the issue of what, if any, state requirements there needs to be on the schools. So we don't want to open any of those wounds. So for that reason, Senator Adams is suggesting the amendment and I'm here to support it, and I will attempt to answer any questions you might have. [LB102]

SENATOR HOWARD: Thank you. Committee, any questions for Senator...or Senator...formerly Senator Withem. [LB102]

RON WITHEM: I respond to many names, so that's fine. [LB102]

SENATOR HOWARD: I appreciate that. Yes, Senator Avery. [LB102]

SENATOR AVERY: Can you tell me, Mr. Withem, what are the requirements today for, say, an associate of arts at a community college in Nebraska? [LB102]

RON WITHEM: No, I cannot tell you that. We can certainly find out and if Mr. Baack doesn't have that specific information, but I guess...well, I would guess he could probably respond to that. [LB102]

SENATOR AVERY: But I would think, though, that you ought to be interested in students who do come to, say, UNL, with an associate's degree from, say, Southeast Community College, you would want to know that they have taken a certain number of units in English, mathematics, natural science, social science; that they know...have basic reading skills and writing skills. Having spent a good amount of my time at the university, I know that even some of the students that graduate from our accredited high schools often arrive at the university unprepared to read and write. And you put a syllabus in front of them that says you're going to have to read a book cover to cover--oh, I can't do that; you know, I'm going to drop this class. Or you have to write a paper. And then the paper comes in, and it's, you know, you could spend three hours red-marking it and you still wouldn't get all the corrections on it. [LB102]

RON WITHEM: (Exhibit 10) No, and Senator, I'm aware of that. My wife right now actually teaches a study skills preparation class at the community college up in Omaha, so I hear those stories. One thing I neglected to pass out here that maybe better explains the On Course program and at least what the recommended classes are: four units of English, three units of mathematics, three of natural science, three of social studies, before students take advantage of this. And a foreign language is also referenced here. So this is the recommended academic preparation students have before the On Course. Again, what specifically goes into an associate of arts and an

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associate of science, I can't tell you that, but we'll get you that information. [LB102]

SENATOR AVERY: But we did...we did tighten up, did we not, the requirements for admission to the university a few years ago back when Chancellor Moeser was here. You have to have a certain...you have to have a minimum number of units. [LB102]

RON WITHEM: It was the mid-nineties. Prior to the mid-nineties there were no admission requirements at the University of Nebraska. If you had a high school diploma, you were deemed to have the ability to enter. We did, at that time, establish admission requirements that...again, I don't remember specifically what they were. I think they're very similar though to the numbers listed here on this sheet. Prior to that, there were no admission requirements. [LB102]

SENATOR AVERY: So you have no concern about removing these specific requirements in lines 6 through 12? [LB102]

RON WITHEM: I think it makes it a cleaner bill, easier to understand and easier to explain, and we support the amendment. As a matter of fact, we suggested to Senator Adams that we'd be comfortable with that as opposed to responding to the types of questions and concerns we were hearing. [LB102]

SENATOR AVERY: So a student who has an associate of arts degree would then meet these requirements for entry into the university. [LB102]

RON WITHEM: That's my understanding, yes. [LB102]

SENATOR AVERY: And this is essentially what we're requiring high school graduates. [LB102]

RON WITHEM: Again, that's my understanding. [LB102]

SENATOR AVERY: Okay. My concern here, if I may say so, is that we don't want to lower the bar, because it took a lot to get...when Chancellor Moeser was here, it took a lot to get that bar raised. And I can tell you, it made a huge difference in the quality of students that we received at the university. Prior to that, it was up to faculty to deliver the bad news to some students that, you know, you're not ready for this. [LB102]

RON WITHEM: Right. [LB102]

SENATOR AVERY: And it was a tremendous change. [LB102]

RON WITHEM: We were losing up to 50 percent of our freshman classes were not coming back for their sophomore year in that era. I remember that discussion. [LB102]

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SENATOR AVERY: Yeah, and for good reason... [LB102]

RON WITHEM: Right. [LB102]

SENATOR AVERY: ...sometimes. Thank you. [LB102]

SENATOR HOWARD: Any other questions? Have you been paying attention here? I do have one. I'm wondering in listening to this if the motivation for this is maybe to open the door for more students that, maybe nontraditional or students that wouldn't have the opportunity. Is that what you're seeing? [LB102]

RON WITHEM: That is exactly what the purpose of the program is. [LB102]

SENATOR HOWARD: Well, I agree with Senator Avery's concern, but then is that offset by the opportunity for students to kind of come into the...? [LB102]

RON WITHEM: Right. And my assumption is, after a student has completed two years of community college work and has achieved this associate of arts and associate of science degree, that they would be ready to come to the university and do university work. [LB102]

SENATOR HOWARD: That they would be a better candidate. [LB102]

SENATOR WITHEM: Right. [LB102]

SENATOR HOWARD: Okay. All right, thank you. [LB102]

RON WITHEM: Thank you. [LB102]

SENATOR HOWARD: I see we have more supporters. Welcome. [LB102]

DENNIS BAACK: Senator Howard, thank you for giving me this opportunity. My name is Dennis Baack, that's B-a-a-c-k. I'm the executive director of the Nebraska Community College Association. And as has been stated, this comes to you because of an agreement that we've been working on for the last couple of years with the university to make college education more...make a four-year education available to more students. It also comes on the heels of the community colleges, a couple of years ago, signed an agreement with the state colleges that when you sign up as a community college person, say at Southeast Community College, you're automatically registered as a student at Chadron, Wayne, or Peru. And we did that because it's a service to students. Quite frankly, if they go back to their hometown in the summer and want to take a course at a community college or at a state college, they can do that without having to

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be readmitted. They're already students; they're already considered students there. They can do those kind of things. I think it's a good service to students. This is what this is about, too, is serving students. And I think Senator Avery on...we have worked very closely with the university and the state colleges and even the private institutions in the state over the last few years. We have a transfer agreement in Nebraska where we have looked at our English courses, our history courses, our speech courses, all the basics that go into an associate of arts or associate of science degree, and all of those things very well match up with the curriculum that you do in the first couple of years at a four-year institution. So those things are already in place. I think we match up very well there, and they're willing to accept those students. This is...those students are pretty, today even, most of the students are very readily accessible to the university with an associate of arts or an associate of science degree. This is simply addressing those students who do not happen to have a GED or a diploma and give them an opportunity also for that four-year degree. It just opens it up for that. We're not talking a whole lot of students here. We're not talking, you know, thousands of students that do that. Because most of our students that come to us have a high school diploma or go through the GED program before they ever start at a community college. So it's very few students we're talking about here, and it's more the nontraditional kinds of students and stuff that we're looking at here, that just didn't happen to complete those degrees. So with that, I'd be happy to answer questions. [LB102]

SENATOR HOWARD: Yes, Senator Avery. [LB102]

SENATOR AVERY: You provoked another question there with your comments. What kind of entrance requirements do you have for these nontraditional students who don't have a high school diploma or a GED? [LB102]

DENNIS BAACK: Senator Avery, the community colleges have no entrance requirements. The community colleges are open-admission institutions. Anyone who applies there can get into the community college. We have no... [LB102]

SENATOR AVERY: No age requirement? [LB102]

DENNIS BAACK: No. We are open-admissions institutions. [LB102]

SENATOR AVERY: I'm speechless. (Laughter) That's never happened before. (Laughter) [LB102]

DENNIS BAACK: If we have...if you have homeschool students, and stuff, who wanted to start early, and stuff, they are certainly allowed to do that. If they can meet the requirements and meet the rigor of a college education, they can do that. [LB102]

SENATOR AVERY: But how do you know if you don't have any entrance requirements?

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[LB102]

DENNIS BAACK: Well, we do testing as they come in. [LB102]

SENATOR AVERY: Oh, you have an entrance exam. Okay. [LB102]

DENNIS BAACK: Yes, we do. We have an assessment test, a COMPASS test and stuff that we use to assess them. [LB102]

SENATOR AVERY: All right. Yeah. So you know something. [LB102]

DENNIS BAACK: Oh, yes, we do. [LB102]

SENATOR AVERY: All right. That helps. [LB102]

DENNIS BAACK: It isn't a totally blank slate, no. [LB102]

SENATOR SULLIVAN: But they aren't turned down. [LB102]

DENNIS BAACK: No. [LB102]

SENATOR AVERY: No matter how they score on the entrance exam? [LB102]

DENNIS BAACK: No, because what you have to do then is...one of the requirements that we have, by statute, is to do, you know...we're supposed to do all of the remedial and foundations education for the state. And in that case, if that person doesn't meet those standards...isn't able to handle college coursework, then we will put them in a program to build them to that level until they are ready to meet the college coursework. We do the remedial work. And that's extremely important because, very frankly, if you don't do that...if you don't do that, the chances of success for that student are very, very slim. But if you do, do it, and you do it well, the chances of success improve quite dramatically. [LB102]

SENATOR AVERY: Well, maybe that explains why the quality of students went up when the university changed its entrance requirements. You guys were taking care of the remedial work. [LB102]

DENNIS BAACK: Yeah. [LB102]

SENATOR AVERY: And I didn't have to do it any more. Thank you. [LB102]

SENATOR HOWARD: Any other questions for Mr. Baack? That's good. You explained it well. Thank you. [LB102]

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DENNIS BAACK: Thank you. [LB102]

SENATOR HOWARD: Any other supporters? [LB102]

BOB EVNEN: Senator Howard, members of the committee, my name is Bob Evnen, B-o-b E-v-n-e-n. I am a member of the Nebraska State Board of Education, and I am appearing here before you this afternoon representing the State Board in support of LB102. I would tell you that we considered this bill prior to the amendments or our knowledge of these amendments or the amendment that's been discussed just now, so I think that I'm duty bound to convey to you what the board has asked me to convey which are, in large part, preamendment kinds of comments. Our support for LB102 is conditioned upon the addition of language that actually was a point addressed by Senator Adams as his first point when he discussed the bill, and that is that there's nothing about this bill that is intended to affect the issuance or validity of high school graduation certificates from Nebraska school districts. And Senator Adams certainly was clear and explicit about that. The other thing...a couple of other things, just comments about it that I was asked to convey. It's actually this list of academic credits that captured the imagination of the members of the board. Because this was a moment where, at the state level, we were talking about in explicit terms, although for this limited purpose--and it's an important purpose--but for this limited purpose, what do we expect out of students who have graduated high school? What do we expect from students who are seeking to attend postsecondary school? And so while we thought that four units of English was maybe not as explicit as it needed to be, the idea that we were talking...or three units of math and so forth--you know, what is a unit, what is math--these turn out to be important discussions in our state. The idea that that discussion was brought forth by this bill was something that I have to say animated our board. Apparently, it animated others too; and hence, we have this amendment. The other thing that I was asked to convey was the notion...actually, I was not asked to convey this but this is something that department staff had noted, and that is the idea of accredited versus accredited and approved. There are ten approved schools in the state. And so to the extent that language continues in this bill, you might want to consider supplementing the idea of accredited with accredited and approved. Perhaps there are other considerations as well. I would say that that's what I've been asked to convey to you, and I would say now, just as a board member individually and not on behalf of the board, I think that the community colleges do a tremendous job in our state helping to prepare students for careers, helping to prepare students for further postsecondary education. And I think that the job that they do is a great service to the students of the state and to the state itself. So with that, I would say we are in support of this. I also would like to say that Senator Avery's concerns are front and center in my own mind as well. I would say I support this, but more importantly, on behalf of the State Board of Education, we're in support of LB102. If there are any questions, I'd be happy to take them. [LB102]

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SENATOR HOWARD: Thank you. Thank you. Do we have any questions for this testifier? Bill? [LB102]

SENATOR AVERY: No. [LB102]

SENATOR HOWARD: Thank you. [LB102]

BOB EVNEN: Thank you. [LB102]

SENATOR HOWARD: Any other proponents? Any opponents? [LB102]

DAVID LOSTROH: (Exhibit 11) Senator Howard, members of the Education Committee, my name is David Lostroh, L-o-s-t-r-o-h. I'm the legislative liaison and a board member for the Nebraska Christian Home Educators Association. The NCHEA vigorously opposes LB102 as currently written because it discriminates against approved and unapproved high school graduates who would desire to attend a state four-year college. However, we are pleased that the language is already being reconsidered. The text is listed there of the original language. LB102 implies that graduates of nonaccredited high schools will not be admitted to or be able to receive financial aid at postsecondary institutions--which presumably is the four-year state colleges--unless they have received an associate of arts or associate of science degree at a Nebraska community college and have four units each of English, social studies, and three units each of math and science at that community college. And graduates from private approved high schools would have the same problem. So I think that has already been discussed and that is our concern. As homeschool students, we operate under Rules 12 and 13. Five courses have to be taken which include these four that are listed here every year during the high school years, and our concern was that the students wouldn't be allowed to be in there; that you would have to be a graduate of an accredited high school. I spoke with Ron Withem about our concern and working through Senator Adams' office, the proposed AM43. As it turns out, AM43 is exactly the language that I have here in the testimony. I would...the NCHEA would propose changing this a little bit here to read "For purposes of financial aid relating to postsecondary education, the term high school graduate shall include a student who has obtained an associate of arts degree or associate of science degree from a community college." The NCHEA believes its minor change more clearly eliminates the possibility of LB102 being interpreted to require that everyone have an associate's degree in arts or science as a condition for admission. We also would suggest removing "and admission to postsecondary educational institutions," but we're okay either way with that and the same way with the Nebraska community college. We really don't care about that. The main thing is to retain the existing ways to get into college and merely add an additional avenue for certain students. While we have good reason to believe that the bill was not originally intended to discriminate and we certainly do appreciate that, it currently does. It appears that there is a strong



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willingness to eliminate the undesirable implications of the original language as already witnessed by the amendment, and we urge the adoption of the language to correct that. Actually, we believe that the bill is an honorable thing that is being desired to help students who have some shortcomings and are diligently working to remove them to have an opportunity. So in that sense we're not opposed to the bill; it's merely the implications of the original language that is our problem. And that's all I have to say. [LB102]

SENATOR HOWARD: Okay. Do we have any questions? Looks like you've covered it. [LB102]

DAVID LOSTROH: Okay, thank you. [LB102]

SENATOR HOWARD: Any other opponents? Neutral? Any neutral testifiers? [LB102]

SENATOR ADAMS: Very briefly in conclusion, Committee, I think the way to look at this--if you're not already at that point--is relatively simple. We have said that a high school diploma or its equivalency is the standard for admission and a standard for qualifying for financial aid. A GED is a standard for admission; it is a standard for qualifying for aid. Now, what the bill is asking you to do is to consider, is there yet an additional standard that is worthy of consideration. And that additional standard, quite simply, is an associate's degree from a community college. Thank you. [LB102]

SENATOR HOWARD: Any final questions? Looks like a good wrap-up. [LB102]

SENATOR ADAMS: Committee, that takes us through all of our bills for today. We're not going to Exec today, but we will tomorrow. So with that, we'll conclude our hearings. Thank you all. [LB102]

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Disposition of Bills:

LB20 - Placed on General File.

LB102 - Placed on General File with amendments.

LB197 - Placed on General File with amendments.

LB206 - Placed on General File with amendments.

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Chairperson

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Committee Clerk