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Education Committee
October 23, 2009

[LR116 LR121 LR175]

The Committee on Education met at 9:00 a.m. on Friday, October 23, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR116, LR175, and LR121. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Brad Ashford; Bill Avery; Abbie Cornett; Robert Giese; and Kate Sullivan. Senators absent: Ken Haar. [LR116]

SENATOR ADAMS: I'm going to welcome everyone who's here today. We have three hearings on our schedule today that will take us until noon. And so I'm assuming, I think correctly, that most of you are probably here for the extension of our ongoing hearings on early childhood. But we also have a hearing on financial literacy, and we have a hearing on Nebraska State (sic) Activities Association. And so, in light of all of that, you'll understand, we are going to use the light system today. And we'd ask that you'd recognize that. And I on occasion I may give you a little bit of shoulder room to summarize things if you're to that point. But out of due respect for everyone who is here, and particularly those of you that may have traveled quite a distance to be here today, I want to try to give everybody an opportunity to come to the microphone on all three of the hearings. We're going to start with the early childhood hearing today. And the first thing I would tell you: We are expecting more committee members. They will be here. For whatever reason, they're not here right now, and I apologize for that. But there will be more joining us as we go along. I would introduce the Vice Chair of the committee, Senator Howard; and Senator Kate Sullivan, a member of the Education Committee; and Tammy Barry, the legal counsel for the committee; Becki Collins, the committee clerk. And while I'm thinking about Becki, a reminder to you as to our process: If you wish to testify, we would ask that you fill out the testifier's form and hand that over to Becki so that we have that information about your name and we can get all that into the record. If some of you have things that you wish to hand out to the committee as you are testifying, if you will also provide that to our pages today, they'll hand those things out. And if you don't want to testify but have things you want us to look at, if you would

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give those to Becki, we will enter those into the record as well, and the committee will have an opportunity to look at it. Senator Giese has joined us from South Sioux City this morning. I'd ask you to turn those doggone cell phones off and recognize the fact that an old man like me needs to be able to hear what's going on. And out of due respect for everyone, we all want to be able to hear the testimony as we proceed through. On the first hearing, on early childhood, may I see a show of hands as to how many wish to testify? All right. Given that the numbers don't seem at this point to be too high, I'm going to begin with the five-minute testimony rule. Otherwise, if we suddenly get a flood of people that all want to testify on it, we might have to shrink it down to three. But we'll go with five at this point. And I don't know what I'm leaving out--it's been a while since we've conducted a hearing. But with that, what I'm going to ask is that our legal counsel, Tammy Barry, initiate this. Following her, Senator Rogert has requested an opportunity to testify. And then after Senator Rogert, we won't have proponents and opponents; we'll just simply open it up and begin testimony. So Tammy. [LR116]

TAMMY BARRY: (Exhibits 1, 2, 3) Good morning. My name is Tammy Barry, and I am the legal counsel for the Education Committee. And I'm basically coming up here in case you have any questions. As you know, we had a hearing earlier in the interim that was more of an informational hearing on the topics of early childhood education and the transition with kindergarten and also kindergarten to first grade. And then the staff group got together, and we developed a list of alternatives that was simply to give you a place to start in discussions. Some of the alternatives are directly counter to each other, and that was intentional so that you had the broad range of different options that you could look at. This afternoon there will be an Exec Session. And, hopefully, you will be able to have some discussion on these or other alternatives in order to give the staff group a little bit more direction. If you have any questions, I'll be happy to answer them. Oh, and the alternatives are on this sheet, if that was helpful. [LR116]

SENATOR ADAMS: Thank you, Tammy. And I believe that I know that all of the committee has had an opportunity to see these alternatives, and I suspect that many of

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you here in the room have also had an opportunity to see them. We have kind of a two-hearing process. The first one so that we could hear, the second one so our staff could begin to develop alternatives, and now to hear from you as to what you think of the various alternatives. And then, as Tammy pointed out, we will meet in Exec Session this afternoon and as a committee begin to pound out a direction, to maybe prepare some legislation for a future session. Committee, I guess what I would do at this point--do you have questions for Tammy, as a representative of the staff group, as to these alternatives that we see here in front of us? [LR116]

SENATOR SULLIVAN: Just one quick question. [LR116]

SENATOR ADAMS: Yes, Senator Sullivan. [LR116]

SENATOR SULLIVAN: Thank you very much. Tammy, looking at the one alternative, Alternative 7, that holds up New Zealand as an example, have you done...did you do some international looking at...because it said...I don't know, necessarily...it says: New Zealand ranks very high in international education rankings. There not...may or may not be a direct correlation to their kindergarten starting date. []

TAMMY BARRY: You're absolutely correct. There...I do not have anything that correlates it. I put the information just...New Zealand does come up in discussions, and so I didn't look, necessarily, at all of the different nations and how they go about starting school. But the New Zealand example does come up occasionally in discussions, and so I did look to see--so, New Zealand starts them, but then do their kids fail after that? And that was not what I found. I found that they...New Zealand typically ranks fifth or sixth in the world in their education on most of the international rankings. And it's just...and it was just as a example of thinking completely outside of the box that we normally think...look at. [LR116]

SENATOR SULLIVAN: Okay. So in New Zealand, children generally enter school on

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the day of their fifth birthday, but compulsory attendance occurs on their sixth birthday.
[LR116]

TAMMY BARRY: Right. [LR116]

SENATOR SULLIVAN: Thank you. [LR116]

SENATOR ADAMS: Other questions for Tammy? I do, then. Tammy, we don't have this compulsory attendance...well, compulsory kindergarten we do at that age 6 point. Do you know or can you describe the Legislature's thought pattern, why we have the starting time that we do or why it's not compulsory? [LR116]

TAMMY BARRY: Well, we do have compulsory attendance that begins in the school year in which you turn 6 by January 1...is when we have compulsory attendance. There is a long tradition on kindergarten that is varied, and it varies a lot from state to state. In the beginning, you didn't have kindergarten, and then when kindergarten was introduced, it wasn't mandatory that all school districts offer kindergarten. And so I think that in some ways our language just hasn't maybe caught up to fit. All districts now offer kindergarten. Most of them offer full-day kindergarten. And there are also some private programs that are out there that offer alternatives to kindergarten. The Montessori programs would be an example of that, where they consider the transition to be at the first-grade level instead of at kindergarten. [LR116]

SENATOR ADAMS: Okay. Thank you. [LR116]

TAMMY BARRY: So there's those factors. [LR116]

SENATOR ADAMS: Are there other questions for Tammy right now? Good work, Tammy. Thank you. [LR116]

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TAMMY BARRY: Oh, and Senator Rogert is not going to be able to testify. [LR116]

SENATOR ADAMS: He's not going to. Okay. I was just getting ready to get him up here. All right. In light of that, then, I will open the testimony up to the rest of you. Please. Good morning. [LR116]

CAROLINE WINCHESTER: (Exhibit 22) Morning. I'm Dr. Caroline Winchester, superintendent at Loup City Public Schools. [LR116]

SENATOR ADAMS: Could you spell your last name, Caroline, please. [LR116]

CAROLINE WINCHESTER: Last name? [LR116]

SENATOR ADAMS: Yes. [LR116]

CAROLINE WINCHESTER: W-i-n-c-h-e-s-t-e-r. [LR116]

SENATOR ADAMS: Thank you. [LR116]

CAROLINE WINCHESTER: Okay. Senator Adams and members of the Education Committee, I'd just like to thank you very much for your thoughtfulness and research that went into proposing these particular alternatives and also appreciate you serving a very diverse student population throughout the state. I would strongly urge the committee to consider flexibility for both the parents and school districts. That's kind of representative in the Alternatives 2 and 3. If possible, something that may enhance that, then, would be Alternative 4 that would have a June 1 birthday. But I think the flexibility issue is probably the key as far as parents and school districts are concerned. And what we've seen at our school district, in light of the October 15 birthday and Rule 11 (section) 005.01D that does not allow 5-year-olds to be attending preschools that have either used state aid or have used state funds for the preschool...are somewhat

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discriminatory for parents that are at poverty. Parents of means, if they don't wish their child to attend preschool, then can enter their child in a private preschool, and then their child can enter at a later date. What we've seen in our district is parents of poverty don't have that choice. So what we have seen since this rule went into effect is that since 2005 and 2006 in our district we've had anywhere between 46 percent to 20 percent of the population optioned to not start when they're 5 and wait a year if they have young birth dates. Since that date and the inception with the Rule 11 and since we've had our preschool, 80 percent to 75 percent of those that hold their children back are parents of means. And this isn't only a phenomenon in Loup City. If you look at Bracey's work, he and also for Cascio, they also tend to report that more affluent people are able to postpone starting kindergarten as opposed to those of needs. Particularly in our district, if they aren't of means, even childcare is a problem. Crosser reports a statistically higher difference in achievement using standardized tests on children that don't start kindergarten till 6. And that was even remarkably even more higher statistically for males in reading. Another study talks about the four-month difference in a child's developmental life as being very crucial. If you look in our district, there was a...last year there was a 16-month span between the oldest and the youngest children in our kindergarten. If you divide that out, you find that's, like, 27 percent or nearly a third of the age of a child when they start. So it's quite a bit of a difference. And that leads to another issue about maturity, and it's not only maturity at starting kindergarten, it's a lot of parents look at when these children would then graduate at 17. Another issue of maturity, too, occurs, our principal has noted, and we've noted in our district, for...middle school males particularly oftentimes have difficulties in social and academic as well as behavior issues. And the majority of the time they are males that are younger in age than their peers. And that would also be substantiated by some work by Crosser that says that males that delay their entrance to kindergarten tend to have the admiration of their peers in middle school, so we see a lot of social things. So just in summary, we don't teach widgets, we teach humans. They develop at different rates and at different times. Our school systems in this state vary with their demographics and are very unique. So I just would urge the committee to look to flexibility for both parents and

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school districts--I think as represented in Alternatives 2 and 3--so that we can reduce the academic gaps and also increase the economic opportunity for all students. Thank you. [LR116]

SENATOR ADAMS: Thank you, Dr. Winchester. [LR116]

CAROLINE WINCHESTER: Any questions? [LR116]

SENATOR ADAMS: Well, that nails the social behavior. That reaches far beyond middle school too, doesn't it? Wait a minute, wait...too many heads shaking out there. (Laughter) All right. Are there questions? Yes, Senator Sullivan. [LR116]

SENATOR SULLIVAN: Thank you, Senator Adams. Dr. Winchester, with respect to your specific district, how do those parents of means, when they went to...because you have a preschool that's connected to Loup City Public Schools... [LR116]

CAROLINE WINCHESTER: Yes, we also have... [LR116]

SENATOR SULLIVAN: ...and so the parents who opt to keep their children in preschool that extra year, what are their alternatives in your district? [LR116]

CAROLINE WINCHESTER: There's a private preschool that we have...just one private preschool in our district. And it usually is full, with parents of means that, you know, want to have one more year before they start their child, particularly if they're a younger age--you know, anytime, you know, they start to get in those June, you know, October birthdays. Sometimes parents come to us and ask for a recommendation, and we frankly can't give them a recommendation. I tell parents that you're the best ones that know whether you feel your child is ready for kindergarten or not. We don't have an assessment that we can give to determine whether a child is ready. And even that I don't think...it would only be a piece of the puzzle, you know. I guess I'm a strong

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believer of, you know, parents having options and making the best decision for their child, because they know them the best. [LR116]

SENATOR SULLIVAN: In providing that flexibility, do parents...are you willing to give up the possibility of losing federal funding? [LR116]

CAROLINE WINCHESTER: Well, I don't think that necessarily would occur, because in our situation...and that's why I said, it might be in combination with changing the birth date if that might...but there might be a way around that. I think in our situation, there are 20 Head Start slots, and there are 20 school slots. So what I believe can occur is that if the parent and the school district decide that the best place for that child would be another year of preschool, and provided we had room...because we wouldn't want to eliminate, you know, 4-year-olds. Then the 5-year-olds could go in, if school districts had that flexibility, could go in the school district slot, and then leaving the Head Start slots--if there was no change in birth date--the Head Start slots to serve the other age groups. So--and, see, we're talking parents of poverty, you know, which...so that would be very workable. [LR116]

SENATOR SULLIVAN: Thank you. [LR116]

SENATOR ADAMS: Other questions? Thank you. [LR116]

CAROLINE WINCHESTER: Thank you. [LR116]

SENATOR ADAMS: I know you came a long way today. Appreciate it. Next testifier. [LR116]

HENRY EGGERT: My name is Henry Eggert. I'm superintendent, Thedford Public Schools, northwest-central part of the state, in the Sandhills. [LR116]

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SENATOR ADAMS: Henry, would you spell your last name just so we have it for the record. [LR116]

HENRY EGGERT: E-g-g-e-r-t. [LR116]

SENATOR ADAMS: Thank you, Henry. [LR116]

HENRY EGGERT: I don't think I could say it any better than Caroline said it regarding...the concerns that she has are similar to the concerns that we have up at Thedford. We're in the smallest tier of schools in the state: Lincoln, Omaha--largest tier; we're the smallest tier of schools. Equity always runs through my mind all the time. And I understand that all of you people here understand that. At times, though, in our area...and I don't speak just for Thedford Public Schools; I speak for all of the rural schools that are out there--that we feel somewhat slighted at times. This issue here is extremely important to me, and I am biased here because I have two adopted little boys, 4 and 5. But prior to them entering into preschool, I've always been an advocate for preschool. And the idea that preschool is in this day and age now extremely important, because of single parents, no parents, adoption, etcetera, that we get these children--in our district, wherever they are--started out on the right foot. And if we can provide them that kind of access to what they're going to experience through compulsory education, it gives them a leg up, gives us a leg up; it's a win-win situation. And I understand these are tough, trying times right now that we're going through. That said, though, I think we have to keep the children in mind regardless of whatever our situation is. And what I see here today is if we can come up with some type...or that you will consider some type of meaningful choices. Life is about choices--meaningful options, you know, for children who are privileged or who aren't privileged. To be able to help school districts out, such as ourselves, who are small and may not have the wherewithal or the options that we see with the larger, urban school districts. As I indicated, we have approximately a little bit over 100 students, preK-12, in Thedford. And I feel we do an excellent job of providing an educational service for these kids. The

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thing that concerns me, though--and I was talking with one of the Department of Ed people--is when I pick up this position paper put out by the Department of Ed. I don't know if any of you have had a chance to see this. And I'm sure there are others who are going to speak much the same as Caroline did, so I'm not necessarily going to go in that direction, because everything she has said, that's what takes place in our school district right here. But this is a kindergarten position statement. I don't know if any of you have had a chance to take a look at that. Well, I find it...I have a concern from the standpoint that I find it somewhat slanted--and in this particular case, towards the urban hubs, the larger urban hubs, particularly pages 8, 9, and 10, how it talks about in this particular case right here that children...that the studies, the majority of the studies indicate that children should go from 4 years of age...basically one year of preschool, the next year they're ready for kindergarten, and that's it. They need to move on and with little choice. The part that...when I picked these up, I kind of looked...I've learned over the years to kind of look at everything in a really black-and-white manner. First of all, it's from the Department of Education. When I go to this last page right here dealing with who's involved with creating this study right here, I don't see a whole lot of representation from the small schools. But I do see it again from the larger, urban areas. So unfortunately, what I see here is again, which...and this is a growing concern on other levels, an urban versus rural situation here. I don't have a problem with what Lincoln and Omaha need to do. Okay, maybe they have large numbers of kids that they have to move from 4 years in their preschool situations into kindergarten situations because it might backlog them and cause them other financial situations. Okay? Okay. That's...I understand that. But when I see a paper like this, and unfortunately it goes out. We're sitting in this room right here talking to you right now. I don't know that there's a whole bunch of people other than us that's going to hear this right now. There may be a few. But this right here, we can't unring the bell when something like this goes out. When this goes out right here, we can't take it back. Now it's not incorrect, but it is somewhat slanted. And there is in my opinion liberties taken with, you know, how we talk about retention on those pages. And again, I look at who's involved as far as comprising this. And we wouldn't be here talking about this...as it says in here, 80 percent...it says in one part there, 80 percent of

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the studies say that the kids should move on. Well, there's still 20 percent then...if we're going to do that, there's still 20 percent. All right. That's what a lot of us are, this other 20 percent out here--or more. And again, that's just based off of that. So I... [LR116]

SENATOR ADAMS: Henry, can I get you to... []

HENRY EGGERT: Yeah. I'm sorry. Right. [LR116]

SENATOR ADAMS: ...sum it up here; time's up. [LR116]

HENRY EGGERT: I would just...my last point is: I looked through the options; I like the fact that you guys...meaningful choices, options, right here. I like number 10. Number 10 is the one that: Allow school districts to provide two-year kindergarten program for parents who choose such programs. I like that word "choose" in there. Meaningful choices, options. Number 10. Now again, that may involve more money, but I'm willing to make the sacrifice at Thedford to try and make that work. Thank you. [LR116]

SENATOR ADAMS: Thank you, Henry. Are there questions for Henry? Anyone? Thank you then, Henry. Sorry I had to shut you off; I know you've come from a long way. [LR116]

HENRY EGGERT: Yeah. No. I understand. I got off on a rant there. Thank you. [LR116]

SENATOR ADAMS: Next testifier. [LR116]

FRED HANSEN: My name is... [LR116]

SENATOR ADAMS: Excuse me just a moment. Senators Ashford and Cornett have joined us. Good morning. And we're off and running, but you're just in time. Go right ahead. [LR116]

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FRED HANSEN: My name is Fred Hansen, H-a-n-s-e-n. I'm the superintendent at Lyons-Decatur-Northeast Public School, which is one-and-a-half hours north of here, between Fremont and Sioux City. And I am here to talk to you and agree with the previous testifiers. I would like to see parents have a choice with their 5-year-old child to allow them to go to either preschool or kindergarten. That would be the Alternatives 2 and 3. My best choice would be Alternative 2. Looking at Alternative 2 closely, it has comments on the right-hand side of the page. The last comment on Alternative 2 says: Research indicates that where achievement differences were found, and it quotes page 40 of the "Kindergarten Position Statement." So I'm going to take just a quick look at page 40 of the position statement and just read just one sentence and then make my point. It talks about comparing children who spent another year outside of kindergarten to those who entered kindergarten when first eligible. In my point, if we allow parents to have their 5-year-old go to preschool, then I would like to see the comparison of two kids who both went to school. This is comparing a child who didn't go to school to one who did. And I think that--I agree with Henry--I think that the position statement...lots of work went into that, but I would like to have seen a different...at least additional people on that writing committee. I'm sure they used lots of input from folks, and...but I would like to have seen an elementary principal in that writing group. I would like to have seen more than one teacher, out of 17 people on that group, to take a look at that. One of the questions that Senator Sullivan asked earlier I will address at my school district. We do not rely on Title I funds to operate our preschool. That particular question therefore...in other words, if we're talking about losing Title I funds when it says federal funds, I don't have a problem with that. I use my Title I funds in another area, wouldn't have to use them in the preschool area. The Alternative 6 is one that I strongly disagree with. And I asked myself the question: Is this really the agenda--to force students...force parents to have their student go to kindergarten at age 5? I would sure hope that we do not put parents into that position. If this is truly the agenda, then I would have thought that the committee would have went directly this direction and just go face forward and say: We're going to have kindergarten age 5, and preschool is going to be age 4 and 3--and

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change state law, which allows parents the choice in kindergarten for age 5 and 6. A lot of the parents in our school district send their child older than younger, age 6 instead of age 5. And I testified here in July, indicating to you that because of the parents clamoring for an option--not having one for their 5-year-old, because they did not want to send their 5-year-old to kindergarten--we started a part-time kindergarten class. That has bridged the gap. I would like to see 4- and 5-year-old preschool and 5- and 6-year-old kindergarten and allow the parents to make the decision based on the child's needs, not make the decision based on age. I'll stop there for questions. [LR116]

SENATOR ADAMS: All Right. Thank you, Fred. Before I open it up for questions, I would say right at the outset there is no underlying agenda here, other than to hear what you all have to say and to try to make the best policy that we possibly can. Tell me about...how do you handle your kindergarten? The one that you were talking about, the way that you're... [LR116]

FRED HANSEN: We have full-time kindergarten, all day, every day. We have part-time kindergarten, all day Monday, Wednesday, and Friday. And we have been running for three years the grant-funded preschool. And following the rules of the grant-funded preschool, we must use 3- and 4-year-olds and not 5-year-olds. We'd like to place 5-year-olds in that preschool. Next year we're going to be moving out of the grant funding. And I'm hoping to be able to tell parents they can send their 5-year-olds to preschool if that's their choice. Another concern that I see is the fact that the last two years the Legislature has voted to waive and allow that. But as you can plainly see...think about principals and parents and...having discussions: Well, are you going to have 5-year-old preschool next year? Well, what I'm telling them is we need to wait until April 15, until the Legislature has completed their session, and then the following year we're going to have to wait until June 1. I would rather see the policy set and we stay with it. I would advocate 5-year-olds have a choice. [LR116]

SENATOR ADAMS: All right. Questions? Senator Sullivan. [LR116]

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SENATOR SULLIVAN: Thank you, Senator Adams. Just one clarification on your part-time kindergarten and your full-time kindergarten. Who goes to...I mean, I'm still not clear on who goes to the part-time and who... [LR116]

FRED HANSEN: The part-time kindergarten is simply open for parent choice. If that's what they want to have their child attend, they go to part-time kindergarten; and then the following year, Senator Sullivan, then they choose full-time kindergarten. [LR116]

SENATOR SULLIVAN: I see. And do you have a waiting list for your preschool? [LR116]

FRED HANSEN: Well, our preschool is completely full, with two seats open. And we've had...we've turned down students from outside the district optioning in to the preschool, because we wanted to keep seats open for folks that would move in. [LR116]

SENATOR SULLIVAN: Okay. Thank you. [LR116]

SENATOR ADAMS: Other questions? Thank you, Fred. [LR116]

FRED HANSEN: Thank you. [LR116]

SENATOR ADAMS: Next testifier. [LR116]

PAULA THOMPSON: (Exhibit 4) My name is Paula Thompson, T-h-o-m-p-s-o-n. I'm speaking on behalf of the Nebraska Head Start Association board of directors. On October 14 of 2009, the Nebraska Head Start board of directors met to discuss LR116, and they'd like you to consider the following input: The Nebraska Head Start Association would recommend that the entrance age of kindergarten be changed from October 15 to August 1. The conversations that have occurred between Head Start directors, parents,

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and public school partners over the past several years stem around children who have not yet turned 5 before the first day of kindergarten. In order to be sensitive to the needs of all the partners, the Nebraska Head Start Association feels that August 1 would be the most appropriate compromise. The Nebraska Head Start Association would also like to reinforce that in 2008 and 2009 \$38 million of Head Start funding was received to serve Nebraska's most at-risk children and families. Most recently, several grantees have applied for expansion dollars to increase the availability of services. It is imperative the decisions that have been made dealing with LR116 do not jeopardize in any way the federal funding that grantees are receiving and have the ability to serve children that qualify for those services. The Nebraska Head Start Association recommends that any and all legislation continue to support the requirement that state-funded early childhood programs collaborate with federal funding sources. This requirement is imperative to ensure the funding sources are not in competition but rather are meeting the needs of all low-income children and families in the local communities. [LR116]

SENATOR ADAMS: Thank you. Are there questions? Yeah. Senator Sullivan. [LR116]

SENATOR SULLIVAN: Thank you. Just a clarification. So your recommendation of changing the date from October 15 to August 1--your board does not feel that would jeopardize federal funding, then. [LR116]

PAULA THOMPSON: As long as the date was changed, no, it would not. The performance standard for the Head Start programs...the performance standard talks about whatever is in...the state date is what we follow. So that is part of why they're talking about the date rather than some other options. And there was a ton of conversation about dates, as, of course, everybody throws out different dates, from May, June, July, and they just felt that August 1 was one of those compromises that they could make. [LR116]

SENATOR SULLIVAN: Thank you. [LR116]

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SENATOR ADAMS: Thank you. Are there other questions? Thank you, then.
Appreciate it. [LR116]

MARY YILK: Good morning. []

SENATOR ADAMS: Morning. [LR116]

MARY YILK: (Exhibits 5, 6) Senator Adams and members of the Education Committee, thank you for allowing us to give you input. My name is Mary Yilk, Y-i-l-k, and I'm past president of the Nebraska Association of Elementary Principals. And I'm an elementary principal and a special ed director, preschool through 12th, at Doniphan-Trumbull Public Schools. Thank you for your time today to hear input from many of us who work with young students daily. I have been an elementary principal for 17 years and in education for 27. I was particularly interested in Alternative 4 discussion. Most importantly, however, I strongly support any changes that will eliminate the current entrance age of October 15. The state's early ed programs, the grant or state reimbursement, Head Start, and other federal government have stipulations for funding if the district has regular-education students in the program that are school age. Therefore, when our state has the October 15 date, then the school districts cannot serve students that are not developmentally ready for kindergarten. Head Start cannot serve students that are school age. Parents have been very upset over these policies, but our district has no choice and cannot help the parents or the young children out that do not want to send their young child. We must change the October 15 date so more students can be served in a variety of ways that meets their needs if they're regular-education students. Changing the date for entrance age will eliminate Head Start from serving 5-year-olds after September, October, in Nebraska. And the school districts can serve another year in the early ed programs if the parents so choose. I am going to refer to that study also...that I taught third grade for seven years at Hastings Public Schools. I was able to observe the very young students in the class. These students were not leaders but

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followers, were less likely to take academic risks, were not problem solvers, and had struggles with written and spoken language. Skills due to lack of life experiences is what I was observing. I do have my early ed endorsement. It is very hard to explain to people not working daily what "ready" is, or should look like, for children to start school. But people in our field and the education field will be able to identify very quickly when children are or are not ready to enter kindergarten, because we understand the rigors of school on a K-12 basis. I have counseled many parents struggling with the decision of whether or not to send their young 5-year-old to start school. And that's that August through October 15 birth dates. Not one parent who has decided to wait to send his or her child has ever regretted that decision. Most parents that have decided to send their child to school have mentioned by third grade that they regret the decision and wish they could hold them back, but it's too late by then. I have talked with many young students that graduated high school young, at 17 years, due to starting when they were young. They all said that they were not emotionally ready for college. Some did not go to college. Some stayed in the same town that they grew up in to attend college because they weren't ready to move out of town yet. And others had a difficult time adjusting if they did move away. What you are discussing today not only affects the 5-year-olds but a lifetime of learners. It is currently being discussed about a PK-16 initiative...school initiative. It is time that we look at the entire spectrum of education in our state. It often seems as if Nebraska's Early Ed department treats kindergarten as a separate program not linked to the rest of the elementary program and not linked to the accountability that has come upon districts with standards at every elementary grade level including kindergarten. Kindergarten today is part of the elementary and not a separate entity. The majority of kindergarten programs today are all-day programs versus the half-day program ten years ago. This has been a positive and progressive educational placement for kindergarten students. A young 5-year-old has a hard time adjusting to the all-day programs, as it was talked about earlier. Students today are growing up in a digital world, and school districts have had to adjust to meet their needs. It is time for the state to adjust to their needs also. Thanks for your time and your commitment to children. [LR116]

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SENATOR ADAMS: Thank you, Mary. [LR116]

MARY YILK: And also I will just...I gave a handout. I'm not going to read it. But the study in...what the state department...their paper stated that children in third grade, you can't see the difference. It's only stated by one research. And I gave you two clippings from Jim Grant. He's a national...international-known educational expert. And he writes many books. And this is the "Death of Common Sense in Our Schools." And I gave you just his--and he cites one resource--the "Chronological Age Effects" and the flaws that some people have, and think about it. And then also advice on school entrance regarding children born prematurely. Sometime when you want just some interesting reading, it's there for you. [LR116]

SENATOR ADAMS: All right. I'll open it up for questions. Are there questions for Mary? Yes, Senator Cornett. [LR116]

SENATOR CORNETT: Mine really isn't a question; it's more of a comment. I have two of the late-August preemie twins. And we made the decision to hold them another year. And they're at the top of their class. And they're maybe only six weeks older than what the rest of...lot of the rest of their class. [LR116]

MARY YILK: And you'll never regret it, will you? [LR116]

SENATOR CORNETT: My one twin hates me for it. [LR116]

MARY YILK: Oh, they will. [LR116]

SENATOR CORNETT: But the other one's fine with it. [LR116]

MARY YILK: When they're 16 they'll say: Wait, I'm the oldest in the class I could have

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been...you know. But they're popular when they're 16. []

SENATOR CORNETT: Yeah, I know. She's never going to let me forget that. But...
[LR116]

MARY YILK: Yeah. Thank you for your comment. [LR116]

SENATOR ADAMS: Yeah, Senator Sullivan. [LR116]

SENATOR SULLIVAN: Thank you, Senator Adams. Thank you for your comments; I appreciate them. Could you tell us a little bit more about your situation at Doniphan, how you handle the preschool and giving some parents flexibility under the current circumstances? [LR116]

MARY YILK: I really don't feel I have that flexibility. We are a grant program. And we are also in our third year, so we're going to be state-reimbursed or whatever...how that financially opens up. So we're not allowed to. And when I did talk to one of the parents and said: I can't have you stay in the program, you'll either have to start kindergarten or find a private preschool. And this mother, who is very bright, said: That sounds like a lawsuit waiting to happen, you know. I couldn't give her a choice, so my hands are tied.
[LR116]

SENATOR SULLIVAN: Okay. Thank you. [LR116]

SENATOR ADAMS: Other questions for Mary? Thank you then. Appreciate it. [LR116]

MARY YILK: Thank you for your time. [LR116]

ROXY VOORHEES: I feel like...Hi, I'm Roxy Voorhees. I'm an elementary principal in Syracuse, Nebraska. And I feel like I should say: We're back. (Laugh) I see the same

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faces that I've seen before here. But I do thank you for the opportunity to allow us to testify at this hearing. [LR116]

SENATOR ADAMS: Roxy, could you spell your last name for the record, please. [LR116]

ROXY VOORHEES: I'm sorry. It's V-o-o-r-h-e-e-s. And it's Roxy. [LR116]

SENATOR ADAMS: Thank you. [LR116]

ROXY VOORHEES: I also appreciate the information packet that was provided for us and your willingness to allow us to come again and revisit this issue. Our district would also support Alternative 2 or 3 or even 4. I guess what we would ask is that you allow parents and schools to have the flexibility to make some decisions about children's futures. I just...we would like a change that supports children being able to attend school, to being able to walk into our building. Even if they are kindergarten-eligible, they could choose to be in a part-day program as opposed to a full-day program. In Syracuse we have a good community who supports our school, but we're a small community. We work together to provide education for our children. We have had a preschool in Unadilla and Syracuse--they're a Class I that combined with us--and we have had them...a preschool that has operated for seven years. And it's worked well. We've used district funds and a small parent fee program...and a lot of district funds to run our preschool, because we have decided that that's important in our community, that we provide that for them. But this year we received state funds, but we had a great big string attached to it. And that string was you could no longer accept some of the children in your community. And so this year we turned children away. We have no grant funds; we had district funds and parent-pay. But this year I got to tell those parents they couldn't come. And it was really a hard thing as an elementary principal to do, because I knew it was wrong. And it was hard for me to support what I had to do. It was hard to say to those parents and write those letters that said: You can't come to

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school, because we are out of compliance with state law. But I did it. And the Early Childhood department knows I did it very begrudgingly. And then I got to have the tearful pleas from the parents, the complaints, and the anger. And with some of those parents it actually has changed the relationship that they have with the school community. Syracuse is a small town. We are the only game in town. We are the only five-day-a-week program of preschool. We do have a small church-operated preschool that runs either two or three days a week with a noncertified teacher in a church setting. There are no other options. There is no Head Start. Our children can drive to Nebraska City, which is 20 miles away, or to Weeping Water to attend Head Start. There is no Head Start opportunity. When I prepared for today, I read the research that was provided by the Early Childhood department and the legal counsel. I read what other states do. I read best practices. I read about the fiscal implications. But what I kept going back to was what really happens in a school setting. As an elementary principal, I know what I get to do. I get to walk down to the preschool and watch the quality programming that is offered for our children. And then I get to close the door to some of those children. I watch 3-year-olds, three of them, that come from one day-care provider, that come to our school. And they walk into the school, and one of their friends walks with them and goes and gets back in the car with the day-care provider. He spends his three hours with three children under 2 years old at the day-care provider while the three that are able to attend preschool walk into the preschool. And then they come and pick those three up, and they go back to the day-care provider, because, you see, his birthday was October 12, 10 days ago, and he can't attend our preschool. Next year it will be my grandson, Jays (phonetic), who will be sitting in the car when his friends come to preschool. I've read a lot about red-shirting children and why people do it, and they do it for sports, and we've read some of those things provided to us. And no matter what you decide here to do, will there be children who hold their...will there be parents who hold their children back for the wrong reasons? Absolutely. They will still be there. But they will be there no matter what decision we make. Yet, every Saturday I put on my red, and I applaud Bo Pelini for the red-shirt freshmen that he has standing on the sidelines. They're good players. They could walk in and play in many football

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programs. But they have made the decision as coaches that one more year of time and experience and practice would make them even a better player in the big game. Shouldn't we give our kindergarten students that same chance? I see my time is up. All I ask for from you, as an elementary principal, is that you allow schools and parents some flexibility and that we're able to open our doors and welcome children to our buildings. Thank you. [LR116]

SENATOR ADAMS: Thank you, Roxy. Are there questions for this testifier? Yes, Senator Howard. [LR116]

SENATOR HOWARD: Thank you, Chairman Adams. Thank you for coming in and giving us your expertise. [LR116]

ROXY VOORHEES: Thank you. [LR116]

SENATOR HOWARD: Two questions. First, it sounded like you had a program that was really operating well prior to the state dollars. Why did you choose to take the state dollars and not continue with your own... [LR116]

ROXY VOORHEES: Well, because we looked at how much the state dollars were. And because what would happen...let me explain what would happen in our district. We have 31 children in preschool. So when you looked at the array of schools for the state funding formula, and you threw out the high and the low of the funding, and the group that we fell into--with those preschoolers we fell in this tier of state funding. When we removed our preschool numbers, we moved--it's down--to this tier, which made a difference of \$200,000 to \$300,000 for our school district. [LR116]

SENATOR HOWARD: Well, the second part of the question... [LR116]

ROXY VOORHEES: Because we looked at it. Because we debated about it. [LR116]

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SENATOR HOWARD: Well, yeah. [LR116]

ROXY VOORHEES: But when we looked at the way the state funding was set up, we couldn't afford it, to be very honest. [LR116]

SENATOR HOWARD: The second part of the question, following through with that: Do you now, because you had to turn some families away... [LR116]

ROXY VOORHEES: Yes. [LR116]

SENATOR HOWARD: ...do you now have spaces that are filled? [LR116]

ROXY VOORHEES: No. [LR116]

SENATOR HOWARD: So you're still at capacity. [LR116]

ROXY VOORHEES: No. We still have spots open. [LR116]

SENATOR HOWARD: That's what I asked you, if you still had... [LR116]

ROXY VOORHEES: Yeah. Oh, I'm sorry. I was confused. No, we still have spots open in our preschool. [LR116]

SENATOR HOWARD: ...if you had the spaces that aren't filled, that are available, that no one's... [LR116]

ROXY VOORHEES: We have 31; we can take 40 children. We have six that we turned away. [LR116]

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SENATOR HOWARD: So how many spaces are there, six? [LR116]

ROXY VOORHEES: There are nine spaces available. [LR116]

SENATOR HOWARD: Oh, you have nine spaces. Okay, out of...I'm sorry, you said 40? [LR116]

ROXY VOORHEES: Yes. Yeah, because we have two full-time people. [LR116]

SENATOR HOWARD: Okay. All right, thank you. [LR116]

ROXY VOORHEES: We have a full-time teacher and a full-time aide; therefore we can take up to 40 children. [LR116]

SENATOR ADAMS: Other questions? Roxy, one quick one. And I know that you don't have the answer, but I'm going to ask it anyway because it's rolling in my head. Let's say we void current policy. Do you think we'll see more parents choosing to hold their kids back than what we do right now? [LR116]

ROXY VOORHEES: It's my "haves" that hold their children back. It's the people that are fiscally able to. And I don't think that will change. Typically it's the June, July, and August boy birthdays that I see. [LR116]

SENATOR ADAMS: Okay. [LR116]

ROXY VOORHEES: Very typically... []

SENATOR ADAMS: June, July, August. [LR116]

ROXY VOORHEES: ...and most of them should be held back. You know,

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occasionally...this year I have one that I totally disagreed with. I met with the parents; he was ready to come, but there was no convincing. But typically that would be very rare for me. Most of them I would agree with their decision. [LR116]

SENATOR ADAMS: So let me dovetail into yet another question. In your particular situation in Syracuse, how much professional involvement is there with the parents in making the decision, versus the parents just saying: This is what we want. [LR116]

ROXY VOORHEES: I visited with every parent that doesn't come...that would choose not to come to kindergarten roundup. We invite all parents who have eligible children. And I'll have some that call and say: Well, we're not going to send him, and I set up a meeting with that parent, and we talk about it. [LR116]

SENATOR ADAMS: Okay. [LR116]

ROXY VOORHEES: And some have changed their mind. I usually encourage them to come to roundup and let us help them make that decision... [LR116]

SENATOR ADAMS: All right. [LR116]

ROXY VOORHEES: ...when we see them with their peers. But we're able to do that in a small town... [LR116]

SENATOR ADAMS: Okay. Sen. Cornett. [LR116]

ROXY VOORHEES: ...and those are my neighbors and my friends. [LR116]

SENATOR ADAMS: Did you have a question? [LR116]

SENATOR CORNETT: No, I didn't. [LR116]

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SENATOR ADAMS: Yes, Senator Giese. [LR116]

SENATOR GIESE: Thank you. And just to follow up on that...and when that conversation takes place between yourself and the parents, how does that go--the ones that aren't coming? [LR116]

ROXY VOORHEES: The ones that aren't coming? Typically I would agree with them when I see them in the setting with other children. [LR116]

SENATOR GIESE: Most you agree with. [LR116]

ROXY VOORHEES: Um-hum. And we've convinced some to send them to school. But if we can get them to roundup, where we have...where we meet with our parents in one room, and we put the children together in another room, in four different sessions, so they're there with groups of 12 to 15 children, and we observe them for an hour and a half, we're able to make a pretty good educated judgment. I walk in; I bring my kindergarten teachers in when we meet with those parents. And we're able to make a pretty good prediction of what they can and can't do in a pretty short time. And some we say that's probably a pretty good decision. And some don't come in, and we look at their birthdays in October and go: I wouldn't come either. So that's...it's generally been pretty successful. [LR116]

SENATOR GIESE: Thank you. [LR116]

SENATOR ADAMS: Other questions? Thank you, Roxy. [LR116]

ROXY VOORHEES: Thank you. [LR116]

SENATOR ADAMS: Next testifier. How many more folks do we have that wish to testify

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in this particular hearing? Okay. How many, please? Get your hands up so I can see you. Two, three, four. All right. Thank you. That was the teacher in me. Go ahead.

[LR116]

MANDY PLOG: My name is Mandy Plog, P-I-o-g. I'm the special education director in Hemingford schools. And we are on the other end of the state; we're much, much closer to Wyoming and Colorado. But my superintendent felt that this issue... [LR116]

SENATOR ADAMS: Which school? I'm sorry. [LR116]

MANDY PLOG: Hemingford. [LR116]

SENATOR ADAMS: Gotcha. [LR116]

MANDY PLOG: Hemingford. It's about an hour north of Scottsbluff. My superintendent feels that this is a very important issue, as do I, and as do our elementary principals, so I went to the other interim hearing, and I went to the hearing on the bill. And I just...I truly want to thank you for taking such a long and thoughtful look at this issue. Whatever decision you come up with, I'll know in my heart that you didn't come up with a snap decision or a quick fix. So I really do appreciate all the time you've taken. I don't believe that the kindergarten entrance age date was a controversy except how it applies to the Rule 11 and the preschool and the ability to allow students to attend preschool after the age of...the entrance age. Whatever date you choose, it will always have older students, it will always have younger students, it will always have the students on the cusp. So my plea to you is to allow some type of parent waiver, some type of program option to allow children to attend preschool. There is a plan in place or a procedure in place where you can allow younger students to attend kindergarten if the parents follow some regulations. And so I do believe there should be an option to allow older children to attend preschool. If you can allow younger children to attend kindergarten, you should be able to allow those older students to attend preschool. I also would wish, whatever

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you do decide to do, please don't base your legislation on federal requirements for funding, because all towns don't have that option. We don't have a Head Start center in our town; the nearest Head Start center is 20 miles away. We do use Title I funding in our regular school-age area. We don't use any of that funding in our preschool. We've been operating an approved preschool now for four years, so we were in the same situation, where we were not allowed to let those 5-year-olds in, because we started to get the state's part of the funding. We also looked at the numbers to decide if we could say: No, we don't want that money because we want to keep our 5-year-olds in preschool if that's the way it needs to work out. And our superintendent said that we would lose between \$30,000 and \$45,000, and we decided before he had figured out the numbers if it was anywhere between \$10,000 and \$15,000, we could say: Okay, we don't want it. But \$30,000 is twice that amount. So that wasn't really an option. We have currently 30 students in our preschool. We could have up to 40, just like they could. If we would ever even get close to that, being a small town, we would jump for joy, because our population is sliding. We will never reach where we would be at capacity, so we are also turning students away that we have empty slots for that won't be filled up during the year. We don't allow students...we have a bunch of option students that come to our school because of the great geographic region of our district. So we have a bunch of option kids that do come to our school. However, we've decided that we cannot allow students to option in to preschool, just because it's such an important thing that we do keep those slots open. And we believe that if we would allow the options to preschool, we would be overcapacity. So we don't allow option in preschool, only at school age. In our town, there's no private option. There's not a church option; there's not a bad option. There's no private option. Our school preschool is the only preschool available to parents. So when I have to turn their children away, they have no other place to go unless they can have the means to drive the 20 miles one direction to Alliance, place them in a private preschool, find something to do down there for the two hours or three hours that their child would be in preschool, and then drive them back to their hometown. I feel that the way the rule and the law is set up right now, it's causing schools and it's causing parents to look for loopholes. I had five parents request SPED

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testing simply because they'd read Rule 11, and they saw the exception for students on IEPs. They did not really believe that their student had a disability. They just thought, well, maybe that's how I can keep them in preschool. Those parents would not have requested the SPED testing if they had not read the rule and saw that exception. Something that you might want to consider is changing the preschool entrance age to 1 year before compulsory attendance age. That way, you wouldn't be taking kids that need to be in school for compulsory age. And I think that's all I have. Thank you.

[LR116]

SENATOR ADAMS: All right. Thank you. Are there questions? Senator Sullivan.

[LR116]

SENATOR SULLIVAN: Thank you, Senator Adams. Do you know anything about the details of how a parent gets a waiver for... [LR116]

MANDY PLOG: Yes. Yes. In Rule 11 it states very clearly that the IEP team is the best decision maker for a child who has a disability. It states in there that that needs to be used sparingly. But that the parents and the IEP team can decide with a child who has a disability that they can continue to have that least-restrictive environment be the preschool setting. Typically, I'm sure the intention of that rule is to allow students who are very low cognitively to stay in that preschool situation another year. However, we've had students that are...have a simple speech articulation error, but the parents have asked for us to use that option, because then their child could remain in preschool. And it wasn't because of their disability; it was because they had a late-summer birthday. We had three students this year whose birthday fell in the month of October before the cutoff date. And we only have kindergarten classes of 25. So three out of those we had to say: Well, what should we do? And I do feel it's that the parents are looking for those loopholes. [LR116]

SENATOR ADAMS: Other questions? A question that I have for you...I have a couple of

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them. Why have you not sought the Head Start money? [LR116]

MANDY PLOG: Some of the requirements that would go along with that we just simply couldn't do, being such a small town. Also the Alliance program, that is the 20 miles away, has a very good program, and they have a full program. And I don't think that they would be interested in us trying to set a center-based Head Start in our town...with that. And being so small, I'm not sure how much...if they could have a sustainable program. [LR116]

SENATOR ADAMS: That makes sense. One other question for you. I don't mean to put you on the spot. [LR116]

MANDY PLOG: No, that's okay, please. That's why I'm here. I drove all this way. (Laughter) Might as well be here. [LR116]

SENATOR ADAMS: ...to be on the spot, huh? Well, it could get a lot worse. You speak of loopholes. And as a parent certainly I would try to maximize those kinds of things, too, I expect. So if we change our policy, are we changing it for economic reasons or educational reasons? [LR116]

MANDY PLOG: I think we're changing it for educational reasons. And I think we're changing it to put more of the decision-making process in the people's hands who know the child the best. [LR116]

SENATOR ADAMS: And who is that? [LR116]

MANDY PLOG: The parent and the school. We do the same thing when we have to turn a child away. We sit down with the parents and explain it. A lot of times I'm the one also that sees the crying parent or the mad parent or the parent that says: Well, who in this...who in NDE do I have to call to get this changed? I always give them the number,

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(laughter) but I tell them, too, it's not going to change. [LR116]

SENATOR ADAMS: You haven't given them Senator Howard's number. [LR116]

MANDY PLOG: I actually...I've given a lot of parents e-mails of the Education Committee and... []

SENATOR ADAMS: So those parents that you're looking at are saying: Not that I need a preschool place. They're saying: My son or daughter needs additional preparation. [LR116]

MANDY PLOG: It kind of goes both ways. Some of them say: They're young, and that's why we don't want to send them to kindergarten right now. Some of them say...we've had a few parents...and it's not the majority, but a few parents that have moved in from either different states or different towns that didn't have preschool that year, and so they would have had no early childhood education before starting kindergarten. It's a huge variety of reasons why the parents decide and the school decides with the parents, but we usually leave it in the parents' hands. If our recommendation would be different from the parents', we would try to convince them that we feel their child could go to kindergarten because of these reasons. We've never had a case where the parent wanted to send the child to kindergarten and we've counseled them to not do that. If they want to send them to kindergarten, they're typically ready for kindergarten. [LR116]

SENATOR ADAMS: Okay. All right. Thank you for being direct. Are there other questions? Thank you, then, for coming all the way. [LR116]

MANDY PLOG: Thank you. [LR116]

SARAH ANN KOTCHIAN: (Exhibit 7) Good morning. My name is Sarah Ann Kotchian, K-o-t-c-h-i-a-n. And I'd like to thank you, Chairman Adams and members of the

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Education Committee, for the opportunity to testify today. I'm here representing Building Bright Futures, an Omaha-based public-private partnership dedicated to improving academic performance and educational outcomes through the creation of educational excellence and equity. My purpose here today is to bring to light the issue of educational equity and the academic achievement gap. As stated in the "Discussion Alternatives," current law allows up to a possible 25-month age range for children entering kindergarten. Because of this allowance in the law, when the rubber meets the road, the starting line for the academic achievement gap is never so clear as when the just-turned 5-year-old from a family of low income, who may or may not have had access to a quality preschool experience, meets the 7-year-old from a family who is financially able to afford the opportunity for their child to benefit from two more years of growth and a leg up in school on the first day of kindergarten. Altering the compulsory attendance law is the only fair way to close the front door to the escalation of the achievement gap. If the compulsory attendance age were changed to be the age of eligibility to attend kindergarten, the playing field would be as level as it can get, because children of differing backgrounds would all be in the same age cohort at the beginning of kindergarten. The fact is that when a family of financial means chooses to red-shirt their child, the child is older when they do attend kindergarten, and this trend is making kindergarten more academic. But this isn't anything new. In preparing for today's testimony, I was reading the Nebraska State Board of Education position statement on kindergarten adopted in October 1984, and it states: Parents often view the traditional activities of kindergarten as trivial and expect the school to teach the children content formerly reserved for later in the school program. But at the same time, many parents decide against entering their 5-year-olds in kindergarten because they are afraid their children won't be able to adjust to increased academic demands or to score well on standardized tests. I know, even today, many parents and schools are facing requirements because of Reading First grants, where we're asking kindergartners to sit down for a 90-minute reading block. Changing the compulsory attendance age but doing it in combination with moving the kindergarten entrance date is a sort of something-for-everyone approach. Changing the kindergarten entrance date to August

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1 would be early enough to get ahead of any school's fall opening date. In all reality, though, it doesn't make any real difference what the entrance date is. The date is only to establish the point at which a child becomes eligible to participate in free public education. That being said, moving it earlier in the year would only contribute to the escalation of the curriculum and, even more importantly, would mean that many low-income children would have to wait one more year to get schooling. And this would be particularly consequential for children learning English. In light of other testimony today, I'd also like to add that when giving parents flexibility to choose to send their 5-year-old back to prekindergarten, it is well known that there's not enough grant funding right now for the preschool programs to provide education to all the preschoolers in the state that qualify for them. That's all I'd like to add today. I thank you for your time and your thoughtful consideration to this issue, and I'm happy to take any questions you may have. [LR116]

SENATOR ADAMS: Thank you, Sarah. Are there questions? So Sarah, I take from your testimony that what you are in effect saying is do what we can to compress the current spectrum that exists... [LR116]

SARAH ANN KOTCHIAN: Yes. [LR116]

SENATOR ADAMS: ...and you perceive the result to be that we have this achievement gap; we could begin narrowing it right at that point, at that starting point. [LR116]

SARAH ANN KOTCHIAN: We could honestly begin narrowing it earlier than kindergarten if we chose to, but I think kindergarten...I mean, the purpose of today's hearing is to talk about the kindergarten entrance date. And narrowing that gap by changing the compulsory attendance age is the first step. [LR116]

SENATOR ADAMS: All right. Thank you. Are there other questions for Sarah? Thank you then. [LR116]

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SARAH ANN KOTCHIAN: Thank you. [LR116]

SENATOR ADAMS: How many more testifiers do we have now? I saw one hand. Now two. Two? Okay. Good morning. [LR116]

DONNA MOSS: (Exhibit 8) Good morning. My name is Donna Moss, M-o-s-s, and I'm director of student services for the Hastings Public Schools. Along with me, I have one of our elementary principals, John Nelson. But because there was only one seat, John didn't want me to sit in his lap. So I was the lucky one to provide the testimony. Coming around this morning is a consensus document that we in Hastings Public School have formatted. These are...the four items that you see listed on the document are the results of at least two months of discussion among our teaching staff, our community members, our parents, our school board, and our administrators. In addition to that, the document contains some information from both the directors of special education--and you've heard from some of them throughout the state--and our elementary principals associations. But this document specifically reflects just the beliefs and the consensus from the Hastings Public School District. First, we would like for the committee--and we reviewed all of the documents and additional best-practice documents. And maybe to give you a little helpful understanding of Hastings, we built this document off of children. We looked first at children, not on our systems. And we know as educators--and those of us especially in the birth-to-3 age range, where we talk about developmentally appropriate and neurologically appropriate interactions with kids--that the kids have to be the center of our decision making. They come to us with their very best. What they have is what they have. And so our programs, whether they are preschool or school age, need to address the abilities or the strengths and also the challenges that each and every child bring to us. So with that in mind, we would like to suggest that we change the compulsory attendance--Sarah and I and our district are on the same wavelength--change the compulsory attendance age to age 5, also to change the kindergarten enrollment age date. And we are very much in alignment with everyone

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else. It really doesn't matter the date...I have mistyped item number 2. It should be "no later than" September 1, and I put "as of" September 1. Because we know that those children who are in fall birth dates--and I would concur with all of my other counterparts that the children that we have the most discussion with parents, teachers, and administrators are those kiddos whose birthdays fall in late summer and early fall. We also know that, as a special education director, we look at the individual learning characteristics of each and every child. So if we have premature infants, if we have children who developmentally are not appropriate, I believe it is the responsibility of the school district, no matter what the age of the child, to provide an appropriate program. And if a child is 5 years old and is of school age, we as a district should have a program that meets that child. The district should have a program that meets the child's needs, not necessarily trying to fit the child into our program. As Mr. Nelson and I were talking, some of the options that are available in your document for your alternatives...districts already have the ability to look individually at children and to craft programs that will meet their needs. We would like to--and that goes down to number 3--continue the flexibility that we have as districts. So we don't really, kind of, like the idea of having a state policy on the number of kindergarten years a child could have in their educational career. If that were the case, my kids, my own children...and I do have a son who had a very late fall birthday. And it has taken 10 years to get his degree. So we weren't, as adults, forced to have a certain length of years in our educational career. I think we need to be flexible as we look at kids and kids' development, especially in these early childhood years. Number 4 on our list would be: Encourage districts, and through collaboration with the Department of Education and all of our community groups, to continue to maximize the opportunities that we have for student learning. Hastings Public Schools is a south-centrally located district of 3,500 children. We have approximately 270 children enrolled in our preschool program now. Our graduating kindergarten class will probably be 320 children. We have the opportunity to work collaboratively with seven different preschools, some faith-based, Head Start. We do not...it's almost like toddler parallel play. We line up and cooperate with our other preschool agencies. If there is a child who has difficulty with...or a parent who believes

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their child...they would like to red-shirt their youngster, we have opportunities that some of my fellow colleagues don't have in their rural locations to form a collaborative program for that child. When we went to all-day kindergarten in 2005, we had four parents--of approximately 300 children--who disagreed with the developmental level because of the developmental level of their child. We have had no complaints either. Our district's poverty rate is about 56 percent. So in order for us to serve families of poverty, I really believe we need to narrow that gap. We need to get the kid in school, and we need to be changing how we instruct those children so that they can be successful. Thank you. [LR116]

SENATOR ADAMS: Thank you, Donna. I was just about ready to curtail you. [LR116]

DONNA MOSS: Got it. Got the red light. [LR116]

SENATOR ADAMS: I thought maybe you were speaking for John, too, or something, here. [LR116]

DONNA MOSS: Well, actually, I was trying to. [LR116]

SENATOR ADAMS: All right. [LR116]

DONNA MOSS: Would that have given us 10 minutes or...no. (Laugh) Okay. [LR116]

SENATOR ADAMS: Nice try. Are there questions for Donna? Well, seeing none, thank you. [LR116]

DONNA MOSS: Thank you. [LR116]

SENATOR ADAMS: I think this lady is up or whoever. [LR116]

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BETTY DESAIRE: Hello. My name is Betty Desaire, D-e-s-a-i-r-e, and I'm from Grand Island, Nebraska. First of all, I'd like to thank the committee for giving the public a chance to participate in a discussion that is so vital to the education of the students today and in the future. I'm a principal at Wasmer Elementary School. I am in the newest elementary building in Grand Island. We have approximately 380 students, give or take 2 or 3 each day. And we're at 81 percent free-and-reduced or low-socioeconomic. And about 41 percent of our students are ELL students. Wasmer School is 10 years old. Last year we added a modular to our grounds, because we have just about come to capacity here. And I'm giving you demographics like this because I think it's important for us to take into account how our society and how our school system has changed in just over the last 10 years. When I first became principal at Wasmer School in 1998, we had 299 students, 51 percent free-and-reduced, and 24 percent ELL. In the last 10 years, things have changed drastically in the education world. Even in the last five years, things have changed drastically. When you think about 10 years ago, kindergartners went to school for three hours a day. They learned how to write their name, maybe counted to 10, recognize eight basic colors, and they were able to say the alphabet. They learned how to play with each other and to listen to stories and act out nursery rhymes and walk in a straight line. Well, today, in 2009, kindergartners are in school from 7:15 in the morning, because they can come for breakfast, until 3:05, which is the end of our school day. They eat breakfast at school, they eat lunch at school. They still learn how to play with their friends, because social development of kindergartners is key today; they don't get much of that opportunity outside of school time. They also learn how to walk in a straight line. That's where the similarities end. Okay. Many students see mom and dad on the weekends only, because these parents are working the second shift, so they're at work when the kids get out of school. The kids are in bed when the parents get home from work. And the kids get up again in the morning. You know, they're sleeping when the parents are home, but they're up and in school when the parents then have to sleep themselves. So that piece is different. About 20 of our 60 kindergartners spoke no English the first day at school. We still have problems with students soiling or wetting their pants. Following

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directions, listening to instruction, behaving appropriately are very difficult for children who have not experienced that type of expectation. And that's what our schools are today for kindergartners. Those who are only 4 already come to school behind, because they are behind developmentally. It's not unusual to ask a child his name on the first day of school and he can't tell you. Yes, I've had that experience. Maybe it's because he doesn't understand English. Or maybe he's afraid, because here is this lady I don't know asking me what my name is. You know that children have not had a book when they go into the classroom and they pick it up upside down. Yes, that has happened, and I have seen that. Language development is delayed for kindergartners because you can't talk to the TV or the video game. There are children...children are different today than they were ten years ago, five years ago, because our society is different. So we need to look at our rules and regulations and see: How are we best helping the children? I've read the LR116 discussion alternatives, and I really applaud you for taking the time to look into other situations that might benefit the children of Nebraska. I'm here to say that changing the date for kindergartners is necessary if we want students of Nebraska to be able to compete with students of other states. Pat Roschewski talked to our staff just last week. And over and over she kept saying: State assessments are ratcheting up, are ratcheting up, are ratcheting up expectations. I understand that. We have standards. We want to be in the mainstream with everyone else as far as education is concerned. We want our students to be successful. I know that. Today, kindergartners, 4- or 5-year-olds, are expected to pull their load, because, as stated earlier, kindergarten is part of the elementary system. They don't get a free pass for a year. What they learn in kindergarten carries on. I'm sorry; I didn't notice the red light was on, so I'll hurry up here. They not only...they have to learn how to count to 100 now; they have to write their numbers to 30; they have to know not only the letters of the alphabet but their sounds and how they fit together for words. This is what we're expecting of our kids today. And I guess I'd better summarize by saying some of the data in the statement here, if you'll notice, in the alternatives were from the year 2000. That's 10 years ago nearly. That data doesn't fit today as far as the discrimination between early starters in third grade not showing a difference. I bear (sic) to differ with that, because I don't think

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that's appropriate for our kids today. Some parents will enroll their children in school at the age of 4, whether they're ready or not, because they can. This is an injustice to the beginning of the school experience for the child. Please consider helping students and teachers be successful by giving young children a chance to be a young child for just one more year before you put them in the educational stress for excellence that exists today. Yes, I would be a proponent for the June 1 date beginning kindergarten. [LR116]

SENATOR ADAMS: Thank you, Deb (sic). Are there questions for Deb (sic)? Yes, Senator Howard. [LR116]

SENATOR HOWARD: Thank you, Chairman Adams. This is...really isn't so much a question. I just...I want you to know how much I appreciate the work that you do with the special populations in your school system. And when I was advocating and working toward getting social workers in the Omaha public school system, your school system sent letters of support, and I really appreciated that. So thanks for all you do, and I know it's not easy when you are trying to prepare these students to be able, as you put it, to compete in a tough environment. [LR116]

BETTY DESAIRE: You know, and I might just add one more thought to that. When we're talking about allowing students to start kindergarten later or providing preschool, it seems to me it would be a win-win situation if we put the date back to June 1, because then government options, government-run preschools would have the ability to take children in that June, July, and August month, and you'd still have your funding. [LR116]

SENATOR ADAMS: Okay. Good point. Thank you. Last testifier. [LR116]

MARY PHILLIPS: Good morning. [LR116]

SENATOR ADAMS: Hello. [LR116]

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MARY PHILLIPS: My name is Mary Phillips, and I am employed with a public school system in Nebraska, but I'm actually here to testify as a parent. Fifteen percent of our children in Nebraska are children with special needs. And I didn't intend to testify today, but I'm hearing a void, so I felt like I need to speak up and just testify on behalf of the other end of the spectrum for those children with disabilities. The federal law allows children to receive services from school districts through the age of...through the year of the...that they turn 21. And if we start our children later, they will have fewer opportunities at the other end of the spectrum. I am a parent of a 21-year-old daughter born with cerebral palsy. I've never really considered her a loophole. But she is a child that has received services from our school district since age 15 months. And I can recall when she was entering kindergarten age asking our school district to retain her in the preschool program. And I can recall the discussion about how the kindergarten program would meet her needs, what she came in with. I was worried about the intelligibility issue and no one being able to understand her, but thinking another year would make a difference. And in retrospect, she's still unintelligible. It didn't make a difference. But, you know, we had that hope that it would. So she entered kindergarten at age 5 and was part of that inclusive movement of receiving education with all of her peers. As the rigors of high school hit her, we realized she needed an extra year to meet graduation demonstration requirements, as her peers would, so she could receive a diploma with her peers, similar to her peers, and receive an education that was going to prepare her for a world or work. She's not going to college. That's not going to be what happens for her. But she did need to be able to have some life skills to live independently and to be able to be in a competitive job situation. So she was able to stay a fifth year, which then did still allow her two years of job practice through the public school system. Had she been redshirted, or had we only had related services the year, because we could have opted to keep her out and still receive related services but not a preschool program, which we felt was not in her best interest, so we sent her to kindergarten. But had we chose that, we would have limited her opportunities for job practice to just one year, because she needed that fifth year in high school to meet those academic standards that were required for graduation. I'm so happy to say now that she was moved on to

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kindergarten at age 5. I'm really happy about that, because she had two years of job practice. She aged out last spring. We are in a huge battle for adult services because one thing we have learned is that adult services are nothing like public preschool services. But she is more prepared as a result of her experience and because of her opportunity of having two years of job practice and an additional year of high school. Now I know we don't like to talk about that additional year, because we want our kids to graduate after four years and to be part of their cohort. But that...there is a segment of the population that that is very appropriate for, and they need that; that's what is best for them. And we always have the option of making an IEP determination if a child should stay in preschool. That option is there; it continues to be there. And for this 15 percent of the population that are...that may or may not be college bound, they may need those extra years--that if we push the year up, I really don't think that OSEP is going to push the year up to 22 or 23 to give them those same opportunities at the other end of the spectrum. Thank you. [LR116]

SENATOR ADAMS: Thank you. Are there questions for Mary? Seeing none, thank you. [LR116]

MARY PHILLIPS: Thank you. [LR116]

SENATOR ADAMS: And I think our timing is about right. I hate to have to shut anyone off, but we have two more hearings to go, and I thought we could end about now. So thank you all, those of you that are here, all of you, but particularly those that drove a long way. We appreciate it. (See also Exhibit 9) Let's take just a moment, and then we're going to proceed right on to--and I see Senator Mello is present. Why don't you come right on up here, if you would, Senator, so that we can begin. [LR116]

[BREAK] [LR175]

SENATOR ADAMS: Okay, we are ready to begin on LR175. May I ask, before I allow

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Senator Mello to open, how many of you wish to testify on this particular one? One, two, three, four. All right, then we'll go with the five-minute rule on this one, too, and allow a little shoulder room if necessary. Good morning, Senator Mello. [LR175]

SENATOR MELLO: (Exhibits 10, 11, 12, 13) Morning, Chairman Adams and members of the Education Committee. Thank you for holding this interim study hearing on LR175. These uncertain economic times have highlighted the need for us as policymakers to ensure that Nebraskans have the financial education to make the best personal financial decisions for themselves and for their families. That is why I introduced LR175, calling for an interim study to examine the ways to increase financial literacy classes in our schools and increase access to financial literacy classes offered to adults outside our public education system. A key goal of LR175 is to analyze the options for requiring instruction on financial literacy in Nebraska's elementary, middle, and high school courses. Financial education is an important issue that we must address at a statewide level, but we must do it without imposing any unfunded mandates to local school districts. With the changing economy, we must find a way to equip all Nebraskans, beginning in our K-12 system, with the tools they need to make smart financial decisions. Too many students graduate without an understanding of the consequences that come with credit cards, loans, and debt. As a result of the lack of resources for financial education in some of our schools across the state, there are adults in our state who have missed out on learning basic financial literacy components. As a younger Nebraskan who just purchased his first new home, I am well aware of the risks that first-time home buyers face if they have a lack of understanding of our current home mortgage system. This is why I encouraged the committee to also look at ways to use financial incentives to encourage adults to enroll in financial literacy classes. Providing opportunities for our citizens to gain sufficient understanding of our financial systems will have a positive impact on individuals, families, and our state as a whole. Financial education can prevent Nebraskans from making poor financial decisions that not only hurt themselves but also hurt the economy of Nebraska. Poor financial choices at a young age can ruin someone's credit score for decades to come, impacting their ability

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to buy a car, a home, borrow money to even attend school. A bad credit score can ruin the chances of Nebraska's next successful businesswoman to get her first loan she needs to start an entrepreneurial business. A young family getting a mortgage that they can't afford can result in homelessness and more Nebraskans in need of state assistance. It is my hope that making financial literacy more commonplace in our school system will result in smarter economic choices for generations to come. Since introducing LR175, I heard from numerous people across the state representing a variety of existing organizations that focus on financial literacy programs. And I assume that you'll be hearing from many of them today. A few of them include financial education training for existing Nebraska teachers through the Nebraska Council on Economic Education. Another program includes in-school banking programs in elementary schools that enable children to learn about the importance of saving...of creating a savings account at an early age. It includes elective classes in some of our high schools and colleges that provide an overview on a wide range of personal finance principles. Another program that I also wanted to draw to your attention is the Bank on the Heartland program. It's a partnership between nonprofits, local banks, credit unions, and local government agencies that reaches out to individuals who are not currently banked within our financial mainstream. The goal of this program is to get individuals into the financial mainstream by offering a specific financial product at both credit unions and banks, with the hopes of getting them away from using predatory lenders and check-cashing operations as their mainstay financial institution. Many participants of this "Bank On" program face an inherent lack of knowledge regarding the benefits and securities that come from working with a bank or credit union by also not having the general understanding of personal finance. I'm anxious to listen to the other testifiers that are here today and to learn about the programs that currently exist, to work with the committee on finding ways to encourage more Nebraskans to seek financial education. I am mindful of the fact that we ask a lot of our state's teachers already, and it is not my intention to overburden them. It is my hope that after today's hearing, we will be able to find ways to increase financial awareness for Nebraskans of all ages. I'd be happy to take any questions from the committee. [LR175]

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SENATOR ADAMS: Thank you, Senator. Are there questions? Yes, Senator Howard.
[LR175]

SENATOR HOWARD: Thank you. Thank you, Chairman Adams. How do you...when you look at this in a concrete way, how do you propose that this be done? [LR175]

SENATOR MELLO: Well, I think a few of the testifiers that will come after me I think will provide some more information on existing programs that we have across the state. And I have a feeling that part of...the bigger need is the need for resources. Particularly the Nebraska Council on Economic Education will discuss their program of the training they do for existing Nebraska teachers in regards to getting them more economics education that they can then integrate in our existing social sciences academic work in our K-12 system. But part of that goes back to...and I'm sure that they will discuss just the need for more resources to be able to reach more teachers and to be able to provide better curriculum. To be perfectly honest, Senator Howard, there's no silver bullet at this point. And I wanted to preface that at the beginning of my introduction, which, as someone who still believes in local control, we have to maybe look for some innovative ways to integrate financial education more into our existing curriculum then, because in no way would I encourage us to make an unfunded mandate on the school district requiring them to do this. But there are other states that do do that, and they have had success in making different school districts having a requirement for a personal finance class for high school graduation. But knowing our current financial or fiscal crisis our state is facing right now, I have a tough time seeing...adding more burden to existing teachers in existing schools for graduation requirements is just not an option in our current economic climate. [LR175]

SENATOR HOWARD: So you're not advocating a separate class dedicated to finances in high school, say. [LR175]

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SENATOR MELLO: I'm not advocating for that right now. That is an option that other states have pursued. I think that, once again, we have such a unique local-control focus in Nebraska that we don't...it is my understanding that we don't have a lot of statewide specific graduation requirements, because those are decided at the local school district level. So this would be in no uncertain terms kind of breaking the glass ceiling, so to speak, if we would mandate a personal finance graduation requirement where we don't mandate anything else at this local school district level from the state's perspective. [LR175]

SENATOR HOWARD: Okay, thank you. [LR175]

SENATOR ADAMS: Senator Sullivan. [LR175]

SENATOR SULLIVAN: Thank you, Senator Adams. It occurs to me, too, that over time...well, okay, it's...one way to approach this is to put it strictly in the context of personal finance, or the other alternative is to put it in the context of: This is a skill that you need to have, in terms of money management, as you enter adulthood. And previously there were a great many school districts that had what was called adult living classes that incorporated this sort of thing. And I think that's kind of gone by the wayside. So over time curriculum is changed, and perhaps we need to revisit that again. But also I guess I would direct...my other comment is a question to you. Do you see this--because you alluded to it in your comments--being accomplished by maybe some private-public partnerships and involving financial institutions a little more actively in this? [LR175]

SENATOR MELLO: That actually is a lot of what you'll hear after I'm done testifying, is most of the individuals who will speak are engaged in some kind of public-private partnership existing right now. And I think, really, at this point in time that's where we're going to have to continue to look at and look towards. But part of that, as I mentioned to Senator Howard, part of that is a need for more public resources still. But there is

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actually also--and I don't have the specific number--but I do know that there is a large number of school districts that do have some kind of financial literacy component that they already offer and do require that students take. Most times it's integrated into another course or academic curriculum, and it's not solely just a personal finance class, so to speak. But, you know, not serving on the Education Committee, I hope that maybe this is an issue that the committee will look to study more and explore--possibly with the State Board of Education--in regard to the curriculum development, as well as...and I know the NCEE will discuss, after me, a little bit more of what their curriculum is with existing high school teachers, of trying to find ways to integrate economics education into the social sciences more. [LR175]

SENATOR SULLIVAN: Okay, thanks. [LR175]

SENATOR ADAMS: Anyone else have a question? Just...I have one question and then a quick comment, Senator. I think that...do you know, are the testifiers to follow you going to talk about what they perceive to be the current status of this type of education in Nebraska? [LR175]

SENATOR MELLO: Some of them might, I believe, not all of them, though. [LR175]

SENATOR ADAMS: Okay. You might also watch the Goal 1 of our P-16 initiative as we're in the discussion stages of how mathematics ought to look in high school and trying to create some shoulder room. This is me talking, but I think one of the things that could potentially happen--there could be some financial literacy built into that additional component, which shakes out as a kind of a...well, not kind of, but as a graduation requirement--not specifically financial literacy. But it would give a school an option where maybe we can incorporate some of these things to meet a new change in Rule 10. [LR175]

SENATOR MELLO: Absolutely. [LR175]

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SENATOR ADAMS: So you might watch that. [LR175]

SENATOR MELLO: Okay. [LR175]

SENATOR ADAMS: Other questions for the senator? Thank you. Appreciate it. [LR175]

SENATOR MELLO: Thank you, Chairman. [LR175]

SENATOR ADAMS: First testifier. [LR175]

JENNIFER CLARK: (Exhibit 17) Good morning, Senators. My name is Jennifer Clark, C-l-a-r-k. I am representing the Nebraska Financial Education Coalition as their president today. I want to thank you again for this opportunity to share our perspectives and to tell you a little bit more about what we do--as you mentioned, public-private partnerships. And I would say at the outset, the Nebraska Financial Education Coalition is supportive of all efforts in the state of Nebraska to increase financial literacy among citizens of all ages. What our coalition is, is a group of well more than 100 schools, businesses, financial institutions, churches, government, and nonprofit agencies--some of which are in the room here today--who believe that basic personal financial literacy is an essential skill. Our mission is to strive to improve the personal financial knowledge and decision-making ability of Nebraska citizens by promoting public awareness of the need for personal financial education and by facilitating networking and partnerships for financial education service providers. Our long-term goal is for all Nebraska citizens, no matter their age, background, or circumstance, to achieve long-term personal financial health. Our coalition began in 2005 with a small group meeting at the Federal Reserve Bank in Omaha to talk about their involvement with financial literacy. Through that meeting it became very clear that, while many organizations had a stake in financial education or were actively conducting programs, many weren't aware of what other organizations were doing or what broad resources were available to them. From that

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small group, discussions grew over the next year to evaluate the state of financial education in Nebraska. The result was that participants felt it was important to have a statewide coalition on personal financial education that could be a resource to help businesses and organizations better partner to utilize their limited resources and be an advocate to raise the level of awareness of personal financial literacy. So in May of 2007, our coalition incorporated as a nonprofit in the state of Nebraska and elected a board of directors. We are also an affiliate--if you're familiar with the National Jump\$tart Coalition for Personal Financial Literacy--we are an affiliate of that coalition. Our more than 100 partner organizations serve a wide variety of individuals in the state of Nebraska. For example, some focus specifically on financial education for youth in school or outside of school. Others work with senior citizens. Others focus on homebuyers. And the range continues to go on and on. Our coalition is open to any organizations who are stakeholders in financial education, whatever the age group, background, or need. Partnership with our coalition is free of charge. We exist to help the public connect with financial education resources as well as helping other service providers find financial education resources for their own clients. Our coalition is not intended to take the place of financial education programs already utilized in the state of Nebraska. Rather, we see ourselves as a venue to share best practices while helping organizations partner to utilize those limited resources. We meet quarterly to share information on current challenges and issues in financial education. And we have one major initiative, called Money Smart Nebraska. This is a public awareness campaign designed to help consumers better manage their personal finances. And this year's campaign is right around the corner on Nov. 9-15. Our partner organizations are encouraged during that week to offer financial education seminars free of charge to the public during that week to help Nebraskans see the variety of financial resources available to them. This year close to 250 free events will be held in almost 40 communities throughout Nebraska on topics ranging from kids and banking to estate planning to preparing for tax law changes. All of these varied efforts by our coalition and partners to a wide variety of audiences all have the same goal--to help Nebraskans develop a higher level of financial literacy. Our coalition and partners firmly believe that

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financially literate citizens in our state will make better personal and consumer decisions that ultimately benefit individuals as well as our state's economy. And again, thank you for the opportunity to share this information, and we look forward to the outcome of this study and increased interest and focus on personal financial literacy. Thank you.

[LR175]

SENATOR ADAMS: Thank you, Jennifer. Are there questions? Jennifer, at the outset or at some point during your testimony, you said that the organization you represent set out to evaluate the state of financial education in Nebraska. The result was? [LR175]

JENNIFER CLARK: The result was that during that process we looked at four different sectors. We looked at trying to better evaluate what was actually occurring. And we looked at government to see what was happening in areas as diverse as the State Treasurer's office and others; and there were programs occurring. We looked at what was happening in schools--is what you'll be discussing more today, hearing from the Department of Education and others about what opportunities were happening, for example, what school districts might be interested. We looked broadly in that context, as opposed to a specific study. We also looked at financial institutions and nonprofits as well. Obviously, the different kinds of forms of financial literacy programs each of those conduct vary depending on their audience. What we found is there were a lot of programs occurring, but what wasn't happening was a lot of discussions across the board on how we can better--say, how could a financial institution partner with a school more effectively? How could a nonprofit find someone who's already offering programming, instead of developing something themselves, and save the resources they might need for their clients in another form? So I don't know that at the outset we found a lack, necessarily, of programming; often it was connectiveness or finding maybe where there were other specific gaps. [LR175]

SENATOR ADAMS: Thank you. Senator Sullivan. [LR175]

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SENATOR SULLIVAN: Thank you, Senator Adams. Right along with that, I wonder have you identified any ways to track if we're making progress along these lines? Last I heard, the average number of credit cards that somebody has--the average consumer--is 12. And I don't know if that's gone down or not. [LR175]

JENNIFER CLARK: It is a large amount, I do know, and the statistics can vary depending on whether it be credit card debt, amount held. I think it's a difficult thing to track, because it depends on what you would look at. There is some encouragement, I know, by some of our partners, looking at the national savings rate and seeing that increasing, and whether or not the current financial situation we're in as a country will lead people to some behavior changes. Finding ways to do that is challenging. One of our goals with the coalition is, really, to bring people together but not to overburden our partners, too, as well. So I don't have a specific answer for you on what that looks like. [LR175]

SENATOR SULLIVAN: Okay. [LR175]

SENATOR ADAMS: Other questions? Thank you, Jennifer. [LR175]

JENNIFER CLARK: Thank you very much. [LR175]

SENATOR ADAMS: Next testifier. [LR175]

ROGER BUTTERS: Good morning. My name is Roger Butters, B-u-t-t-e-r-s, and I'm the president of the Nebraska Council on Economic Education and a professor of economics at the University of Nebraska-Lincoln. I would like to tell a brief story to illustrate where we're at and the importance of this legislative resolution and the importance of financial literacy education. A number of years ago, the San Jose City Council almost passed a resolution banning the chemical dihydrogen monoxide from within the borders of San Jose, because a staffer had found on a Web site that

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dihydrogen monoxide was an awful chemical used in chemical weapons, pesticides, and that it was finding its way into our lakes, rivers, and streams and polluting our food supply. It wasn't until just before the resolution was voted on that someone pointed out that dihydrogen monoxide is the chemical name for water. And to say the least, this was a little embarrassing, not only for the staffer but also for the city council. Our country is facing a huge financial crisis, which I like to call a dihydrogen monoxide moment. It's a consequence in our country of people not understanding the fundamentals of economics and financial literacy--literally, of making a dihydrogen monoxide choice, making bad choices based upon a lack of information. So how do we go about improving financial literacy and economic understanding in order to make sure that people don't make these huge errors in judgment? And the answer is through education. The Nebraska Council on Economic Education has been in Nebraska for 46 years, and we are a national leader in providing economic literacy education to teachers and students. Here in Nebraska we provide preservice, in-service, and postgraduate education opportunities to our teachers, and we provide meaningful student competitions and events for students in order to engage them and get them interested in economics and financial literacy education. The Nebraska Council has been very successful and is a recognized national leader. Two of our online programs are used nationwide, those being the Finance Challenge and the Online Challenge. In addition to providing economic learning opportunities for our teachers, we do research. Being at the university and as a part of the National Center for Research in Economic Education, we do a great deal of research as to what works, what creates an economically literate individual. And our focus in research has been on the K-12 system here in Nebraska and across the country. And if the senators would like, I would be happy to comment later on the status of economic education here in Nebraska. What works? There are three key things that deliver economic literacy to our students. First of all, dedicated courses in economics. A course that is an economics course and dedicated to economics and financial literacy produces statistically measurable results in student achievement. Dedicated teachers--and by dedicated I don't mean passionate teachers; I mean teachers that are actually assigned to teach economics as their main focus area.

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And finally, qualified teachers--teachers who are well qualified to teach economics. Research shows that in order for a teacher's education to impact the students' education, they need to have from 9 to 12 college credit hours of economic education--that's principles of micro- and macro- plus an intermediate micro- and/or macro- course. Twelve credit hours, we begin to see huge changes. Most teachers in the school system have never had a college-level course in economics, including those that are required to teach economics. One-third of teachers have only had a single course in economics as a part of their college experience. So the thing we can change quickest and easiest is teacher education, providing our teachers with the tool kit that they need to find success in their classroom. We face some unique challenges as a state. Our state is very diverse. Over 50 percent of our population lives within 50 miles of its eastern border. The other 50 percent is spread out over 400 miles of land and territory. We have a local-control doctrine, which requires individual districts to set their own standards. As a result, having a dedicated economic course and a dedicated, specific teacher in a classroom probably isn't a realistic option for Nebraska. However, having a highly trained teacher in the classroom is a realistic option, and it is something that we can achieve without upsetting the apple cart. I would like to give you two examples. One is Carol Mathias, who is an economic educator here in Lincoln, Nebraska, at Northeast High School, who is a highly trained and highly educated teacher. Her students achieve great things. Another teacher is Lynn Channer in Arthur, Nebraska, who is not a dedicated economics teacher in the sense that she teaches only economics but is a dedicated teacher in the sense that she has become qualified and skilled. Lynn Channer's students consistently win our Stock Market Game competition and our EconChallenge competition. And this spring I was pleased to go with the Governor to Arthur, Nebraska, and celebrate those kids. We don't need a dedicated course; we don't need huge classes. What we need is trained and competent teachers. Thank you. [LR175]

SENATOR ADAMS: Thank you, Roger. Are there questions? Well, you've ignited a couple in me. You're right; you're right; you're right. If we could have more dedicated

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micro-, macroeconomics courses in our schools, that would be great. That would absolutely begin to turn the corner. But you're also right in saying it's probably not realistic from one end of the state to the other. My guess is, and you can correct me if I'm wrong, one of the reasons we don't have those kinds of courses--as an old social studies teacher talking to you now--is because I don't know how to teach this stuff. All right? And why don't they? Because most of them are social science majors, which means they're history/political science advocates and really don't like economics all that well, and you can correct me if I'm wrong about that. You're right; they took the bare necessity of economics. And then if they have it foisted on them in whatever public school environment they get into, it's, like: Oh, no. And then you guys step in to provide some assistance with that, thank goodness. I suspect also that the biggest...I think the biggest issue is not having the qualified teachers. They will find the place within a curriculum to do this, with a dedicated course or outside of a dedicated course--they could do this. I wonder how many of our folks who truly have an interest in economics go into the private sector and don't want any part of public education. I wonder how many of them that thought they wanted to go into economics got bored to death in a college economics class and said: I'm not going to have any part of this. I'm going back to my history direction. So I'm not asking you a question. I think you're right on the mark. But we've got to change that; we've got to find people that are going into K-12 that are more literate in some of these basic concepts. And so I'm assuming that what you're doing is trying to do exactly that. [LR175]

ROGER BUTTERS: You know, that's exactly correct. And every observation you've made is correct. Economics, as we currently have it, does exist K-12 in our social studies standards. So the standards of education are already there; it's already required to be in the classroom. And to a large extent, we are very content with those standards. The Nebraska Council was a part of the group that helped write those standards when they were initially created. The challenge is exactly as you say: Economics is more akin to mathematics or physics or chemistry than it is to poli sci or history. And so asking someone who's come up through a social studies training to then shift gears and kind of

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become proficient in the economics is asking quite a bit. [LR175]

SENATOR ADAMS: Be careful now. [LR175]

ROGER BUTTERS: Well, it's...(laughter) [LR175]

SENATOR ADAMS: Go ahead. Go ahead. [LR175]

ROGER BUTTERS: It's asking quite a bit, not in that they can't do it, but it does require a changing of gears to some extent. Our experience is that when we get teachers into classes that are designed to teach economics for the educator, and we show them that it really isn't about the math, it's about choice making, it's about decision making. And when we introduce those financial concepts and show to teachers the concept of experiential learning, where you can teach kids these concepts by playing a game and by having fun, they quickly become very passionate about it. And to the extent that, you know, we can...Of course, the great way of doing this is just providing teachers the incentive to become economically literate. You know, rule number 1 in economics is that people respond to incentives in predictable ways. And teachers respond to incentives in predictable ways. When we provide them with the incentive to take those courses in economics, they respond very quickly, because it is interesting, compelling, and very actual. It's something they can walk into the classroom and make immediate use of. [LR175]

SENATOR ADAMS: Good. My first economics professor in college the opening day said that if you don't know calculus, get up and get out of here. I swore thereafter when I taught economics I would not take that position. Senator Sullivan. [LR175]

SENATOR SULLIVAN: Thank you, Senator Adams. Thank you very much for your comments. Can you tell me a little bit more about the school at Arthur and the teacher who teaches that award-winning class? [LR175]

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ROGER BUTTERS: Sure. Lynn Channer is one of our economic fellows. She actually came up through the Nebraska Council's master's program in the 1990s. She is a very highly trained teacher. And every year we host the Stock Market Game competition here in Nebraska, where students are able to manage a \$100,000 virtual portfolio in the stock market for ten weeks. And the students that receive the highest rate of return on their portfolio are then awarded...we celebrate them at a banquet each spring. Lynn Channer, and we do not know how she does this, but she is at that banquet every year. And if you go to Lynn Channer's classroom, she has an entire file cabinet that is so crowded with trophies we're going to have to buy her another cabinet. And it's because she is very well educated. She knows the economics; she is passionate about it; and the kids feel and feed on that passion. And this is in Arthur, Nebraska, where, I think, she has 17 students in her class, and there's fewer than 40 kids in the entire high school. So we don't need a huge district like LPS or Omaha to have quality economic education. We need that passionate teacher, and we need to provide that teacher with the opportunity to get that learning and the passion. Here in...you know, there's hundreds of examples right here in Lincoln, Carol Mathias being one teaching up at Northeast. Carol Mathias is at our competitions every year, and her kids walk away with those competitions every year to one extent or another. And so it's not a question of: Do we need a dedicated course? Well, that would be great. And in a perfect world every school would be able to offer a two-semester micro-/macro- course in economics that would include financial literacy as part of its components. But Arthur, Nebraska, isn't going to be able to do that. There's just not enough students, there's not enough teachers out there. But we can achieve the same result if we have that highly educated, highly motivated teacher. [LR175]

SENATOR SULLVAN: And then also public-private partnerships. On the other end of the state, my son-in-law, who's a financial planner, worked with an elementary school building and participated in the stock market challenge as well. [LR175]

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ROGER BUTTERS: Oh, that's great. And, you know, the Nebraska Council was created as a public-private partnership. Our role is to channel the resources of the public and private sector into our classroom. Each year we distribute about \$30,000 worth of curriculum free of charge to teachers. And we offer about \$30,000 worth of tuition scholarships to teachers. One of the questions that was asked of Senator Mello is: How do we implement this? And from our perspective, we could make huge progress if we could find funding to provide tuition scholarships to teachers. The council and our five Centers for Economic Education at Chadron State, Wayne State, University of Nebraska at Kearney, Lincoln, and Omaha all have courses available for teachers to take that are designed for, you know, secondary and primary education teachers to learn economics and apply it in their classrooms. The constraint is fiscal. Teachers having to pay university tuition to go back and receive that tool kit can be a very large burden for them. Were the state to come in with a scholarship program for those teachers, we could implement that immediately. Indeed, we have online courses available to teachers throughout the state, and we actually have had teachers in Turkey and England take some of our online classes in economic literacy and pedagogy.

[LR175]

SENATOR ADAMS: Any other testimony...questions? Thank you, then, Roger. [LR175]

ROGER BUTTERS: Thank you very much. [LR175]

SENATOR ADAMS: How many more testifiers do we have? Two? Okay. [LR175]

JERRY BARNETT: Mr. Chairman, members of the Education Committee, my name is Jerry Barnett, spelled B-a-r-n-e-t-t, and I'm president and CEO of LincOne Federal Credit Union, located here in Lincoln, Nebraska. I appear before you today on behalf of the Nebraska Credit Union League. And the league represents 96 percent of Nebraska's 73 credit unions and their 420,000 members. Credit unions are not-for-profit cooperative financial institutions that serve their members by providing them with

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modern financial services at a low cost to the member. And as our nation's credit unions celebrate their 100th anniversary year in 2009, we are reminded of our long-held philosophy of people helping people, and we renew our commitment to our members in the communities in which we reside. We continue to provide them with low-cost financial services and financial education that will guide them in making wise choices when it comes to their financial future. I want to thank Senator Mello for introducing LR175 to study ways to increase financial literacy within our state, and I also want to thank the committee for holding today's meetings. For years we have recognized the need for financial literacy among our citizens. However, the last several years have shown us just how desperate that need really is. The financial meltdown that our country experienced in September of 2008 was largely due to a lack of financial literacy. On one hand, we saw large banks and brokerage firms make subprime mortgage loans to consumers who they knew could not afford to repay them. On the other hand, we had consumers that lack the financial acumen to understand the terms of the loan or that they wouldn't be able to afford the payment after the interest rate adjustment. We also see a lack of financial literacy in the amount of credit card debt that individuals rack up each year and the willingness of consumers to seek short-term loans from payday lenders that carry interest rates of well over 400 percent. Financial literacy is having an understanding of what the potential consequences are, both good and bad, of a particular financial decision before that decision is rendered. The goal of financial literacy education should be to help individuals make wise and sound decisions when it comes to their finances, through education. And too often for individuals, this education comes after the consequences of a poor financial decision they've already made. When we talk about increasing financial literacy, we need to look at both the short term and the long term. In the short term, there are young people and adults who've had little or no financial education and have already made poor financial decisions for which they continue to pay. For these individuals, we need to make education available that helps them correct their current financial situation as well as provides them education so they can make a better decision in the future. In the long term, we need to focus on teaching each child in our society, through the educational system, how to be financially literate

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before they have to start making these adult decisions. A topic as important as this should be taught in every high school as a requirement to graduation. I believe this is the only way in which we can truly reach financial literacy. I acknowledge that many organizations, both for-profit and not-for-profit, offer ways in which consumers can obtain financial education. With that acknowledgment, I'd like to describe a couple ways that credit unions, in particular, have worked to improve financial literacy among their membership. Credit unions exist solely to serve their member-owners. A key component of that service is providing financial education to their members so that they can be wiser stewards of their money and therefore better consumers. In fact, some credit unions offer a financial literacy course to members and potential members for a minimal fee, such as \$50. And then on completion of that course, the credit union deposits the \$50 back into the member's savings account. This approach and the approach that Senator Mello has discussed with regard to providing tax incentive could increase participation in these programs. Credit unions and the Nebraska Credit Union League have teamed up to offer children of credit union members and several Nebraska credit union schools a simulation of life as an adult through a program called Mad City Money. In Mad City Money, students are provided with a career, a yearly salary, a family, and are visited by the fickle finger of fate with some life-changing circumstances. During the simulation, they're instructed that they're to buy or rent a house, apartment; purchase a car; buy groceries, clothes; purchase items for the children; and are given a checkbook. Now they have to record every purchase made and cannot spend more than what their salary is. This shows us some have decided to buy the sports car or to buy the expensive house while others have decided to get on the bus and not buy a car. Going through this process allows these young people to understand the importance of money and that it's finite and that they have a responsibility to feed, clothe, and provide shelter for their family. One last thing is that the National Endowment for Financial Education, or NEFE, is a nonprofit national foundation dedicated to improving financial well-being of Americans through financial education. Now they offer their high school planning program to the nation's high schools at no cost to assist educators in teaching America's youth how to be financially literate. And since 2000 we've had 165 schools in

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Nebraska request that information. And many times credit unions in Nebraska have allowed their expertise to help expedite this end of the programs. America's credit unions also sponsored... [LR175]

SENATOR ADAMS: Excuse me sir, are you ready to sum up? We're really running out of time here today. [LR175]

JERRY BARNETT: Yes, I am. [LR175]

SENATOR ADAMS: Okay. [LR175]

JERRY BARNETT: We understand it, and credit unions work with Biz Kid\$ on PBS for a Web site and national television program that's targeted at kids, and there's also a section for teachers on that--just wanted to bring that to your attention. So it's our conclusion that these tools can assist parents and teachers in increasing financial literacy. And I'm here today to offer credit union support. And thank you again. And I'll entertain any questions you might have. [LR175]

SENATOR ADAMS: Okay. Are there questions? Thank you then. [LR175]

JERRY BARNETT: Okay. Thank you. [LR175]

SENATOR ADAMS: You know, a moment ago I asked for a show of hands of how many still wanted to testify; I saw two meager hands go up, and I've seen two more people come to the front of the room. So how many? All right. So now we're up to three? Okay. If you don't mind, I'm going to limit the testimony now to three minutes, or we're never going to get done today. So please, Mary, go ahead. [LR175]

MARY CAMPBELL: Thank you, Senator. Mary Campbell, assistant superintendent for government relations, Lincoln Public Schools. In the interest of time, I will just leave with

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you a one-page document and the offer to be of any assistance we can provide from our curriculum people. The document just states that LPS has a graduation requirement of five hours of economics. And it then outlines the three course offerings, any one of which could meet that requirement, including an advanced placement class. So I hope that would be of help to you. And again, call upon us if you need more. [LR175]

SENATOR ADAMS: Thank you, Mary. Are there questions for Mary? Next testifier. [LR175]

SHAWN MACKEN: (Exhibits 14, 15, 16) Morning, Chairman Adams... [LR175]

SENATOR ADAMS: Good morning. [LR175]

SHAWN MACKEN: ...members of the committee. Thank you so much for your time. My name is Shawn Macken, last name spelled M-a-c-k-e-n; I'm a financial adviser with Waddell&Reed and for the last seven years of my life have been deeply involved in adult financial education in the workplace. Over the last four years I've been working to implement, develop, and also take national a program developed in Omaha, Nebraska, by myself and my business partner for financial wellness programs. We are currently in 15 employers. We affect somewhere between 200 and 250 households a year, and they range in age from 18 to 65 and income levels from \$15,000 a year to \$350,000-plus. I've heard a lot of comments today about decisions and choice making, and I can tell you today from my personal experience in the hundreds and hundreds of people I have worked with personally, choice is what matters today. If we want Nebraska's economy to be strong, if we want people to make better choices, then we're going to have to do something about educating the adults in our work force. Across the United States, 75 percent of our population has graduated from postsecondary education; it's too late to meet them in K-12 or in college. And that's where I come in as a provider on the ground working with people every day. Consistently, many people who are highly educated make poor choices. It simply comes down to this: Do you know what the definition of a

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good choice is? It's one that takes you closer to something you care about. A bad choice takes you farther away. The trick is simply knowing the difference. And as planners, with our program we have nine weeks of education, a curriculum that takes nine hours of classroom time, held at the employer's location. Everyone that goes through the program is required to attend a year's worth of comprehensive financial planning. There's where we help people individually figure out what a good decision for them is or a bad decision is. As I look at...I apologize for the small forest I killed today in order to give you some handouts. [LR175]

SENATOR ADAMS: A choice you made, huh? [LR175]

SHAWN MACKEN: Yeah. We've had some tremendous partners over the years; we've been partnered with the United Way of the Midlands for the last four years, also along with that partnership the Federal Reserve Bank of Kansas City. In support of LR175, I would submit the research report that just came out in September here from the Federal Reserve Bank. It's on our program. And I would submit that as part of the initial research that I think desperately needs to be done on this topic. And as far as efficiency and effectiveness, I would think we need the business community to step up and realize that this is staff development. It's good for our work force. And when they can finally see as we do more research through our partnership with the United Way of the Midlands referenced here in the memorandum of understanding we've just recently signed with them, they are continuing research along with Creighton University. And so as we can begin to show the employer population out there that this is not only good for their employees, it's good for the bottom line of their business, I think we can have a tremendous impact. And I think ultimately it goes back to our earlier topic today of helping our children. I brought two of mine here today, my oldest two since they don't have school today, so they're not playing hookey. But as a parent, if I don't teach them skills, if they don't see me as a role model, I can't completely rely on the educational system or the work force to teach them. I must teach them. And we've seen it from impacts of the families we work with: As they get better with their finances and make

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better choices--and choices that matter to them as a family--their children respond and help them to make better fiscally responsible choices as well. So I would say, for the good of our economy, for the good of our children, and for the good of our state, we need to educate the adults and help them to make a better choice. And it's not about knowing how to calculate inflation; it's about knowing who you are and where you want to go and which choice takes you closer, not farther away. Thank you. [LR175]

SENATOR ADAMS: Thank you. Are there questions? Thank you then. [LR175]

BOB HALLSTROM: (Exhibit 18) Chairman Adams, members of the committee, my name is Robert J. Hallstrom. I appear before you today on behalf of the Nebraska Bankers Association. The NBA has been actively engaged in promoting financial literacy for many years. We commend Senator Mello for his interest in this issue. In the interest of time, I'll just note, in my written comments I've gone through the litany of programs that the NBA and its member financial institutions are actively engaged in. We believe that adults and students alike deserve greater access to financial education resources so that they will be better educated and be responsible and be informed with connection to financial products and services. And I'd be happy to address any questions you might have. [LR175]

SENATOR ADAMS: Thank you, Bob. Are there questions? [LR175]

BOB HALLSTROM: Thank you. [LR175]

SENATOR ADAMS: Appreciate that. Thank you. Are there any more testifiers? If not, then we'll end this hearing. Thank you for those who participated, and we will move on to the last hearing of the day, which is LR121. Senator Avery. We're a little bit behind schedule, so it would be my intention that we still try to end by noon but certainly no later than 12:15. Senator--when you are ready. [LR121]

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SENATOR AVERY: Thank you, Mr. Chair. I am here to introduce LR121. This resolution is cosponsored by Senator Rogert and Senator Campbell. Senator Rogert will address you as soon as I finish. Senator Campbell is occupied with chairing another hearing. The idea of examining the Nebraska School Activities Association is not new. Parents have long questioned the rationale behind rulings issued by the NSAA. I have two competitive high schools in my district. I've heard from many parents who are passionate about protecting their children's interest. In particular, they have long...many of them have long tried to get the NSAA to allow dual participation in a variety of sports, by that I mean being able to participate with your high school team and then also at the same time participate in the same sport in a club. There is currently a ban on that, with some exceptions. And I have to commend the NSAA for working over the past couple of years to come to a point where they could offer an exception for swimming and diving, which is where a lot of the discontent was. I have to tell you that I am not interested in an explanation of every rule governing high school activities. I don't want to get in a discussion of violations of participation requirements. However, I do see some utility in examining an organization that formulates and administers rules and regulations that govern extracurricular activities in public schools. So the purpose of this resolution is not to look at policy but more to look at how policy is made and to examine the governing structure of the organization. I'm interested in financial accountability to member schools and to the public. We're interested in procedures for formulating rules, regulations, and policy. Interested in accountability to member schools and to the public. There are a number of questions that I would hope that we can get some answers to. For example, should representation in the governing bodies of the NSAA proportionately reflect the number of schools and/or students in the districts? Do the district lines need to be redrawn so as to reflect more accurately the distribution of students in the state? You have a packet of material that my office provided that will show you that, of the six districts that currently exist, there's a significant degree of disproportionality in the distribution of students in schools among those districts. Why are women so underrepresented in the governing bodies, and how can that be addressed? How many ethnic minorities are represented in the governing bodies? Are any represented? If not,

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why not? Is the association a private organization acting on behalf of public entities? That seems to me to be a pertinent question. Is the association an instrumentality exercising essentially public functions? It is officially a 501(c)(3), a nonprofit organization. Let's ask some questions about the funding of the organization. What portion, if any, is derived from public sources? And if you do decide...you do discover that a portion of the funding comes from public sources, does that then mean that we ought to be asking questions about whether the association is subject to open meetings and public records statutes that are currently existing in the state? These are questions that have been raised by the preliminary examination conducted by my office and Senator Rogert's office. And they focus on governance and practices of the NSAA. And I hope that we can get some answers to those questions today. [LR121]

SENATOR ADAMS: Thank you, Senator. Are there questions for Senator Avery? Guess you're off the hook. [LR121]

SENATOR AVERY: You're worn out, aren't you? [LR121]

SENATOR ADAMS: There's a little of that. Senator Rogert. [LR121]

SENATOR ROGERT: (Exhibit 19) Good morning... [LR121]

SENATOR ADAMS: Good morning, Senator. [LR121]

SENATOR ROGERT: ...Senators, Chairman Adams. Most of you have known me for a little while. And it would be safe to say that just because it's the way we've always done it doesn't mean, to me, that that's the way we need to continue to do it. But it doesn't mean we need to change it. But I believe we should discuss things. This is an opportunity to do that. I want to just provide some observation. Ever since I've been here, I've been dealing with some issues...been pursuing some issues involving parents and extracurricular activities governed by the Nebraska School Activities Association.

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And as I've gone through that process--I just want to lay some things on the table that I've seen as a arbitrator in a argument, you could say. And at the risk of offending everyone in the room, these are just what I notice and what I see, and they're not personal, and they're not meant to offend. But this is what I do see. When I was first delving into this issue, I ran upon the immediate discovery of this setup of a 501(c)(3) private corporation, which seemed odd. And I thought, why is that? Why is this particular organization set up like that? And in...for lack of a better term, it is for the fact that they don't have to answer to anyone except themselves and their members. Sure, I understand that. I understand why you'd want to do things on your own. And as a volunteer membership organization, of which everybody's a member, they do have the ability to set their own policies and their own constitution and their own rules and govern accordingly. They are quasi-elected representation from schools. The folks that work at the schools are the ones that are elected to go represent the various districts and the various activities. However, they're not publicly--through parents and taxpayers--afforded or necessarily regarded as elected or needed to open themselves up to public opinion. The three words that I hear that makes everybody a little nervous is the "board of control." And that right there, as a term, is a little abrasive. So it gets people a little uneasy when you're talking "board of control." I will say that whenever you involve parents and their children or students and their administrators, you're never going to have an unbiased argument. Everybody always wants the best for their student or their child or their school, and they don't want people telling them how to do it. This organization is looking out for the purpose of doing the right thing for their member schools, and their elected board members are doing the best for what they think their schools want. That may not be what the parents want. It may not be what some members want. But it's their policies, and they're set by their board of control. It is factual that they set school calendars: They decide when schools start, from lack of a better term, because of when tournaments are, when practice dates can be because of when tournaments are. And when the schedule starts, it backs everything all up. And when the football program is going, that's when school starts. These conclusions at the bottom of this information are fairly...they're very good questions. I think there are

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serious deficiencies--females represented in this group--six board of control members, six men. As far as I can tell, there's never been a woman on the board of control. Twenty-four managing committee members--22 are male; there's 2 open. Currently there's 25 elected to the representative assembly, 25 alternates; 48 of those 50 are filled, and 6 are female--mostly men, almost all men, in my opinion. So, you know, dollars...public dollars. If we're looking at membership fees and activity fees, we're looking at maybe \$200,000-\$250,000. In the realm of our big dollars we're thinking of, that's not a lot of money. I'm not really that cared about that amount of money being spent without any public opinion when you're talking about 312 school districts. They have a very nice, very nice multimillion-dollar facility that was recently built with, I don't know, you know, money, lots of money that comes from activities related to public schools. There are folks that would say that that is odd. It's very archaic in the terms that...I see things in this organization that have been around since 1911, 1921, 1926, 1978. Slow to change, that's Nebraska's way; we are very slow to change. We drag our heels all the time. This group is in step with that; they're slow to change. Some folks would like some change faster. And they don't have to listen to those folks that they don't want to, for all intents and purposes, because they are a private corporation. I do...there is a huge disparity in representation of the districts by rural and urban. As a rule, Senator, I would say: Ooh, we're doing pretty good. We get four votes out of the six, but by the same token, I go: We don't have soccer; we don't have swimming--at most of our schools--we don't have diving; we don't have a lot of the sports and activities that some of these...other two do. And those are the parents I see coming to my office, saying: We can't get what we think we need, because of...this is not an offensive term, but it is a term that I hear many times, is the good old boys' club. I think the organization is well run; I think they do a great job for a lot of things. Like I said, these are just observations that I've had going through the process the past couple years in dealing with some of the issues. I'll take any questions. [LR121]

SENATOR ADAMS: Are there questions for Senator Rogert? [LR121]

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SENATOR ROBERT: Thanks for taking up the issue. [LR121]

SENATOR ADAMS: We'll begin testimony, and we'll go with three minutes. First testifier. [LR121]

LISA McNEEL: (Exhibit 20) Lisa McNeel, L-i-s-a M-c-N-e-e-l. Good morning, Senators. As I've just said, my name is Lisa McNeel. And some of you might remember me from when I spoke before you two years ago concerning LB1135 regarding dual participation for student athletes and earlier this same year with LB228 regarding the NSAA organization itself. I would take a moment to tell you that my family is very happy that dual participation is now going to be allowed for Nebraska swimmers and divers and that my daughter, Molly, who also has twice spoken here before you, is very happily looking forward to swimming as a Northeast Rocket this winter while also competing at the national level for her club team. I have recently been asked by many people, including my own daughter, why I continue to be concerned with issues regarding the NSAA when it would appear that we've gotten what we wanted. My answer to them and to her is that somewhere along the way, my focus has shifted from my original purpose of dual participation for student athletes to a much more broad but even more disturbing concern regarding the organization of the Nebraska School Activities Association itself. You have to understand that two years ago I did not even know what the NSAA stood for or even what their role in the high school arena was. I began to ask questions to educate myself, at first just regarding dual participation but as time went on more general questions as to how the NSAA functioned. I will tell you that at the local level--meaning coaches, officials, athletic directors, some principals, superintendents--I did not meet with resistance to my questions, but rather they were simply unable to answer them and were frankly not even sure where to send me to find the answers. So I went searching for answers at the district office and at the NSAA itself, and that is where I began to almost literally have doors shut in my face. If I did receive answers to my questions, they were for the most part vague and really gave me very little information. These situations sent up red flags for me. If this organization, whose

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purpose is to support the students of Nebraska, is so unwilling to give me answers, it begs the question: Why? That is the reason why I'm speaking here before you today. One major concern that has come to light in my questionings over the past two years is the lack of representation by females and minorities in the upper managing committees of the Nebraska School Activities Association. More than half of all participation in NSAA activities is by girls, yet female school officials account for only 6 percent of the delegates to the NSAA 2009 representative assembly. To the best of my knowledge, since its creation some 98 years ago there has never been a female member of the NSAA board of control. Currently, the six district managing committees are made up of 24 members, all men; the legislative committee, 12 members, all men. The only managing committee where females hold office is, again, within the representative assembly, which is made up of 49 members--46 men and 3 women. I would also add that none of the women hold multiple offices, while 24 of their male counterparts hold multiple offices or positions. I find this very disturbing, and I would like to pose the question to the NSAA and Dr. Tenopir as to why they feel females in the past and currently have very little representation within the managing committees of the NSAA. I would also touch on my concerns regarding what I believe is the lack of representation by minorities at the management levels of the NSAA. It has been difficult to even find out information regarding minority representation at these levels, but from what I can see, there is very little, if any, persons of Asian, Hispanic, American-Indian, or African-American background who hold office within the upper-management levels. There are close to 6,000 African-American students, 8,000 Hispanic students, 1,500 Asian students, and 1,100 American-Indian students in grades 9-11 in the state of Nebraska. As before, I would pose the question to Dr. Tenopir and the NSAA as to why they feel these minorities are so underrepresented. I believe the Nebraska School Activities Association.. [LR121]

SENATOR ADAMS: Excuse me, Lisa, can you conclude? [LR121]

LISA McNEEL: ...finishing up? Um-hum. Okay. This past spring I alone was allowed to

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briefly speak at a District I meeting regarding dual participation held in York. During that meeting Dr. Tenopir stated to the District I members that the number one priority today is to maintain and preserve the governance of the NSAA. I found this statement disturbing. Should not the priority of the NSAA be doing...in doing what is best for the students of Nebraska? Statements such as that are what continue to fuel my concerns and are the reason I am here today. [LR121]

SENATOR ADAMS: Thank you, Lisa. Are there questions for this testifier? Senator. [LR121]

SENATOR AVERY: Thank you Mr. Chairman. Ms. McNeel, I want to know, when you contacted the NSAA, you said that doors were almost literally slammed in your face. Could you elaborate on that a little bit. What was the reception when you went to the NSAA for information? [LR121]

LISA McNeel: It started originally, Senator Avery, with our daughter, Molly, obviously, in looking at dual participation and the issues surrounding that. And a lot of what I got was just: That's the way it's always been; that's what's best for students. At the local level, they just didn't even know; I got a lot of different answers. Some of it was...has borne out to be true, and others was kind of a fallacy. Some they would tell me: Well, if you did this, then it would be allowed--just a lot of confusing information out there. [LR121]

SENATOR AVERY: Were you ever told that you could not attend any of their meetings? [LR121]

LISA McNeel: Yes, early on. Um-hum. And then we were allowed, and I have gone to several of them. And you are now allowed to speak for a few moments at the beginning. There's not really any dialogue, but you are allowed...which...I appreciate that. I mean, I'm glad that we've at least gotten that far. [LR121]

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SENATOR AVERY: Have you ever requested and been denied access to any of their records? [LR121]

LISA McNEEL: I have not personally. [LR121]

SENATOR AVERY: Thank you. [LR121]

LISA McNEEL: Um-hum. [LR121]

SENATOR ADAMS: Are there other questions? Seeing none, thank you...oh, excuse me. [LR121]

SENATOR CORNETT: Lisa, you...what activities does the NSAA represent? It's not just sports, correct? [LR121]

LISA McNeel: Um-hum. It's all athletics and then any kind of competition, be it... [LR121]

SENATOR CORNETT: Speech? [LR121]

LISA McNEEL: ...speech, drama... [LR121]

SENATOR CORNETT: Drama. [LR121]

LISA McNEEL: ...music, band, so they encompass... [LR121]

SENATOR CORNETT: How many people on the board represent backgrounds in any of those areas other than sports? [LR121]

LISA McNeel: That's very difficult information to find out. I'd love to know. [LR121]

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SENATOR CORNETT: Why is it difficult to find out? [LR121]

LISA McNEEL: I am not sure that they even really know. [LR121]

SENATOR CORNETT: They don't know who...what their own board members represent--backgrounds? [LR121]

LISA McNEEL: That would be a good thing to ask them. [LR121]

SENATOR CORNETT: Okay, thank you very much. [LR121]

LISA McNEEL: Um-hum. [LR121]

SENATOR ADAMS: Other questions? Thank you, Lisa. Next testifier. [LR121]

JACK MAYFIELD: (Exhibit 21) Good morning. My name is Jack Mayfield. I strongly support... [LR121]

SENATOR ADAMS: Excuse me, Jack. Could you spell your last name for the record, please. [LR121]

JACK MAYFIELD: Oh, sorry. Mayfield, M-a-y-f-i-e-l-d. I strongly support this committee's interim study of the NSAA. As an attorney and avid high school sports fan, I've closely studied this organization for the past four years, reviewing its governance documents in great detail and observing various NSAA meetings, to the extent that I've been allowed to do so. As a result, I have learned that there are a number of troubling issues with the association's governance structure. I will briefly summarize my concerns at this time, but due to the complexity of some of these issues, I am also providing written testimony and supporting documents for your consideration. In a nutshell, the NSAA governance structure, which is based upon a six-district representative scheme,

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is unfair to schools and students in Districts I and II, located in southeastern Nebraska, and especially so with regard to District II. Instead of each district being represented in a fair manner on the board of control and in the representative assembly, there exist blatant examples where students and schools in Districts I and II lack adequate representation in the NSAA governance structure. Here are three examples. Number 1: Under the NSAA constitution, each district has one representative on the very powerful board of control, which exercises the administrative, judicial, and rule-making authority of the organization. The board of control members also vote in the representative assembly. The variance in the number of students represented by each of the six board members is shocking. The board of control member for District II, Dr. Reznicek, has more students in his district than all of the other districts combined. He has 87 schools and more than 38,000 students in his district, while another board of control member has only 24 schools and fewer than 2,400 students; yet both gentlemen have exactly the same voting power on the board of control. Number 2: The representation of District II in the representative assembly is far below what it should be. More than half of Nebraska's students in grades 9-11 are enrolled in District II, yet that district has slightly more than one-third of the votes in the representative assembly. Taken together, Districts I and II have 70 percent of the state's students but just slightly more than half of the votes in the representative assembly, where a 60 percent majority is required to enact legislation. Meanwhile, Districts V and VI, in western Nebraska, each have 3 percent and 5 percent, respectively, of the state's students in grades 9-11, but each manages to end up with a 10 percent share in the representative assembly. Number 3: In a critical stage of the legislative process known as second district meetings, schools in District II have much less voting power than do schools in Districts V and VI. This problem also applies to Districts I, III, and IV as well; but with 87 schools, District II bears the brunt of the problem. When a District II school votes on a legislative proposal, its vote counts one-fourth that of a school in District V and one-third that of a school in District VI. [LR121]

SENATOR ADAMS: Jack, please be cognizant of the red light. [LR121]

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JACK MAYFIELD: Okay, thank you. The combined effect of these various problems is that the students and schools in eastern Nebraska are being denied full participation in the governance of the NSAA. I will conclude by saying that the NSAA as a private non (sic) corporation is not free to do as it wishes. It is also a state actor for constitutional law purposes. That ruling was made in 1972 here in Lincoln by Judge Warren Urbom. Accordingly, the NSAA is required to comply with constitutional requirements including the requirement under the Equal Protection Clause of the 14th Amendment not to discriminate against persons unless there is a rational basis for doing so. I would assert that the current district boundaries constitute unlawful discrimination against students in the state of Nebraska. I encourage this committee to look into this problem and to fashion remedies. There's not...the Districts I and II do not have the political power within the organization to resolve this on their own. [LR121]

SENATOR ADAMS: All right. [LR121]

JACK MAYFIELD: Thank you very much. [LR121]

SENATOR ADAMS: Thank you, Jack. Are there questions? Senator Avery. [LR121]

SENATOR AVERY: Mr. Mayfield, I'll ask you the same questions that I asked Mrs. McNeel. Have you ever been asked to leave or denied access to a meeting of the NSAA? [LR121]

JACK MAYFIELD: Yes, on two occasions, most notably at the last representative assembly, 2009, April. I attempted to attend the representative assembly to follow a matter that I was interested in. It was not the dual participation issue; that was hotly contested. It was something to do with the sport of baseball. I was denied entrance to the brand-new meeting room, where the representative assembly was held, on the grounds that the room was not large enough. Secondly, in August of 2007 I attempted

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to deliver to the board of control a survey of high school baseball coaches which stated that 27 out of 29 coaches were strongly opposed to an action that was on the agenda that day to be considered by the board of control. When I attempted to speak on that issue and deliver to the board of control the opinion of 27 out of 29 baseball coaches, who were strongly opposed to what they were about to enact, I was told that I would not be able to speak under the Open Meetings Act or under any other rules unless I was a representative of a member school, and that my only recourse would be to introduce a proposal in a member school the following year that would change what they were doing that day. They had no interest in listening to what I had to say on that issue.
[LR121]

SENATOR AVERY: Have you ever been denied documents that you requested?
[LR121]

JACK MAYFIELD: I have never requested documents, because I was pretty sure what the answer would be. [LR121]

SENATOR AVERY: And what would that be? [LR121]

JACK MAYFIELD: Oh, I'm sure that I would not have the right to request or receive documents, but...based upon, you know, some of the other things that I encountered.
[LR121]

SENATOR AVERY: Thank you. [LR121]

JACK MAYFIELD: So that was my expectation. I didn't bother. [LR121]

SENATOR ADAMS: Senator Cornett. [LR121]

SENATOR CORNETT: I'll ask you also--because you and I met before to discuss this

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issue. And the question I asked before was--the NSAA represents more than just sports. [LR121]

JACK MAYFIELD: Correct. [LR121]

SENATOR CORNETT: What are the background of the members on the board of control and then the other members...the 24 members of the legislative...? [LR121]

JACK MAYFIELD: Well, again, I wouldn't have that information, but I can tell you that the constitution requires a certain percentage of representatives in the representative assembly to be administrative personnel...be at that level. So, you know, whether those folks came into their administrative positions through coaching/athletic route or whether they came there through some other route, I wouldn't know. I can tell you when I've attended the District II meeting and looked around the room, what I saw, largely, were athletic directors or activities directors, but a lot of those folks I know come through a coaching/athletic background. I can tell you that out of the 49 representatives or delegates in the representative assembly, I think 4 were from a nonathletic background, in terms of they were identified as--in the NSAA directory--as having something to do with music, speech, etcetera. But I...the other 45 I, you know...again, activities directors, principals, superintendents is what that body is...some superintendents, principals, that kind of thing. [LR121]

SENATOR CORNETT: Can you touch a little bit more on when you said that even though they're a 501(c)(3) that they are a state actor? [LR121]

JACK MAYFIELD: Right. What a state actor is in legal terms is an entity that is so involved with state government as to be deemed an extension of the state itself. When we talk about the Bill of Rights or the U.S. Constitution, where you have provisions that: No state shall make a law, you know, prohibiting people from bearing arms or whatever it may be, those constitutional requirements apply to states, but they can also apply to

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organizations that act under color of state law, that is, with a sufficient amount of state involvement that they are deemed to be the state itself. In this particular case in 1972, Judge Warren Urbom stated that because of the entwinement of public school officials in this organization, the organization itself was deemed to be acting as though it were the state of Nebraska. And if an organization is a state actor, acting as it were the state of Nebraska, then it is subject to all the requirements of the constitution, including the requirement that you cannot treat people differently, have different kind of requirements or representations of different groups of people unless there's some reason for doing so. For the NSAA we have six districts that cause students and schools within those districts to be treated very differently from one another, and I would assert that that's unlawful. It's interesting to note that the boundaries for those six districts were drawn, or established, in 1926. They've never been changed in 83 years. Well, certainly the population of the state has moved eastward during that period of time, and you're left with a kind of historical remnant of a district of what it once looked like. [LR121]

SENATOR CORNETT: If, in fact, they are deemed a state actor, then they would have to comply by the open meeting laws, am I correct? [LR121]

JACK MAYFIELD: Not necessarily. [LR121]

SENATOR CORNETT: Okay. [LR121]

JACK MAYFIELD: The Open Meetings Act is a creation of state law, and so the state law can specify what kind of entities are subject to it. Right now, the state of Nebraska says that a public body is subject to the Open Meetings Act and has...includes a definition of what a public body is. It would be up to the Attorney General's Office, who enforces that act, to...if you...I had a conversation with a gentleman at the Attorney General's Office on this issue recently, and I said: Considering the fact that this entity is a state actor, does that influence your opinion about whether they are subject to this act or not? He said, well, it would certainly be a factor that we would have to look at. It is not

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a factor that they have looked at in the past, he said. [LR121]

SENATOR CORNETT: Thank you. [LR121]

SENATOR ADAMS: Other questions? Brad, did you have a question? [LR121]

SENATOR ASHFORD: Jack what constitutional provision is being violated? What U.S. constitutional provision is being violated by NSAA? [LR121]

JACK MAYFIELD: I would say the equal protection clause. [LR121]

SENATOR ASHFORD: How is it being violated? [LR121]

JACK MAYFIELD: By creating classifications. [LR121]

SENATOR ASHFORD: It's a nongovernmental entity. I mean, I can understand that they cannot discriminate against an athlete because of their race or color or...and I don't believe they're doing that. I mean, there's no allegation that they're doing that. The allegation essentially is process, isn't it? [LR121]

JACK MAYFIELD: Well... [LR121]

SENATOR ASHFORD: Isn't the point you're making is that there's a...it's really a due process issue. [LR121]

JACK MAYFIELD: No. [LR121]

SENATOR ASHFORD: What is...? [LR121]

JACK MAYFIELD: Do you want me to walk through the equal protection...? [LR121]

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SENATOR ASHFORD: No, don't walk...just let me ask this? [LR121]

JACK MAYFIELD: Okay. Okay. [LR121]

SENATOR ASHFORD: The constitutional provision that you deem being violated here is the equal protection clause. Can you just tell me, in a couple sentences, what aspect of the equal protection clause is being violated in this...by this group? [LR121]

JACK MAYFIELD: Okay. [LR121]

SENATOR ASHFORD: Go ahead. [LR121]

JACK MAYFIELD: Under the equal protection clause, you can't treat different groups of people differently from one another unless there's some legitimate governmental reason for doing so. You can treat people who are under 16 different than people who are older than 16, say: You don't get to have a driver's license; you do. There's a legitimate purpose for doing that. When you group Nebraska students into six categories, which causes them to be treated differently in terms of their representation by this organization, the amount of...you know, if I live in District II, I am one of 38,000 students represented on the board of control by Dr. Reznicek. If I live in District V, I'm one of 2,400 students represented on the board of control by Dr. Watkins. So... [LR121]

SENATOR ASHFORD: So it's a one-person-one-vote kind of thing? [LR121]

JACK MAYFIELD: Well, yes. It's vastly disproportional. And you can't create that kind of disproportionality unless there's some reason for doing so. And you said: Well, they're a private organization. They're a state actor, for constitutional purposes. [LR121]

SENATOR ASHFORD: ...well, for purposes of discrimination. But are they...but they

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can't...there are public school children...students who are...and this group administers programs for these public school students, therefore they cannot discriminate against a student or parent, based on the constitutional provisions. I understand that. They're a state actor as far as that goes, but what I'm trying to understand is...they're a 501(c)(3), is that what they are? [LR121]

JACK MAYFIELD: I understand...yes. [LR121]

SENATOR ASHFORD: They're a 501(c)(3) that provides structure to school activities. I'm just struggling with where in the constitution we're required to tell them that they have to structure their organization in any particular way. [LR121]

JACK MAYFIELD: Judge Warren Urbom answered that question. [LR121]

SENATOR ASHFORD: But that's not...he wasn't talking about structure or process; he was talking about other issues. [LR121]

JACK MAYFIELD: When he declared that they're a state actor, he made them subject to a broad range of constitutional requirements. [LR121]

SENATOR ASHFORD: Okay, I just don't read the case that way. And I'm not...you know, I think the point...we've heard this for three years now that there are citizens of this state that feel as if they're...they've not had access to the process, they have...they haven't been heard, that students in larger metropolitan areas are not represented. I think those are legitimate concerns that the group needs to respond to. I just...I wonder if there are constitutional issues beyond discrimination issues. [LR121]

JACK MAYFIELD: Fair enough. I guess my response to that would be whether we look at it as a legal issue or just a question of policy, the point is: Do we want to have such vast variations in the representation in this organization? I'm just... [LR121]

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SENATOR ASHFORD: Right, and that's a different question, isn't it? [LR121]

JACK MAYFIELD: Right. [LR121]

SENATOR ASHFORD: I mean that's not really a constitutional question, that's a policy question. [LR121]

JACK MAYFIELD: No, that's fine. [LR121]

JACK MAYFIELD: And I don't mean necessarily to frame it strictly as a legal question, because I'm not contemplating legal action. Nor is anyone here. I'm just saying I think it crosses a threshold of fairness. I think it...personally, I think it crosses a threshold of fairness that is protected under the constitution. You may or may not disagree. [LR121]

SENATOR ASHFORD: I don't think Urbom said that. I don't think Urbom said that NSAA had to restructure their organization. [LR121]

JACK MAYFIELD: Okay. All right, but the bigger point is we're talking about whether a student in one district or a student in another district should have such tremendous deviations in the way that they're represented. [LR121]

SENATOR ASHFORD: And I get that point. [LR121]

JACK MAYFIELD: Yeah. Yeah. [LR121]

SENATOR ASHFORD: And that's a policy issue. [LR121]

JACK MAYFIELD: And I... [LR121]

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SENATOR ASHFORD: But I was searching for the constitutional issue. [LR121]

JACK MAYFIELD: Yeah, and you know, I don't need people to agree with me on that, honestly. That's not a big deal. The point is the extent to which there are huge deviations in the representation in this organization. Not everyone has a fair opportunity to participate in the governance of this organization. [LR121]

SENATOR ASHFORD: Thanks, Mr.... [LR121]

SENATOR ADAMS: Are there other questions? Seeing none, thank you, sir. [LR121]

JACK MAYFIELD: Thank you. [LR121]

SENATOR ADAMS: Next testifier. How many more people do we have to testify? We are approaching noon now. Two more? Okay. [LR121]

RON OSBORN: My name is Ron Osborn, O-s-b-o-r-n. I'm from Omaha. I'm deeply involved in high school softball. I came in front of you because of the movement of softball out to Hastings and what has happened since then. I feel that it has been diminished. I am...I asked some questions to the legal counsel at the Department of Education that I was amazed that the NSAA is under no control...the board of control is under no control of the Department of Education or the Legislature, because they were a 501(c)(3) and didn't have to answer to us. I just couldn't believe that. I've studied other cases, particularly Community for Equity v. Michigan, and a lot what he's talking about is "state actor." That organization was tied to the state, and they were sued, and there was a settlement. And you can...that's publicly available. I also know the attorneys from the National Women's Law Center that prosecuted--not prosecuted--that brought that case. And I'm in conversations with them on a regular basis about Nebraska and Title IX, which...we are the same people that...I helped recruit all 22 of the families that sued back...the school districts in Minden, Holdrege, Fremont, and North Platte. We still feel

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that they're a state actor, as he said, and that they're acting on your behalf with no control, legally or written down anywhere, either of the board of control or its...or the people that work in the office. There's no control over them by you or the DOE, according to the legal counsel from the DOE. I found that incredible. And I don't...I think you ought to look into it, and I would like to see them under control of either the DOE or the Legislature. [LR121]

SENATOR ADAMS: Questions for this testifier? Thank you, Mr. Osborn. Next testifier. [LR121]

JIM TENOPIR: My name is Jim Tenopir, T-e-n-o-p-i-r, and I am the executive director of the Nebraska School Activities Association. Senator Adams and members of the Education Committee, I'm just going to provide you a few factual issues with regard to the Nebraska School Activities Association, and I would be receptive to responding any questions that you might have. NSAA is a voluntary organization of the public, private, and parochial high schools and middle schools in Nebraska. And this year we are celebrating our 100th anniversary. The NSAA was formulated to make policies and to promote high ideals of citizenship, fair competition, sportsmanship, and teamwork. The NSAA exists to provide a procedure to enable schools to promote and govern interscholastic activities for their students. We are the entity that organizes and administers the state championships, and I would tell you one of those is going on as we speak: State cross-country is out in Kearney today. Schools participate in a democratic self-governance process to obtain the purposes of the association. Fundamental among all those rules are what we call eligibility rules--that students are able to participate--and those are based on domicile, age, scholastics, that sort of thing. One of the things that often is stated about the NSAA is that the board has wielded all this power in setting the rules and making the determination. The board does have authority, but all of our constitutional provisions, all of our bylaws have been promulgated and have been passed by our member schools. That comes through the schools. The NSAA is an association of member high schools, with each school being

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placed in one of six geographic districts, and each of those districts elect a board of control member. They also elect three district managing committee members. To qualify for membership on either the board or the district managing committee, our bylaws specify that the student must be...excuse me, the representative must be a person who holds a position within a member school that requires an administrative and supervisory certificate. And, you know, we've had some ongoing conversations with our board and our membership about the issue with regard to female and minority representation. I guess I could even extend that to the fact that about 12 percent of our membership is private school, and we do not have a private school representative on our board. Part of the concern about the lack of female and minority representation is exacerbated by the fact that when you take a look at the snapshot of pictures in the state of Nebraska and take a look at the number of females and minorities in high executive, administrative positions, or at least in the activities administration areas, that does limit the number of those individuals that could qualify under our current guidelines. Having said that, this is an issue that for four years we have visited about with our board. Our board has had discussions with regard to how to go about accommodating that. We, this last summer, did have a retreat in which we talked about representation, and at least twice since that time our board has made some discussions. And following our legislative process, this fall our board is at least prepared to try to do something to at least introduce that as an option. I realize the red light is on. I want to talk a little bit about our finances. NSAA is a 501(c)(3) not-for-profit association. We're funded principally through the gate receipts that are derived from district and state tournaments. We administer 19 athletic and 5 nonathletic activities. That budget goes toward administering those activities. In addition to that, we do...the budget takes into consideration the fixed costs, as any business would have, with regard to office and utilities and that sort of thing as well as salaries and benefits for the association's 13 staff members. NSAA funds are annually audited by a licensed CPA firm, and those annual audits are shared every year through our "Bulletin," our newsletter, with our membership. And I guess I would tell you that anyone who's got a computer with Internet access has access to those as well, because those always go onto our Web page. So I guess we share that not only with our membership

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but with the world. The audit for this past fiscal year was just completed. And at our October board meeting our board did hear the report from the auditor. The auditor reported to the board that 82 percent of our roughly \$3.5 million budget--82 percent of that went toward support of programs and services for schools and students; 18 percent of those funds were allocated for employee salaries, benefits, and related costs. And according to our auditor, those...that breakdown is very good for not-for-profit organizations and is excellent for similarly situated not-for-profit entities. [LR121]

SENATOR ADAMS: Jim, are you going to be able to sum up? [LR121]

JIM TENOPIR: I'm there. I guess I...the point I would make is high school activities are, in fact, in our estimation, educational activities. We believe that there is a need for us to be accountable to the instructional services that are provided within schools. And, for the most part, I think that we have been able to do that. I know that there's been a lot of pressures to overemphasize in some of those areas. I believe that our association and our member schools have tried to maintain that line. So, Senator Adams, I guess... [LR121]

SENATOR ADAMS: Thank you. Are there questions? Senator Avery. [LR121]

SENATOR AVERY: Thank you, Mr. Chair. You mentioned that your sources of money come primarily from gate receipts. Do you have other sources of income? [LR121]

JIM TENOPIR: The lion's share of our money comes from receipts for...the people pay to come into state and district championships. Our members pay a \$40-per-year membership fee. In addition to that, there is a \$55-per-activity fee that members pay. In other words, if...I'm a longtime school administrator, serving a number of years as an activities director, 18 years as a superintendent. If, for instance, our school was going to sponsor football, basketball, and track, as an example, we would be required to pay \$55 for each of those activities. In exchange for those \$55...a \$55 fee, every school receives

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rule books from the national federation, manuals, and other publications that enable the school to be able to sponsor that activity. That \$55 does not cost...does not cover the cost of the materials that are provided for that. In addition, we have a limited number of what we call corporate partners, who provide funding in exchange for promotional opportunities. We've got...for instance, U.S. Bank is our premier corporate partner. And they, in fact, sponsor what we call our Believers and Achievers program, which is a student recognition program that focuses on students, and it's based upon academic achievement, participation in activities, school leadership, and community service. We've got three or four other corporate partners that contribute in that. Otherwise, there are just some other minor, limited funds--sale of T-shirts, for instance, at state championships, those kinds of things. We register the game officials; there is a limited amount of net funding above and beyond what it costs us for those...for the officials to be able to participate there. We are not a taxing entity. We do not have the capability of levying a tax. We receive no state funds; we receive no federal funds...in any form of state aid or grants or anything along that line. So basically, we are, for all practical purposes, we're beholden to Mother Nature, and this fall hasn't been real good with us collecting funds, because of weather at our state championships. [LR121]

SENATOR AVERY: But would admit that perhaps some of the fees that schools pay for membership and activities would come out of the state aid money? [LR121]

JIM TENOPIR: You know, that is a distinct possibility. As an activities director and as a school superintendent, our fees never came from that. They came through our activities fund. And, with the exception of coaching salaries and some transportation costs, I've never been in a school setting where tax dollars were allocated for any of the activities program. I'm not going to say we don't have schools that may out of their general fund pay that \$40 fee. An analogy that I have made, and I've been told I'm wrong with it, but I see it not a whole lot different than if I were the local Ace Hardware store owner, where a school administrator would come down and buy a screwdriver from me and use monies that were collected from state funds. The question is, are those tax funds that

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that hardware store is receiving? I believe that with us not having the ability to levy a tax, I question whether you can say that we are a tax-supported entity. [LR121]

SENATOR AVERY: But you do admit that you might have some... [LR121]

JIM TENOPIR: There is the potential, and I don't have firsthand knowledge, but there is the potential that someone might have used monies that they collected through property taxes to cover their \$40 membership fee or their \$55 registration fee. [LR121]

SENATOR AVERY: Is it your contention that you are not a public body and therefore you do not have to be...have to submit to the open meetings law and the public records act? [LR121]

JIM TENOPIR: I would tell you that our legal counsel has indicated that we are not subject to that, but our open meetings law we comply in most every regard, with regard to the open meetings law, because of the fact that much of the information that we have includes private schools. We have resisted the public record act providing information in that regard. [LR121]

SENATOR AVERY: Well, private schools are voluntary members of your organization, and if you abided by the public records act, they would have the choice of choosing not to participate if they didn't want their records public, wouldn't they? [LR121]

JIM TENOPIR: That is correct, but so would public schools. [LR121]

SENATOR AVERY: Are you familiar with the definition of "public bodies," defined in Nebraska statute? [LR121]

JIM TENOPIR: Yes, I am. [LR121]

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SENATOR AVERY: You know that in 1989 the Legislature amended the definition of "public body" to include instrumentalities exercising essentially public functions?
[LR121]

JIM TENOPIR: Yes, sir. [LR121]

SENATOR AVERY: Do you think that there might be an argument that the NSAA is one of these instrumentalities? [LR121]

JIM TENOPIR: We have generally operated as though we were a state actor. I believe that, because of some of the issues that we deal with, I believe that there are times where that, in fact, is the case. [LR121]

SENATOR AVERY: I want to address a little bit the fact that you have so few women in your governing structure. You mentioned that one of the reasons might be qualifications to participate in governance. What...? [LR121]

JIM TENOPIR: I think that has a lot to do with it, Senator. [LR121]

SENATOR AVERY: Are you saying women aren't qualified for management? [LR121]

JIM TENOPIR: I'm not saying that, but when you take a look...we are a microcosm of the larger educational system. When you take a look at the schools across the state of Nebraska, back 100 years ago when the NSAA was founded, we were principally a superintendent-driven organization. The individuals who came to those meetings, who voted on the constitutional and bylaw provisions were, in fact, for all practical purposes, superintendents and in some cases their designees. Through time, we have...my gray hair tells you I've been at this for just a little bit of time. Through time, I've seen kind of a shift away from almost entirely superintendents to, in many cases, principals. And in some locales now, athletic administrators have been granted the, or have been

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assigned, the responsibility to be the liaison between a member school and the Nebraska School Activities Association. If you take a look at the state of Nebraska, we have, thankfully, more women superintendents than we did when I became a superintendent some 25-30 years ago. But still, if you take a look at that, we...50 percent of our population are female; we're nowhere near 50 percent of our population in the superintendents' ranks being female. I would have to tell you that that's probably a very similar mix with regard to the number of females in this state who are athletic or activities administrators as well. Those positions are filled in many of our member schools by males. I guess that's not unlike the Nebraska Legislature. We've got 50 percent, or close to it, that are females, but we don't have 25 of our state senators that are females. We recognize that that is a shortcoming, and that's one of the things that four years ago we began talking about: How will we go about doing that? We've got a problem with our legislative process in that each school has one vote, and when we have more schools that have a three-grade enrollment of under 100 students than we do those over 100, if there is a perception that the larger (sic)[?] schools are going to be benefited by a particular rule or bylaw at the exclusion of the larger schools, we pretty well know how that's going to go. And so our board has been taking a look at how that might be accomplished, to where we might be able to rectify some issues in that regard. [LR121]

SENATOR AVERY: Let me ask you another question dealing with representation. What is the rationale for requiring that people who are candidates for these administrative positions or management positions, board of control or whatever level you're talking about--what is the reason for requiring that they have an administrative or a supervisory certificate? [LR121]

JIM TENOPIR: Well, you know, the question was asked, I believe over here, about the number of board members who have anything other than athletic background. My background was athletics, but I would go on the line with anyone as a school superintendent. I probably was a larger advocate for the nonathletic activities than I was

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for the athletic activities. There are those...if you just open that up and say we're going to bring a coach in, for instance, to be a board member, I believe that we've got less of a global view of what transpires. Now, I would... [LR121]

SENATOR AVERY: Well, what about a female English teacher? [LR121]

JACK TENOPIR: What about an English teacher? [LR121]

SENATOR AVERY: Well, I mean, that would seem to me to be an excellent addition to your board of control. [LR121]

JIM TENOPIR: Yeah, I think, once again, where you have the people who come to that...each school designates an individual to be their person that votes. And if, in fact, an English teacher were to come without any background in activities, my strong guess is that individual is going to have a difficult time being elected to the board, simply because each of our member schools try to take a look at who could best serve in that position, that will represent not only their particular school but every one of the 24 activities that we have as an offering for our member schools. And so, you know, I know a lot of the states require that they be administrators. This is one of those...one of the things, as a school administrator, that I always hated to hear from a teacher is: Well, that's the way we've always done it. But I'm going to tell you, that's the way we've always done it. [LR121]

SENATOR AVERY: That is the one big rule of politics: We've never done it that way; we've always done it this way. [LR121]

JIM TENOPIR: Yeah, so...but having said that, I guess from my perspective, if you're going to open it up to just anyone, you're more apt...if you've got someone who has come up through the ranks and has had to make the decisions, not only in the athletic arena, and not only in the nonathletic arena, but overall, probably has got a greater

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breadth of being able to take a look at a situation...and taking a look at what is in the best interest of schools and in the best interest of the students that they represent. And so I'm not hung up on the fact that they ought to be or ought not be a school administrator, but that would be my best guess, that those persons within a school would be best able to take a look at the big picture and make that particular determination. [LR121]

SENATOR AVERY: Would you agree that we have identified some areas where your organization needs to take a serious look at reform? [LR121]

JIM TENOPIR: I would say that you probably have zeroed in on some after we have. Four years ago at our representative assembly, I brought the issue with regard to representation, and I brought the issue of not only male-female, minority, ethnicity but also private school. And those are issues that our board is working on. And I guess, yeah, I'd have to agree that the spotlight has been focused on an area that we probably need to ratchet up those concerns. [LR121]

SENATOR AVERY: So you are admitting here in public forum that governance is a problem in the NSAA and this is not the number one objective of your organization to defend it as it is? [LR121]

JIM TENOPIR: I guess I would tell you that, and I would also ask you: Is governance exactly as it should be in the Nebraska Legislature? [LR121]

SENATOR AVERY: Absolutely. [LR121]

JIM TENOPIR: It is. Well, (laughter) I guess maybe we differ on that a little bit, Senator. [LR121]

SENATOR ADAMS: We're running out of...we've really gone beyond time, and I know

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you still have one more testifier to go. [LR121]

JIM TENOPIR: Well... [LR121]

SENATOR ADAMS: No? [LR121]

JIM TENOPIR: Our other testifier was here--it's our legal counsel, and he was going to testify to our legal ability to exist under statute and whatnot. If you want to hear that--otherwise he is willing to step down on that. [LR121]

SENATOR ADAMS: Okay. Are there...? Yes, Senator Cornett. [LR121]

SENATOR CORNETT: Yes, I just have a couple of questions. When you say that the member school elects the representative to...how is that election process? Is...does the whole school vote? I mean, the...not the students, obviously. [LR121]

JIM TENOPIR: The...our association is divided into six geographic districts. [LR121]

SENATOR CORNETT: I understand that. [LR121]

JIM TENOPIR: And each school is placed in one of those six geographic districts. The administrative head of each of those schools determines who that school's representative is going to be. [LR121]

SENATOR CORNETT: So the school administrator or the school principal? [LR121]

JIM TENOPIR: Well, it would...in many schools it differs and it's probably based upon size of school. If you take a look at the Omaha Public School, that's probably the principal that makes that determination, because he's there in that school. In a smaller school--you take a Class C school, for instance--it's probably the superintendent who

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makes the determination who that representative is going to be from that school that's going to represent that school at the district meeting. And each of the districts are autonomous in making a determination how they're going to run their elections. But typically there is some sort of a competitive election where candidates are nominated, and in some districts they get up and make a speech and indicate what their objectives are, and others--they just take that ballot. And then the individual from each of those schools, with each school having one vote, votes on who that board member is going to be, and it is a majority vote. [LR121]

SENATOR CORNETT: A majority vote of the... [LR121]

JIM TENOPIR: [LR121]

SENATOR CORNETT: They are the ones that vote on the person that... [LR121]

JIM TENOPIR: They're the ones that vote on the District I representative. [LR121]

SENATOR CORNETT: And the school...you can take anyone that's a school principal also, correct? Or... [LR121]

JIM TENOPIR: I'm sorry. [LR121]

SENATOR CORNETT: ...to your board. They could be a school principal, an administrator... [LR121]

JIM TENOPIR: It could be any individual who...you mean who runs for the office? [LR121]

SENATOR CORNETT: Yes. [LR121]

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JIM TENOPIR: It only requires to be an administrator that has an administrative and supervisory certificate. They have to have a position in the school that requires an administrative and supervisory certificate. [LR121]

SENATOR CORNETT: I don't know about in the western part of the state, but in the eastern part of the state that's got to be more than 6 percent female representation, correct? [LR121]

JIM TENOPIR: Um... [LR121]

SENATOR CORNETT: I could just look at my own school district and see multiple female principals and people that are in administration. [LR121]

JIM TENOPIR: It...all it has to be...for instance, if--I don't know what school district you're in, but let's say Millard North. If you're in Millard North, Millard North makes a determination who they would like to have as that representative. And the...obviously, there has to be an interest for people to run. I can think of a female assistant principal that I served with that had absolutely no interest in any sort of activities. So you've got to have someone that's got the interest to serve. Our board members spend an inordinate amount of time with not only attending the monthly board meetings, but there are several committee meetings; there's attendance at all of the state championships and those sorts of things. You're right. I mean, there are females who might be available, but when we go to a district meeting I would say that we have no more than a handful of representatives from member schools who are female who come to those meetings--and in some districts none whatsoever. [LR121]

SENATOR CORNETT: I had a number of questions, but I'm just going to narrow it down because of time. I'm going to have one. In the four years that you have recognized there is a problem, what have you done to rectify the problem, and where are you at in rectifying that problem? [LR121]

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JIM TENOPIR: There is a, I'm told, a legislative proposal that is forthcoming here in November to our legislative process. You need to understand that I do not have the capability to introduce a legislative proposal; that's got to come from a member school. And I met with representatives of two of the larger school districts in the state on Tuesday, I believe, of this week. And their intent is to have one. Our board indicated that, from their perspective, that if something did not come forward in November that their intent was to appoint what would be called a liaison, a female and a minority from...one from District I and one from District II. We presently have a liaison with the Nebraska Department of Education that was board-appointed. That person is an ex officio member, does not have voting rights. I don't know whether it's wearing down their resistance or whatever, but the board felt like if they had those in place and saw that that was not a threatening situation, many of the schools, particularly the larger schools, may be more receptive to electing them as a full-blown voting member of the board. [LR121]

SENATOR CORNETT: And just one quick comment. You would be receiving public funds from at least the Bellevue School District. They charge no activity fees. [LR121]

SENATOR ADAMS: Any last questions? [LR121]

SENATOR AVERY: Well, I've got a bunch, but in the interest time... [LR121]

SENATOR ADAMS: Thank you. [LR121]

SENATOR AVERY: ...I will refrain. [LR121]

SENATOR ADAMS: Thank you. Thank you then, Mr. Tenopir. It is...someone else still wants to testify? Can you make it before...by 12:30? Thank you, Jim. [LR121]

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SAM BROWER: What? Three minutes. [LR121]

SENATOR ADAMS: Three minutes. Three minutes. [LR121]

SAM BROWER: I'm Sam Brower, B-r-o-w-e-r. I have no personal dog in this fight. We've had three kids that have benefited from participating in intercollegiate (sic)[?] athletics and plays and things that NSAA sponsored, but I, too, like Mr. Mayfield, have become interested in the structural issues. And I just wanted to address the question that was being discussed by Mr. Mayfield and Mr. Ashford but then let go when Dr. Tenopir spoke, and that was addressing the issue of a disparity in representation. I don't want the impression to be left that that occurs just by happenstance. The history of this organization was that it was an adjunct or tied to the State Education Association. In fact, their elections occurred simultaneously. And the NSAA has in its constitution and has had since it was founded the 100 years ago that has been spoken about, a provision that mirrored the NSEA, where it said the districts shall be readjusted on account of changes in membership. That was passed and specifically inserted into this organization's articles of incorporation in 1935. It was restated in 1950. But as Dr. Tenopir has stated, and it's correct, they ignored that. So this isn't just happenstance; this is their own failure to follow their own rules. And today you can look at the NSEA representation, and they have many more people than we obviously have involved with the NSAA. And that redistricting concept that you encounter in the Legislature, in our congressional districts, in every facet of our elective process in Nebraska has worked well. But they did not follow the rules. And in 1978 they changed the rule and said: Everything stays put as it was in 1978. So instead of being able to equitably deal with the transfer of population, they specifically inserted a provision in their constitution that froze everything as it was in 1978. That was affirmative action. In 1997 a group of people who wanted to readjust the six districts so that every...the schools in each district were even. That was taken through the process that Dr. Tenopir mentions, and it was soundly defeated by Class D districts. They are in control, and they wish to stay there. And what Mr. Tenopir I believe was plainly stating is he is unable to fix that. The Class

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D schools call the shots, and in answer to Mr. Ashford's question, the reason this is important...it has a racial context, because 95 percent of the black, minority kids in this state are in the Districts I and II that Mr. Mayfield was speaking about--84 percent in one district. [LR121]

SENATOR ADAMS: Sir, you're out of time now. [LR121]

SAM BROWER: I know. [LR121]

SENATOR ADAMS: And we're out of time for this hearing as well. Are there any quick questions for this testifier? Thank you then. [LR121]

SAM BROWER: Thank you. [LR121]

SENATOR ADAMS: That will end the hearings for today. [LR121]