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Transcriber's Office

Education Committee
February 09, 2010

[LB962 LB1006 LB1021]

The Committee on Education met at 1:30 p.m. on Tuesday, February 9, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1021, LB962, and LB1006. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Brad Ashford; Bill Avery; Abbie Cornett; Robert Giese; Ken Haar; and Kate Sullivan. Senators absent: none.

SENATOR ADAMS: (Recorder malfunction) ...so we'll...it hasn't been quite that bad, we'll just take a deep breath here and we'll start in with the hearings for today. We're going to be hearing three bills today: LB1021 introduced by Senator Avery; LB962 by Senator Council; and the last bill of the day will be LB1006 that I'll be introducing. The Rules of the Road here, first of all, be sure that you turn off your cell phones so that they don't interrupt the testifiers or anyone in the room's ability to hear what the testifier is having to say today. As we move through these particular bills, there will be, of course, proponent testimony, opponent, and then neutral testimony. And any of you who wish to testify, I would ask that you first go back by the doors, there are testifier registration forms and have them filled out before you come up here. It looks as though we're going to have a lot of testimony today on these three bills and a long afternoon and it really inhibits our ability if you come up, haven't filled one out, we have to wait for you to fill one out. So please, if you would, be ready to go when you get here. Spell your name for the record to get things started so that we get that and give your registration sheet to Becki Collins, our committee clerk for today. Next to her will be Senator Ashford from Omaha; Senator Giese from South Sioux City is here; Senator Cornett from Bellevue. To my immediate right is Kris Valentin, the research analyst for the Education Committee. I'm Greg Adams representing District 24; next to me in a moment will be Senator Howard, the Vice Chair of the committee from Omaha; next to her Senator Kate Sullivan from Cedar Rapids; Senator Avery from Lincoln; Senator Haar from the Malcolm area will make up our committee today. May I see on this first bill, LB1021, how many testifiers whether neutral, proponent, or opponent we're looking at today? All right. In which case, we're going to go with the lights, we always do but I'm going to limit it to three minutes instead of five. We have a lot to do today. So with that, Senator Avery, you're up.

SENATOR AVERY: (Exhibit 1) Thank you, Chairman Adams. My name is Bill Avery, B-i-l-l A-v-e-r-y. I represent District 28 here in Lincoln. I am here to introduce LB1021, the High School Activities Association Act. This is an entirely new act aimed at providing oversight for the administration and management of high school sports and activities in the state of Nebraska. Last year, nearly 78,000 of Nebraska's public and private high-school-aged students participated in extracurricular activities. It is my belief that it's imperative that the Legislature establish some statutory oversight of the NSAA in order to promote fair representation of students in schools as well as more transparency and accountability. I'll come back to these in a minute. A little bit about how I came to be

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interested in this issue. Originally I came to this issue because of concerns expressed by some of my constituents regarding rules governing participation in swimming and diving. I also heard numerous accounts of mismanaged events such as: golf tournaments, forfeited football games, inconsistent rule enforcement, closed meetings, lack of public access to NSAA records. It is for these reasons that I introduced a legislative resolution, LR121, calling for an interim study to examine the governing structure of the NSAA. My office was actively involved in conducting that study over the interim and it resulted in the bill that is before you today. The bill is, as you will see, is cosponsored by Senator Kathy Campbell of Lincoln and Senator Kent Rogert of Tekamah. What we discovered in the course of that interim study is an old boys club...I think that's about the only way to put it or the best way to put it, an old boys club dating back 100 years that essentially has an iron grip on the governance of the NSAA. I think it's important to note that I am in no way proposing specific rule changes or policies with respect to specific sports or activities. I am not endorsing any specific changes to championship venues. Many people who have opposed this bill have suggested their ulterior motives...I'm not campaigning to dismantle the NSAA. We need the organization. I am not trying to exclude private or parochial schools from participating in organized sports as has been charged. In fact, my objectives here are to improve the governance of the organization because I believe that if you do that, a lot of these other problems will probably be resolved. I'm bringing this bill forward to propose statutory recognition and reorganization of an independent and unregulated entity that constructs and enforces public policy on our state's high school students. LB1021 would make any entity or organization that has a majority of schools in the state as members and whose primary purpose is the administration, management, and enforcement of activities in sports subject to the laws of this act. Opponents of the bill will argue that the NSAA, that, by the way, is the only organization that would fall within the language of this act, that it holds a 501(c)(3) and, therefore, they are tax exempt and that they should not be subject to state scrutiny and they should not come under any state regulation. I can tell you that there is precedent in state statute already where the state has oversight of tax exempt organizations. Wyuka Cemetery Association here in Lincoln is recognized by Nebraska statute as a charitable organization, but its trustees are appointed by the Governor and it is required to file a yearly statement with the Secretary of State. There's also authorizing language in statute under the Patient Safety Improvement Act to create independent, nonprofit patient safety organizations charged with carrying out the provisions of the act. In 1994, the Legislature recognized the Nebraska State Historical Society which formally was an independent institution. It was recognized as a state agency in statute because protecting the integrity of the historical artifacts was a vital interest to the state and structured statutory mechanisms replaced in law. In addition to existing precedent, it is my contention that the NSAA is a state actor, and this is based upon rulings of the Sixth Circuit Court of Appeals in a fairly significant case originating in Louisiana. To determine whether an entity is a state actor, courts must determine whether a sufficiently close connection exists between the state and the challenged action. This is critical. In the Sixth Circuit, they found in a case involving the Louisiana

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High School Activities Association v. St. Augustine High School in New Orleans that several conditions led to the determination that the Louisiana School Athletic Association did, in fact, hold an extremely close nexus with the state of Louisiana and as a result was a state actor. Among the conditions that the Louisiana organization possessed or existed in that case that determined that the organization was a state actor involved the association's membership consisted primarily of public schools. Same thing with the NSAA. The association's leadership was composed of public school employees who were state paid and state supervised and played a substantial role in determining and enforcing polices and regulations. Same thing with the NSAA. They also found that the association's funds came largely from public athletic events. Same thing with the NSAA. The majority of which are held on state-owned and state-supplied facilities. The association's employees were covered by the state retirement system and the association's rules and regulations bound all public schools. You see where I'm going. You cannot avoid making the comparisons to the NSAA. I would, in fact, go a step farther and I have made this contention on the record before and that has to do with Nebraska state aid dollars, taxpayer money. These monies do go to the NSAA in the form of membership and participation dues and I think, therefore, we have a legitimate interest in oversight of the administration of the NSAA. Again, this is not a takeover. This is modest regulation that would require the NSAA to reorganize its operation so as to better serve the state. As a steward of state dollars, it is important that fiscal oversight and involvement in the Board of Control proceedings take place. The permanent membership of the Commissioner of Education as a voting member, I think, would be a good step. I think it's also not a bad idea, and this is proposed in the bill, that the Speaker of the Legislature or his or her designee should be an ex officio member of the governing board. The current makeup of the Board of Control--and that is the name they use, Board of Control, not board of directors, not management committee, Board of Control--is six voting members. An even number of members ensures that in the event of a deadlock, inaction prevails. It would make more sense to have a seventh vote and that's where the Commissioner of Education would come into play. The State Board of Education members and legislative members come from all corners of the state. It would not be burdensome for the Board of Control meetings to be held in various venues to give more people access to their meetings. As a state actor, the NSAA should be required to comply with Nebraska's open meetings and open records laws; right now they do not. This is not an unreasonable request. The NSAA argues that they are an association of member schools only and, therefore, this does not allow for nonmembers into their Board of Control meetings. This is somewhat like saying, well, I'm a legislator representing District 28 but not the constituents in it. By requiring compliance with open meetings and records, transparency would provide greater accountability, something that the NSAA does not currently have and it seems to me that it needs to occur. The NSAA would have the opportunity to conduct closed executive sessions as provided in Nebraska statutes, that would not be affected. In the 100 years of the NSAA--it goes back to 1910--the organization has never had, let me repeat, they have never had a minority or a female member of the Board of Control.

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Currently, 100 of the 117 members of the NSAA governing structure are men. The ethnic minority representation, we can't really determine that but we don't have any evidence that there has ever been any ethnic minority representation. The interest of the state, it seems to me, compels the Legislature to act. Never having a woman serve as a member of the governing counsel or the Board of Control despite the fact that 40 percent of all student athletes in the state of Nebraska are women--40 percent. It seems to me this is not an unreasonable request. Federal law does not allow us to mandate minority representation but we can certainly encourage it and try to promote it to the extent possible, and that is one of the objectives of this legislation. Currently, all members of the NSAA's executive and management boards must hold an administrative certificate. Why is that? Why can't a high school teacher or a drama teacher hold a position in the governance structure of the organization? Are they less able to do a good job? Do you have to have an administrative certificate? I think membership in the association, I think leadership in the association should be open to all teachers interested in the purposes of the association. So that is in this proposal as well. The bill requires an interested teacher who only holds a valid teaching certificate in a member school to participate as a candidate for any of these positions. This is also not unreasonable and it could promote diversity. There is another inequity and this is perhaps the greatest one, and that is evidenced in the lopsided districts that currently exist. Let me have the page come and distribute this for me. It's a handout that shows you a map of the state of Nebraska and the six districts; it shows you the lines for those six districts. What is interesting is that these district lines were drawn in 1926 and they haven't been changed since 1926. And the lines...the districts were drawn to reflect the same district lines as the Nebraska State Education Association, and those lines were originally drawn to allow for representatives to have easy access to railroads so they could get to Lincoln for meetings. That's the reason for these lines. Now, what's wrong with that? Well, if you look at District II, District II has 87 schools and 38,000, almost 39,000 students. Then you go out to District V, 24 schools and under 2,400 students yet each one of the members of the Board of Control representing these six districts has the same voting power in the Board of Control. So if Lincoln or Omaha, where most of the students are, wants to do something that the rest of the state does not want to do, it doesn't happen. Maybe that's why some changes haven't been made. We took a look at the Nebraska Educational Directory from 1929 to 1930, went over to the Historical Society and took a look at it--this was three years after they drew these lines--and we found that the whole state had just over 55,000 students but they had 7,000 school districts. Now, why did I bring this up? We have 253 school districts today and far, far more students. Things have changed but the NSAA has not. It needs to. I propose that the High School Athletic Association redraw their district lines every ten years following the U.S. Census to better reflect and more fairly reflect the participation population of the state. And you'll see in there, too, that each district would have to be within a 5 percent margin of equality, above or below. This would provide for proportional representation, that's the foundation of our governing philosophy here in this country. And I'd also like to touch, for just a minute, on the importance of creating independent

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bodies of adjudication within the NSAA. College scholarships are on the line when it comes to eligibility. NSAA has a lot to say about eligibility. A time when the cost of entering a competitive college is off the charts, parents have an intrinsic interest when their child's actions are reviewed with respect to eligibility, compliance with regulations or a financial hardship waivers. So we are setting up in this proposed legislation an appeal process that would for the first time put into law, into the procedures in governance, rules of the NSAA some procedures for consistent fair play and allowing families and athletes to appeal decisions. Finally, it is of some interest to note that the NSAA appears to be attempting to make internal changes as we speak, and they are looking at some of the things being proposed in LB1021 for ideas. Okay. Well, where were you ten years ago? Twenty years ago? Forty years ago? Fifty years ago? Too little, too late. During the interim study testimony this summer, the NSAA stated that it has known for a long time about these inequity problems in representation and that they have been trying to make some adjustments but they haven't done it. If you kill this bill, you can be sure that the NSAA will go right back to doing business as usual. The provisions of LB1021 may not be perfect but it is at least a good start toward bringing some rational fairness and accountability to this organization. I would ask you to advance this. It is the product of a lot of hard work in my office and involving some work, too, by committee staff. I appreciate the opportunity to present this bill. I know I went a little bit long but the issues are broad and they're important. Thank you. [LB1021]

SENATOR ADAMS: Thank you, Senator Avery. Are there questions for Senator Avery to get things going here? Senator Sullivan. [LB1021]

SENATOR SULLIVAN: Thank you, Senator Adams. Thank you, Senator Avery. A couple of questions. You make mention of and build the case for the NSAA to be a state actor and you make comparisons with Wyuka and the State Historical Society. Forgive my ignorance, but do we have in statute guidelines that govern Wyuka and State Historical Society similar to what you've drafted here? [LB1021]

SENATOR AVERY: I only included those two examples to show that it's not unprecedented for the state to be involved in the construction of private entities and having some regulation over them. Do the two or three examples that I gave have the same kind of explicit detailed statutory regulations I'm proposing? I don't think they do. But the Wyuka Cemetery Board, all of its members are subject to appointment by the Governor and I believe confirmation by the Legislature. [LB1021]

SENATOR SULLIVAN: And also in your legislation you identify the Speaker of the Legislature as being an ex officio member of... [LB1021]

SENATOR AVERY: Or his or her designee. My guess is that the Speaker would probably ask somebody, perhaps somebody in Lincoln to serve as a... [LB1021]

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SENATOR SULLIVAN: And, again, does that happen with other groups as well? Do you know? I haven't been around here long enough to know that for sure. [LB1021]

SENATOR AVERY: No, I don't know if it does, Senator, but I do know that other states have done it this way. We did an exhaustive research of what other states do and this is not uncommon. What I'm proposing here is not uncommon at all in other states. [LB1021]

SENATOR SULLIVAN: Because of the detail of your proposed legislation, do you think there's a potential for us to be revisiting this on a regular basis? [LB1021]

SENATOR AVERY: No. I do think it's possible we might need to fine tune it at some point in the future, maybe next year after we've seen how it works for a year. I have heard some discussion that the appeal process set up in this legislation might need some work. I'm open to good ideas. I'm not rigid on this. I do think, though, that there are some important issues at stake in terms of fairness and representation and getting more diversity on the board. [LB1021]

SENATOR SULLIVAN: And with respect to that representation and the district lines, maybe someone that's coming forward may have more background as to the purpose behind how those district lines were configured in the first place and what the intent was. Was it really equal student representation or were there other things in mind when those district lines were drawn? [LB1021]

SENATOR AVERY: Actually it was a fairly practical and straightforward transportation issue. Getting the district lines drawn in such a way that you had ready access to the rail system by most of the people in those districts, and so it was basically dictated by the railroad lines. That was what drove the NSEA to draw the lines as they did. They long ago changed theirs but the NSAA simply adopted the NSEA's lines and just haven't bothered to change them since 1926. [LB1021]

SENATOR SULLIVAN: Thank you. [LB1021]

SENATOR AVERY: And that, by the way, when we had 7,000 schools. Things have changed a lot since then. This organization needs to change too. [LB1021]

SENATOR ADAMS: Other questions? Senator Giese. [LB1021]

SENATOR GIESE: Thank you, Chairman Adams. Senator Avery, on the same lines dealing with the map and the equitable representation, so who is losing or winning in the way the map is drawn out now? Is western Nebraska getting too much of a say in what Omaha and Lincoln are... [LB1021]

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SENATOR AVERY: I think that is a very rational and reasonable conclusion, Senator. Now, what I am suggesting here is that the NSAA be required to redraw the lines, not tell them how to draw them. They can even keep six, but we thought that they probably needed to have a seventh voting member on the Board of Controls in order to break ties because right now they don't have a way to break ties as far as I know. Somebody can maybe later can answer that question but, yes, if you look at District V, you have 24 schools and under 2,400 students. They have the same vote as does District I with 52 schools and over 14,000 students. I think that the representation ought to be based upon students. It's not even based upon the number of schools, but yet the NSAA will tell you: but we are an association of member schools, not students. We don't represent students, we represent schools. Try to figure that out, will you? I can't. But the thing is that even there you get 61 schools in District IV; you have 27 in District VI; you have 60 in District III; you have 24 in District V; 52 in I; and 87 in District II. If you're looking at membership schools, it's still malapportioned. And if you look at student...the students represented, the malapportioned is more skewed. [LB1021]

SENATOR GIESE: But when it comes to their Board of Control, I mean, don't you see that as potentially a check on this group to have this representation? [LB1021]

SENATOR AVERY: The Board of Control is made up of one representative from each of these six districts... [LB1021]

SENATOR GIESE: Right, but... [LB1021]

SENATOR AVERY: ...and they all have the same voting power. [LB1021]

SENATOR GIESE: But under...and I don't know what you're advocating and what kind of map or how we would redistrict this but under that scenario, I mean, we could just draw a map in York and anything east of York is I and west of York is II, so you have two votes. [LB1021]

SENATOR AVERY: No, they would still...according to the bill they would still have six, still have six districts. You'd have to redraw the lines so that you get a better representation. I suspect that there would be a western district that would be rather large in terms of geographic size. [LB1021]

SENATOR GIESE: Thank you. [LB1021]

SENATOR ADAMS: Other question? Senator Avery, I have one quick one for you. Section 5 of the bill, aside from all the other things that you have done in this bill, the association shall work in consultation and cooperation with the department, i.e., the Department of Education, and the Legislature to formulate and implement public policy with respect to high school interscholastic eligibility and competition. What causes you

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to want to put the Legislature in the business of formulating public policy on high school eligibility and competition? [LB1021]

SENATOR AVERY: The Legislature's involvement would be only ex officio in the form of a person, it could be the Speaker but the Speaker would determine who that person would be; they would not have voting power, it would be advisory. They would know what was going on and it would be...that person would be our eyes and ears in the NSAA, no direct governing responsibility. [LB1021]

SENATOR ADAMS: Okay. Other questions? Seeing none, we will begin with proponents to the bill. And, remember, we're going to use the lights and go three minutes. [LB1021]

SENATOR AVERY: Thank you, Mr. Chair. [LB1021]

SENATOR ADAMS: You're welcome. First proponent. [LB1021]

JACK MAYFIELD: Is there going to be a warning light? [LB1021]

SENATOR ADAMS: That yellow light will tell you when you've got a minute left. [LB1021]

JACK MAYFIELD: A minute. [LB1021]

SENATOR ADAMS: Yeah. [LB1021]

JACK MAYFIELD: All right. Page, I have some materials. [LB1021]

SENATOR ADAMS: Did we get the registration? There we go. Welcome. [LB1021]

JACK MAYFIELD: (Exhibit 2) Good afternoon. My name is Jack Mayfield, M-a-y-f-i-e-l-d. I'm here to speak on behalf of and in support of LB1021. Proportional representation, openness, accountability, public audit, oversight, and independent review system, term limits, those are the basic components of good government. Nebraskans support those concepts. LB1021 would incorporate those basic principles of good governance into the NSAA. It's hard for me to imagine why anyone conceptually would oppose that, especially as it pertains to our young people. I know that one of the principle arguments--and Senator Avery has touched on this--is that we are not an organization of students; we're an organization of schools, therefore, we have no obligation to fairly represent students. And I think that's really the public policy question facing this committee. How do you want to administer interscholastic activities in this state? Do you want to count schools or do you want to count students? If we count schools, we have to realize that 50 percent of the schools in this state, in the aggregate,

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represent only 13 percent of the student's population--50 percent of the schools represent 13 percent of the student population in grades 9 through 11. Meanwhile, the 30 largest schools represent 50 percent of the population. What are we going to count, schools or students? I personally believe that every student who participates in interscholastic activities deserves a right of equal representation regardless of where he or she lives. Every student in Nebraska should be treated the same. Some legislators may ask, is it appropriate for us to delve into this arena? You're already there. You did a very nice job of discovering the problems in this situation in your interim study. Are you going to walk away from those problems? You know what they are. We all know what they are. We know why they exist. So now let's work on the solution, and you're not alone in fashioning a solution. What I've handed out to you is a 50-state survey of the 50 states of the United States. These organizations started out across our nation as voluntary organizations in every one of these 50 states, and little by little they've been reeled in because of the very problems we're having right here. If you look at the statutes that govern in other states, the controls that they're asserting over their private, nonprofit corporations that run interscholastic activities in the states, the very same list of problems come up. Open meetings. [LB1021]

SENATOR ADAMS: Sir, your red light is on, so I'm going to ask you to summarize. [LB1021]

JACK MAYFIELD: All right. I will summarize by saying you're not alone. Many other states have dealt with this, they've dealt with it very effectively, that's what we want here in Nebraska. Deal with this problem, it is a problem. Thank you. [LB1021]

SENATOR ADAMS: Thank you. Are there questions for this testifier? Senator Sullivan. [LB1021]

SENATOR SULLIVAN: In the way that other states have dealt with it, have they developed detailed legislation like this or have they approached it in different ways? [LB1021]

JACK MAYFIELD: There's a whole range of solutions but many have gone way beyond what this does. I would put this in the category of moderate. I mean, it's a substantial regulation of the NSAA, but in terms of sort of the range of options that are available, some states have...some activities associations are actually a product of statute, they are created by statute and regulated by statute. Others are incorporated into the Department of Education which must approve every rule that they make. Many states have very, very strenuous regulations governing every detail of what these organizations do. Why? Why is that? Because over time they saw exactly the same problems we're seeing here in Nebraska: lack of openness, lack of openness about their financial records, disproportionality. You know, we can...there's a whole range of solutions and the problems are very similar. [LB1021]

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SENATOR SULLIVAN: Thank you. [LB1021]

SENATOR ADAMS: Other questions for this testifier? Senator Giese. [LB1021]

SENATOR GIESE: Thank you, Chairman Adams. Mr. Mayfield, just briefly comment, would you, on...you mentioned student and equal representation. What does that mean and what... [LB1021]

JACK MAYFIELD: Well, I think the way I interpret LB1021, it would use as sort of the gross number that we're going to divide into districts, it's going to use those, the number of students who are participating in activities rather than total student population. Senator Avery can clarify that if that's not correct. That's how I read the bill. So then you would take that total number of students who are participating and you would divide them into six equal districts; therefore, every student who is participating in activities is going to be represented the same. Right now, a student in one district is represented in a very different manner than the student in another. A school in one district is represented in a very different manner than a school in another district at present. I think if we focus on fairness for the individual student, most Nebraskans would say, that's fair, that makes sense. [LB1021]

SENATOR GIESE: Thank you. [LB1021]

SENATOR ADAMS: Other question? Seeing none, thank you. [LB1021]

JACK MAYFIELD: Thank you. [LB1021]

SENATOR ADAMS: Next proponent. Welcome. [LB1021]

LISA McNEEL: (Exhibit 3) Good afternoon, senators. My name is Lisa McNeel, L-i-s-a M-c-N-e-e-l. Today I'd like to comment on the NSAA's response to concerns regarding adequate representation that were brought forth at the last public hearing. Currently, they are considering a constitution change that would add one additional Board of Control member from Districts I and II. While this sounds like a move in the right direction on the surface, in truth it falls far short of providing adequate representation for District II. If the proposal were to pass, District II would go from having one of six members to having two of eight Board of Control members. There are 38,000 students in grades 9 through 11 in District II. That is more than the other five districts combined. If passed, this reform measure would mean that the district that has 51 percent of the state's students would still only have 25 percent of the votes on the Board of Control. This is hardly a fair and balanced representation. In addition, the proposal does nothing to address the inequity at the NSAA representative assembly level. Currently, each district is allowed one representative assembly member for each 3,000 students and

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four members of their district managing committee. This creates an unbalance in favor of the smaller population districts such as V and VI as each district gets the additional four members from their managing committees. This skews any population-based representation and dilutes the voting power of the larger population school districts. There are also valid reasons to believe that, even as written, the proposal will not make it through the final two steps of the legislative process. In January, the six NSAA districts voted on the reform. To advance, it needed to be passed in at least three of the six districts. The proposal was defeated, not surprisingly, by the smaller student population districts of III, IV, and VI, by a combined vote of 116 to 2. It was passed in Districts I and II, the largest student population. The needed third vote to move the proposal along came from Dr. Tenopir's home district, District V, where it was approved by a 12 to 10 vote. District V has the smallest student population of any district in Nebraska. The next step is the representative assembly meeting to be held in April. There are a total of 49 delegates in the assembly, and based upon the voting at the January district meetings, it is reasonable to predict that the proposal will fall short of the 60 percent majority needed at this meeting to pass it on to the final phase. If, by chance, it does make it through the representative assembly, it will still have to pass a statewide referendum vote with a 60 percent majority. If all 311 Nebraska schools vote, it will take 187 schools to pass it. There are 139 schools in District I and II. Finally, change within the NSAA only seems to happen when our concerns are brought before you, the Senate Education Committee. I am asking that you give your support to LB1021, keeping in mind that the fate of this bill is likely to have a significant influence on the voting process within the NSAA, as delegates may be less motivated to support a reform proposal if LB1021 is not moved forward. I am here today to ask that you have the courage to act on the recommendations of members of this committee. Please give your support to LB1021. [LB1021]

SENATOR ADAMS: Thank you. Are there questions? Anyone? Senator Sullivan. [LB1021]

SENATOR SULLIVAN: Thank you, Senator Adams. Thank you, Ms. McNeel. In respect of how you feel that there is not adequate representation for the more populated areas, what do you feel have been some of the shortcomings of what you feel is your lack of representation on the Board of Control? [LB1021]

LISA McNEEL: Mainly it's just that it's not student-based. I just feel that, like my daughter who is in District I, does not have...her representative does not have the same...her voice is not heard the same as students out in the western districts where the student population is a lot less. [LB1021]

SENATOR SULLIVAN: Okay. Thank you. [LB1021]

SENATOR ADAMS: Other question? Thank you. Next proponent. [LB1021]

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JUSTIN BRADY: Senator Adams and members of the Education Committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist of Media of Nebraska which is a group of both the print media and the broadcasters. And their main issue with this bill is in support of the transparency and the open governance of the open meetings, the open records. As far as the governance and the district lines, they don't have an opinion on that but they do believe that the NSAA should be more transparent in their dealings. With that, I'd try to answer any questions. [LB1021]

SENATOR ADAMS: Are there questions for Justin? Anyone? Yes, Senator Sullivan. [LB1021]

SENATOR SULLIVAN: Sorry to keep asking questions. [LB1021]

SENATOR ADAMS: That's all right. [LB1021]

SENATOR SULLIVAN: But I guess I'd like some specific examples. [LB1021]

JUSTIN BRADY: I guess as it was relayed to me some of the issues that have come up when athletes have been told that they can't participate because of rules or regs that the NSAA did, as far as I understand it. If they belong or go play in a club sport, then that disqualifies them. Those meetings that were held to disqualify those athletes are closed, so the media would like access to that to be able to report why; what happened; of the six members, have they talked about the Board of Control; what was talked about; what was voted on; and how it was decided? That would be an example. I can get you a specific example of who those athletes were if you'd like, but that would... [LB1021]

SENATOR ADAMS: Other question? Thank you, Justin. [LB1021]

JUSTIN BRADY: Thank you. [LB1021]

SENATOR ADAMS: Next proponent. [LB1021]

LAURA HOLMES: Good afternoon, senators. My name is Laura Holmes, that's L-a-u-r-a H-o-l-m-e-s. Thank you for permitting me to speak to you regarding... [LB1021]

SENATOR ADAMS: Hold on just a second. [LB1021]

LAURA HOLMES: Okay. [LB1021]

SENATOR ADAMS: Do you have your registration sheet? [LB1021]

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LAURA HOLMES: Oh, I do. So sorry. [LB1021]

SENATOR ADAMS: Would you turn that into Becki before we give you the green light? [LB1021]

LAURA HOLMES: I thought it was in my pile. Okay. So sorry. [LB1021]

SENATOR ADAMS: Okay. [LB1021]

LAURA HOLMES: Are you ready? [LB1021]

SENATOR ADAMS: We're ready. [LB1021]

LAURA HOLMES: (Exhibit 4) Okay. Thank you for letting me talk to you about LB1021 this afternoon. I believe some on the committee are curious as to whether the NSAA or its member schools have denied the public access to information. I have been denied access to information repeatedly. The information I requested and could not obtain pertains to: concussion policies and procedures, historical data on the number of concussions sustained by athletes, general financial and attendance data regarding NSAA sanctioned events, and historical waiver data. My requests were either ignored or I was told that the NSAA did not share information with anyone other than member schools and if my member school did not wish to request the information, it would not be shared with me. My representative athletic director refused to request the information on my behalf because he did not understand why I was interested in the data. I was interested in waiver data because I believe Omaha area students are not adequately represented in the NSAA. Further, I believe the NSAA should be providing leadership roles in student safety issues such as concussion, and there should be a forum for public participation on such issues. I have two final points. First, I am appalled by the lack of minority or female representation within the NSAA and I find it unconscionable that any NSAA representative would allege that there are insufficient numbers of qualified female or minority school personnel to represent students from Omaha or Lincoln in a leadership capacity within the NSAA. Finally, I wish to comment regarding the financial audits conducted by the NSAA currently. The audited financial statements are published annually, and these documents are provided in the on-line publication issued by NSAA personnel. However, the information provided is general in nature and members of the public have no ability whatsoever to obtain any additional details regarding these statements. For example, members of the public should be able to attend meetings where financial information regarding the bids for holding statewide championships are evaluated and discussed. These details should be made public in the very same way that any citizen is free to attend school board meetings and obtain some level of understanding regarding the financial management of the district. I would add as an aside, based on what Senator Avery said, taxes are increasing; schools fund this group; students pay fees to participate and also for admission to the events. The

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public has no say in how these funds are spent. I would pose the following questions: Why is it necessary to have such a level of secrecy regarding high school activities? Why should any citizen or parent be discouraged from learning more about these programs? Why should a citizen or parent be denied access to meetings or historical data? Why can't parents and students participate in an advisory capacity, for example, a special advisory board that would work with the Board of Control or participate in some of the district-level meetings? Based on my experiences and concerns, I would respectfully ask you to support this bill and I would welcome any questions. Attached to my testimony were some copies of e-mails that are examples where my requests for data were either ignored or I was asked many questions about why I wanted, for example, waiver data. [LB1021]

SENATOR ADAMS: Okay. Are there questions for this testifier? Anyone? Thank you. [LB1021]

LAURA HOLMES: Thank you. [LB1021]

SENATOR ADAMS: Next proponent. [LB1021]

JACK JACKSON: (Exhibit 5) Good afternoon, senators. My name is Jack Jackson, J-a-c-k J-a-c-k-s-o-n, very easy. I'm here to speak on behalf of the students of Nebraska who are required to follow the rules by an organization that operates mainly to keep its governance intact. We've listened to testimony this afternoon from many concerned constituents. I have sat before this group over the last 18 years to achieve some measure of democratic action through the State Legislature, I might say unsuccessfully. Do you have to be a large organization with a lot of money to get the ear of the elected representatives? We're talking 18 years of being ignored. Senators, we have legitimate complaints. The interim study by Senator Avery testifies to that. The NSAA needs to be responsible for their actions. Don't let students have to wait 18 more years before this organization is to be accountable for their actions. Our youth are our future. Give the students their due. Thank you. [LB1021]

SENATOR ADAMS: Thank you, Mr. Jackson. Are there questions for this testifier? Thank you, sir. Next proponent. Anymore proponents? If not, then we'll begin with opposition testimony. [LB1021]

JIM TENOPIR: Good afternoon. My name is Jim Tenopir, T-e-n-o-p-i-r. Senator Adams and members of the Education Committee, I'm here this afternoon to speak in opposition to LB1021. LB1021 is a bill that is intended to, in my mind, drastically revamp the structure and the makeup of the Nebraska School Activities Association. As you heard Senator Avery say, we are a 100-year-old organization celebrating our 100th anniversary this year. I believe that the NSAA has done a good job in administering high school activities and it is strongly supported by our member schools. The NSAA exists

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to provide a procedure to enable schools to promote and govern interscholastic athletics for their students effectively, economically, and fairly while keeping those activities in the proper perspective academically. Rather than to passionately object to any of the provisions of LB1021, I will choose rather to explain what the NSAA has been doing and is scheduled to do to address some of the concerns that have been expressed by persons outside the association. Some of these are areas that our association certainly does have a need to change. There are some things that we have been working on for certainly longer than this legislation. This bill would require the NSAA to annually conduct a comprehensive audit of its financial accounts. This is currently being done, it has been done for a lot of years. An independent, certified auditing firm conducts an audit, comprehensive audit looking at our receipts, our expenditures, the policies and procedures that go into the fiscal situations with regard to the fiscal functions of the association. Once that audit is completed, that audit is shared with our governing board. The governing board then approves that report, and then it is printed in our bulletin. It is placed on our Web page. Anyone with an Internet connection has access to that. This bill would require compliance with the open meetings law and we have had some concerns in that area. Our board did at our last meeting pass on first reading a board policy to be fully compliant with the open meetings law. There are some components that we have to do to change on that. For instance, our district meetings where we have in excess of 50 schools. It makes it problematic in recording minutes and votes and that sort of thing, but our board is considering that on final reading next week. Representation is one of the issues and the stated intent of the bill is to compel the association to be representative both from an ethnic minority as well as a gender perspective. And one illustration that I would make, the bill states the only place where I can see that compelling come forward is with regard to our...with regard to the new level of governance that would be required with the appeals committees, and it calls for a representative from women's athletics. We have, as an example in the state of Nebraska, girls basketball in which our coaches are made up of 252 men coaching girls basketball as compared to 52 women, so just because there is a representative from girls athletics on there does not necessarily assure that that representation is intact. [LB1021]

SENATOR ADAMS: Dr. Tenopir, the red light is on, so if you want to make a quick summary statement, you can do that. [LB1021]

JIM TENOPIR: I guess from my perspective I certainly believe that there are some issues that we need to address, we have been addressing. I believe that our membership is certainly moving in that direction. I would oppose LB1021 and I would encourage you to do likewise. [LB1021]

SENATOR ADAMS: Thank you, Yes, Senator Ashford. [LB1021]

SENATOR ASHFORD: Jim, why can't you put some minorities and women on the

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board? [LB1021]

JIM TENOPIR: That's something that needs to happen, Senator. [LB1021]

SENATOR ASHFORD: I mean, wouldn't you think that would be a good idea? [LB1021]

JIM TENOPIR: By all means. And that's something that we're working toward. There's some skepticism about whether that's happening or not. When you have a vote of a membership, that's a bit problematic, but... [LB1021]

SENATOR ASHFORD: But you as a leader...you know, and I think some of it is really...is leadership. I mean, being able to say...I'm not suggesting you're not a leader, I'm just saying that to me it is...just because...and this is not a criticism of your organization necessarily and not meant to be, but just because something is 100 years old doesn't make it right. I mean, it seems to me that we need to have women and minorities fairly represented on the board, don't we? [LB1021]

JIM TENOPIR: You're preaching to the choir. We agree with that. That is something that we are working toward and I believe that that can be accomplished without LB1021. [LB1021]

SENATOR ASHFORD: How? [LB1021]

JIM TENOPIR: We have a legislative proposal right now in front of our membership. It would add additional representatives. Our board has had the conversations with regard to a redistricting statewide committee to take a look at what might happen there. I would indicate to you that contrary to some of the things that have been reported, I was a school superintendent in the mid-nineties when there was a statewide committee to take a look at redistricting. And we took a look at two different approaches: a nine-district approach, a seven-district approach. The seven-district approach went clear through our legislative process until we got to our end representative assembly, which is our final step in that legislative process, and in reality it was District II, a vote from District II that doomed that, and that is the largest district. [LB1021]

SENATOR ASHFORD: If it's a group of people that tend to support each other and there are no women or minorities in that group particularly in any kind of leadership position, it's harder for them to get in. I mean, I think we need to have women and minorities on those decision-making boards. [LB1021]

JIM TENOPIR: We concur with you wholeheartedly. [LB1021]

SENATOR ASHFORD: And Connie Yori is a good example of what, it would seem to me since, what are they, third in the country in women's basketball. We ought to most

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certainly have a woman or women reflecting more of the...it's not so much the number of coaches, it is the number of participants that would, to me, would be the compelling number. There will be more women coaches. There will be more minority coaches as we go along, but it's the actual participants and their parents who maybe is the most important number to think about when you're... [LB1021]

JIM TENOPIR: Senator, I think you're not telling us something that we don't already know and we're already working at it. [LB1021]

SENATOR ASHFORD: I didn't think I was but, I mean, I'm just saying it because I'm here and I occupy this seat, (laugh) but I think it's something...yeah. [LB1021]

SENATOR ADAMS: Senator Sullivan. [LB1021]

SENATOR SULLIVAN: Thank you, Senator Adams. Thank you, Mr. Tenopir. Can you shed a little light on the history of how those district lines were drawn and the intent of how they were drawn? [LB1021]

JIM TENOPIR: Be real honest with you, I'm not sure. At one point, they were fairly well equalized as far as the number of schools. I think that certainly the comment that was made about the disproportionate number of schools in those districts is a reality. All you have to do is take a look at the way the history has gone with the shift of population and the number of communities in rural Nebraska that no longer have...at least no longer have a high school in their community. I think that there has been some of that that has taken place. We have been slow on the uptake in doing that, but certainly it has been based upon the number of schools rather than the number of students that the districts were predicated at the outset. [LB1021]

SENATOR SULLIVAN: Was the intent to provide equal representation or were there other issues involved with drawing those district lines? [LB1021]

JIM TENOPIR: Well, I would tell you that our districts are not strictly governance districts. Our districts are also...for instance, our district music contest. As I take a look at this proposal, we do not have the figures for the number of participants in each of the schools. That would have to be a data collection component that we would have to go for. We collect participation numbers, but if I am a football player and I also participate in track and I'm also in the play production, the one-act play, and I'm also in music, as an individual I'm counted four times in that count. And that's the participation numbers we presently have. So I'm unable to take the participation numbers and plug them, at this point, into this proposal. However, if I were to take the three great high school count that we presently classify schools on and plug that into this proposal, the district line for the westernmost district would run somewhere around Highway 281, the Grand Island/Hastings area west. And when we set up a district music contest, for instance,

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that is one of the activities that is incumbent within that district, there is substantial travel. There would have to be other ways to...I mean, we'd have to adapt with multiple sites throughout that district. But there are other things other than just the governance function that takes place within those districts. [LB1021]

SENATOR CAMPBELL: Thank you. [LB1021]

SENATOR ADAMS: Other question? Senator. [LB1021]

SENATOR GIESE: Thank you, Chairman Adams. Mr. Tenopir, switching gears a little bit, would you comment on some of the issues that were brought up concerning Opens Meetings Act, and Ms. Holmes, I believe, earlier on requesting information from the NSAA and why it would...and why you would have to go through a school athletic director to get such information, just touch on those? [LB1021]

JIM TENOPIR: Well, let's start, first of all, with the open meetings law, and there was a comment that was made about I think wanting the information for the media for hardships and issues with regard to...issues maybe with regard to violations and infractions. When a school comes before the NSAA with such an issue, they request a hearing for either to appeal some sanction that's been handed down or to appeal a denied hardship waiver. A hardship waiver, we've got eligibility rules and the students have to meet those eligibility rules. They're statewide rules. They have to meet those rules to be able to participate. There is the possibility that one or more of those eligibility rules can be set aside. As an example, I would tell you mom and dad are divorced. Child is living with mom. Mom has a live-in boyfriend. The live-in boyfriend is...I'm telling you something that's been an actual one that we've dealt with. The live-in boyfriend is abusive to the child. The child needs to move to live with dad. Dad does not have sole custody. That child would be ineligible in making that move because dad is not considered the legal parent under our guidelines for eligibility purposes, but that is a hardship situation that is above and beyond the control of that student. So the school submits to me a hardship waiver application. I take a look at that and determine if it meets the criteria as outlined in our constitution. If it does, I approve that hardship and that student is able to participate and be eligible. If it is a situation that does not meet that criteria, then I have to deny that. In which case, then the school has got the capability of appealing that to the NSAA and to the NSAA board. They can appeal it to me; the school can come in and...seldom once I make ruling, seldom is the situation appealed back to me; most of the time they appeal it to our board. When they come before the board, that school has got the prerogative of indicating that they want an open or a closed hearing. If it's an open hearing, everything that happens there...I mean, we've got media that sits there. If the school requests an executive session to discuss it because of some sensitive information, I don't think that your open meetings, Open Records Act as it relates to school boards requires you to put out that sort of sensitive information that is personally identifiable to students. So having said that, I

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think the illustration that was provided in testimony earlier with regard to that is incorrect. Having said that, the issue with regard to our release of information, our position had been that we are an association of member schools. We have never denied a member school information that was not a confidentially protected piece of information. When the parent requested that information, we sent that through to their school administrator for that purpose. We would have granted that at this point in our discussion over the last couple of months in our open meetings law, that sort of information which is not personally identifiable or student-confidential information would likely be released with the proper guidelines, whether it be cost or things along that line for the person requesting that information. [LB1021]

SENATOR GIESE: Okay. One other question. Last year we had a bill that dealt with the dual participation in sports and I think we kind of had a clearing of the air, I guess if you will, on that issue and maybe some other issues we touched on at that time. What has happened since last year versus today at the NSAA that makes this whole process better in your eyes? What have you done and your organization done in a year? [LB1021]

JIM TENOPIR: I think we've certainly listened to what the Legislature, what the Education Committee said a year ago. I think that the open meetings law issue is certainly one of those components. I think that one of the things that we have certainly dealt with as an organization is the representation issue. I can't assure you that that will pass, but certainly from our perspective there is enough traction to at least have that honest and open discussion at representative assembly. I certainly...we have provided on our agenda on a monthly basis time for public comment. I believe that there have been a lot of those kinds of changes that have been made, even though current legal counsel and previous legal counsel were of the opinion that because of our private 501(c)(3) status that we were not required to do that. We have made those changes in that regard. [LB1021]

SENATOR GIESE: Thank you. [LB1021]

SENATOR ADAMS: Senator Sullivan. [LB1021]

SENATOR SULLIVAN: Mr. Tenopir, who do you think the NSAA is accountable to? [LB1021]

JIM TENOPIR: Well, I think first and foremost and I said this in the newspaper, of course I've got the whole litany of e-mails about that I don't understand what I'm talking about, I think we're accountable to our member schools. Our member schools are the ones that join the NSAA. Our member schools are the ones who introduce and vote on legislation, understanding that every one of those member schools have student constituents that they're responsible for. I believe that as an association, our association

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is responsive and responsible to the member schools that we represent. [LB1021]

SENATOR SULLIVAN: Thank you. [LB1021]

SENATOR ASHFORD: Just to follow up on...do you mind? I do think you should be covered by the open meetings law. And we had a similar experience at MECA when we started MECA building the Quest Center. You know, the idea why would we want to be covered? We're a 501(c)(3) organization. We're just building a building. You know, why would we need to be...well, the reason that we...that MECA is covered by open meetings law and the reason that it was at that time, the reason why we made it so was because we were receiving significant public money. And I think that it is very difficult to understand for me with all the public money that goes into the system that you administer, the millions and millions of dollars of state aid that go to these institutions, and even though the decisions are made one step removed from those recipients of the state aid, it is so critical to the operation of NSAA that that state aid is available to those member institutions. It's okay to be covered by open meetings laws. I mean, all it does is give the public an opportunity to know how their public dollars are being spent. And I just...gender equity, having women and minorities who are reflective of the young students or the students who participate in these courses...in these activities and having open meetings laws seem to me to be so fundamental as to almost bely debate. I mean, it just seems to me to be...you're going to be just as effective as the executive director with those kinds of changes as you would without. In fact, I would think you'd be more effective because when the public sees what you're doing every day, they're going to say: this is great. Our kids are participating in activities and it's positive. And sure, certainly there are issues and some of these issues have been brought up this year and last, but to me having been through that whole process of whether or not we should be, if it's sort of on the borderline, should we or shouldn't we be covered? At least the MECA board, you know, went the way of having the open meetings law apply, even though we weren't required to do so. And I think the same rule applies here. There's so much public money involved that it just...it would be...to me, you should do it voluntarily. You don't need a state law to do it. You should do it voluntarily and I think you'll be better off for it, so. [LB1021]

JIM TENOPIR: I appreciate that. Thank you. [LB1021]

SENATOR ADAMS: Jim, could you tell me, Senator Ashford raises a question in my mind that I think I raised at the interim hearing, but I'm not sure we had sufficient time to address it. What percentage of your revenue stream would you consider public dollars? [LB1021]

JIM TENOPIR: I guess there's a debate what you consider public dollars. Are gate receipts for state championships considered public dollars? [LB1021]

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SENATOR ADAMS: Other than that. [LB1021]

JIM TENOPIR: Okay. [LB1021]

SENATOR ADAMS: Leave the gate receipts out of that. [LB1021]

JIM TENOPIR: We receive from member schools annually a \$40 membership fee--311, now 312-member schools. Each of those schools then also pays a \$55 registration fee for each of the activities. That registration fee goes to pay for the federation rule books, the manuals, those sorts of things. In fact, that doesn't even cover that amount. I would guess that probably...we're probably looking at about \$200,000, maybe just a little bit more, out of a \$3.5 million budget that would be from what...if you're saying the membership fees and the registration fees coming from dollars that might have at one time been a state-aid dollar or a tax dollar, we're probably looking at \$200,000 to \$225,000 out of a \$3.5 million budget. [LB1021]

SENATOR ADAMS: All right. Thank you. Are there other questions? Thank you, Jim. [LB1021]

JIM TENOPIR: Thank you. [LB1021]

SENATOR ADAMS: Next opponent. [LB1021]

REX SCHULTZE: (Exhibit 6) Thank you, Mr. Chairman. My name is Rex Schultze. I am general counsel to the Nebraska School Activities Association. I'm appearing here to really to provide information to the committee with regard to certain legal issues that I was asked to present. You are being provided a copy of my statement to the Education Committee. You will see in usual lawyer fashion it's eight pages long and we don't have time to cover it in three minutes, so what I thought I would do is kind of hit on some of the highlights. I would note that many of the legal issues I discuss in this memorandum regarding the NSAA's right to exist, the issue of the open meetings law, and the access to public documents, and the equal protection clause, and especially the issue of diversity which Senator Ashford was talking about are addressed in here and the legal parameters upon which the NSAA must operate are set forth therein. But I thought I might talk about a couple of things, one is the open meetings compliance. Also attached to your material is a copy of the policy on open meetings and public records access that was passed on first reading by the board of the NSAA and will be up for a second reading action next week. And as you look at that, you will see that we attempt to address not only access to public records which, by the way, tracks the public records statutes, access to public record statutes, but also address really the three functions that the NSAA performs. The NSAA is really a microcosm of state government in many ways. It has a legislative branch, it has a judicial role, and it has an administrative role. And so in developing our open meetings policy, we had to address each of those

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issues. And so with regard to the administrative role, particularly with regard to meetings of the Board of Control, the open meetings law is as it's set forth in the policy will be complied with to the extent that the law would be applicable. We also, then, provide for a judicial function which may or may not involve compliance with the open meetings law depending on whether it's...if it's a quasi-judicial function. The Nebraska Supreme Court has held that quasi-judicial functions are not subject to the open meetings law as well they should because they often involve personnel matters or matters regarding students that should not be public. With regard to legislative process, we looked for guidance at the rules of the Nebraska Unicameral and we reviewed those and applied those to the legislative process. Within the framework of that legislative process is outlined within the NSAA constitution, and that's really a three-level process with district meetings, the legislative commission, and then the representative assembly, and really are setting up within that process a committee hearing process much like the one we're at today with regard to proposed legislation. So as you look through that, you will see that the board has made a genuine effort to address those issues. The other issue I wanted to kind of highlight, it's on page 6 of my materials, and that has to do with student equal protection right. I think Senator Avery may have alluded to... [LB1021]

SENATOR ADAMS: Rex, can you do that fairly quick? [LB1021]

REX SCHULTZE: Real quick. Essentially, what it...in the bill it talks about setting up an appeals process in each district. The problem with that is, is that a student might be declared eligible by one district and not eligible by another, and you would have inconsistent applications of the rules statewide. We have a state where students from Scottsbluff compete against schools from Waverly. We have students from Kearney that compete against students from Omaha Central, and there should be an equal application of our rules. And these rules are fundamental, eligibility rules, competition rules, sportsmanship rules that effect student participation. And so dividing up the enforcement of those rules where we have statewide competition I think presents an equal protection issue. [LB1021]

SENATOR ADAMS: Thank you, Rex. Let's open it up for questions. Committee members, what questions do you have? Rex, I noticed that one of the things right at the outset of your written testimony, you talk about the right to exist and that membership in the NSAA is voluntary. And then League of Municipality, TeamMates, etcetera, that are also voluntary membership, even a school's choice to belong to the state school board's association is voluntary. Is there a difference, though, in that if a school chooses not to belong to the state school board's association, obviously they lose out on some lobbying efforts, providing education information to school boards about what we're doing here versus a school's ability to participate in extracurricular activities if they're not a member? [LB1021]

REX SCHULTZE: There are schools in the state of Nebraska, secondary schools that

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don't belong to the NSAA. As a practical matter, almost all secondary schools do belong to the NSAA. Is there a viable alternative? I don't know, Senator, but it is still a voluntary organization. The United States Supreme Court noted, there was a recent case involving the Brentwood Academy in Tennessee that went to the United States Supreme Court actually twice. And in that case, the court pointed out notwithstanding the fact that the Tennessee secondary school activities association was the predominant activities association in the state. The court pointed out that it was a voluntary organizations nonetheless, that Brentwood Academy elected to have an activities program and interscholastic activities program. They elected, in so doing, in so electing, they gave up some of their constitutional rights which private schools have and public schools don't to voluntarily join, and if they didn't want to follow the rules, they didn't have to a member. So, I mean, I understand the nature of your question on the one hand, on the other hand it is a volunteer organization. You know, schools--and I represent public schools all over the state--have to elect to have an activity program. They elect which sports they're going to sponsor in an activity program. One of the other points that comes to mind if we're talking about participation in the activity program is this: While we talk about proportional representation based upon student...maybe student participation, I think the bill talks about, we need to remember that it is an organization of member schools and they are an organization of member schools with schools as small as 36 students in high school to larger schools with upwards to 2,500 students. And we classify schools within our organization--Class A, Class B, Class C1, C2, B1, B2 or excuse me, D1, D2--and there's a reason for that, and that is to provide a level playing field, to provide equity for students. Students from Arthur County High School certainly shouldn't be competing against Millard South. And I think that's an important point to remember that when the NSAA governance is being discussed that that governance involves governing high school activities at schools of very divergent interests, very different size in very different communities, and that deserves representation also. [LB1021]

SENATOR ADAMS: Other questions? Senator Ashford. [LB1021]

SENATOR ASHFORD: Yeah, Rex, how is your open meetings provisions are not necessarily the same as the open meetings laws that the Legislature must comply with, are they? [LB1021]

REX SCHULTZE: Well, they're not identical. The bottom line is, is that we try to look at it from the point of view that the public would be able to attend and be present. [LB1021]

SENATOR ASHFORD: But they're not allowed to speak. [LB1021]

REX SCHULTZE: They're allowed to speak at the committee level. [LB1021]

SENATOR ASHFORD: But they're not allowed to speak at the representative assembly.

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[LB1021]

REX SCHULTZE: Well, I... [LB1021]

SENATOR ASHFORD: Let me ask it this way, let me ask it this way: The League of Municipalities, we...I don't know, I don't recall in my years at the Legislature ever having a public hearing in the Legislature about the procedures that guide the League of Municipalities. What I am hearing and have heard for the last four years, issues regarding the NSAA, and those issues center on not being heard or to me, at least that's...there are other issues, but essentially it's not being heard. And you are in a unique position. You represent school districts and you represent coaches and you represent activities that are undertaken by school districts in your policies. But what you're really doing is you're really determining how those young people, those students are going to conduct themselves and what activities they can conduct themselves, how they can conduct themselves. That's a personal thing with almost every citizen of this state, whether it's a grandson or son or nephew or friend or neighbor. It's a lot different than a lot of these other associations it seems to me. And that even though...and you may be compliant with the law, I'm not...I'm sure you are knowing your reputation, you're compliant, your organization is compliant. But maybe here we need to think about how we can develop a process that reflects the nature of the interest by our citizens of our state. They're dissatisfied or many are dissatisfied with this process. [LB1021]

REX SCHULTZE: Let me at least go through what our thinking was. With regard to the legislative process, our feeling was, was that at the district level that is kind of the genesis of legislation and that at the legislative commission level which is a statewide meeting that that's when we would hold hearings much like this hearing today where a legislative proposal would come forward, it would be explained, that the public would have an opportunity to know about it, it would be published on the Web site, that they'd have access to it, and then there would be an opportunity to speak much as these folks have spoken to you today. Then we looked at the Unicameral itself for guidance on the representative assembly in the sense that at that point in time, the legislation has been allowed for public comment, that public comment it put has been provided, and then it goes to the legislators which are the members of the representative assembly. At least that was our thinking, Senator. [LB1021]

SENATOR ASHFORD: But it's restricted...I mean, the public is restricted in what they can discuss--proposals or changes in the constitution or bylaws of the NSAA. [LB1021]

REX SCHULTZE: Because that's the only thing that the legislative commission has jurisdiction over. [LB1021]

SENATOR ASHFORD: Then change the jurisdiction. I mean, where can these people go to...it's fine that they come here. We are...we represent them. They are our

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constituents. They can come every year if they want to. But it seems to me that maybe we should change our rules and our policies to maybe handle some of these things at that level. I mean, then they don't have to come here every year. [LB1021]

REX SCHULTZE: (Laugh) They also have the opportunity to speak at the Board of Control meetings. [LB1021]

SENATOR ASHFORD: Is the Board of Control the... [LB1021]

REX SCHULTZE: The board of directors, Board of Control. [LB1021]

SENATOR ASHFORD: That's at the...that's...okay. [LB1021]

REX SCHULTZE: That's their monthly meetings like a school-board meeting. [LB1021]

SENATOR ASHFORD: And that's here in Lincoln? [LB1021]

REX SCHULTZE: That's here in Lincoln, yes. [LB1021]

SENATOR ASHFORD: But the legislative commission, is that in Lincoln as well? [LB1021]

REX SCHULTZE: I think it's generally held in Lincoln, yes. [LB1021]

SENATOR ASHFORD: Okay. [LB1021]

REX SCHULTZE: I don't think there's any statutory or I don't think there's any requirement within the constitution that it be held in Lincoln, but. [LB1021]

SENATOR ASHFORD: But, so if you're from Benkelman and you're a parent and you have a concern about a particular rule or regulation, where do you go? I mean, if you can't go to the legislative commission unless there's a constitution or bylaw change, you can't speak at all to the representative assembly, but you can go...you can say you can just show up at the monthly meeting in Lincoln and... [LB1021]

REX SCHULTZE: Well, the answer is correct, although I can tell you that the NSAA has the ability to do video conferencing and attend...you can...you know, if that would be something that the Board of Control determined to do, we could certainly do that to provide public access, just like...I mean, just like certain bodies are allowed to do video conferencing, video meetings under the open meetings law. [LB1021]

SENATOR ASHFORD: Wouldn't it be better in your rules to allow for public comment on any issue involving students and their athletic activities at some place in the process?

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And here's my point here. I don't...I've learned more in the 12 years of my lifetime sitting here listening to people on topics that I have had...know nothing about and have been made aware of things that I was not aware of just by sitting and listening to people come and talk to us in these committee hearings. Why can't you have a...and it's not your decision to make, you're the attorney, I understand that, but certainly there's nothing to prevent you or prohibit you from having public discussion or public comment in some of these processes. [LB1021]

REX SCHULTZE: That is correct. [LB1021]

SENATOR ASHFORD: Okay. Thanks. [LB1021]

REX SCHULTZE: Thanks. [LB1021]

SENATOR ADAMS: Other questions? Rex, at the risk of asking you another naive question, is part of our issue here that we are wrestling with a fundamental distinction between who NSAA represents? [LB1021]

REX SCHULTZE: I think the fundamental issue here...and I think Senator Ashford struck on it a bit, one of the things that we wrestle with, with regard to organizations like this is that on the one hand the organization is an organization of member schools because these are the school's activities. On the other hand, participation in those activities, as Senator Ashford points out, is a very personal, personal matter. The NSAA is an organization of rules that are established by the member schools to conduct those activities. And because they are rules, rules constrain us. And so therefore we have a conflict and that conflict comes from the fact that we're trying to constrain people in a good way for purposes of student safety issues, for purposes of a level playing field, for purposes of keeping academics subservient...or excuse me, athletic subservient to athletics. Those are the essential...three essential elements of the organization. And so the NSAA has to follow a...walk a fine line. We want to represent member schools. We want member schools to bring to us their issues. The member schools establish those rules, and then those rules are followed by those member schools with regard to student participation. Most of the time, in fact 100 percent of the time I think or at least 99 and nine-tenths percent of the time, any violation of NSAA rules are reported by the schools themselves because that's part of their duty, to apply those rules. And so, yeah, I think there's an inherent conflict but, remember, these are school activity programs. They are part of the educational function of the entire school system. You know, and I think as a personal note, it's our activity programs are an essential part of that educational program. Unique. I've had five foreign exchanged students. They all come in and say, gee whiz, you know, we don't have this and by the time they leave they think this is a pretty wonderful thing. So activities are wonderful things. And it's great that everybody is interested in this and come to this hearing, but the bottom line is, is that in the end the NSAA's job is to establish rules for their member schools to administer

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activities. [LB1021]

SENATOR ADAMS: Thank you, Rex. Other questions? Go ahead, Brad. [LB1021]

SENATOR ASHFORD: But I think you're right and I think you do...essentially do a great job of what you're doing. I mean, and all of us have had some connection with high school athletics. It was the most important thing in my life was high school athletics and I respected the process and I respect the process. But what I'm suggesting to you is that you can change your process; you have the freedom to do that. And it seems to me that after 100 years of success, which you have had, that it's time to change and it's time to change by going beyond maybe what maybe seemed prudent at the time and bring in...bring more participation into the process. I don't know how else to say it because it doesn't hurt. I mean, it's just...we're all Nebraskans. I mean, they're not going to...(laugh) I mean, we're all the same people. We're all from Nebraska. We all care deeply about sports. Some people may disagree but the more we bring in, the more light is shown on the process, the more participation that...process is in place to promote participation, the better we're all going to be for it. And I'll bet you if you make some of these changes and make more than you've already made, that you're going to find that you're not going to...it's not going to be a problem, it's going to be better. And if you provide more opportunity for discussion, you actually...you know, I think you'll find it's going to be a fulfilling experience. But that's just my view, so. [LB1021]

REX SCHULTZE: I agree, Senator. Thank you. [LB1021]

SENATOR ASHFORD: Thank you. [LB1021]

SENATOR ADAMS: Other question? Thank you, Rex. [LB1021]

REX SCHULTZE: Thank you. [LB1021]

SENATOR ADAMS: Next opponent. Good afternoon. [LB1021]

CINDE WENDELL: Good afternoon. Thank you, Senator Adams, members of the Education Committee. I am Cinde Wendell, C-i-n-d-e W-e-n-d-e-l-l. I'm superintendent of Holdrege Public Schools and I'm here today representing the Nebraska Council of School Administrators. I have observed and been a part of the process and the procedures of NSAA for many years and I believe that the current NSAA framework and governance is effective, consistent, and fair. NSAA has a process in place for change that's voted on by all the members. The current governance is working efficiently, and adding layers of governance would probably make the process more cumbersome and expensive. All member schools are represented and have a vote. However, NSAA has some issues and I would like to address one of them. Gender and ethnic equity. The board is comprised of very capable professionals who are leading NSAA very

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competently. However, as I understand it, there was a woman that served on the board and it was in 1936. So gender and ethnic diversity is lacking on the board. As a Nebraska council school administrator's member and superintendent of a NSAA member school, I think gender and ethnic equality issues must be addressed. Furthermore, I'd like to talk a little bit about the student population. Gender and ethnic equality should be achieved on the NSAA board and throughout the NSAA organization to better represent the student population. For example, Holdrege's student population participating in NSAA activities is 56 percent female and 44 percent male. While this may or may not be the case across the state, the student population and student diversity needs to be represented by individuals from all cultures, both men and women. I am confident that the best way to address this issue is through the existing framework and governance of NSAA. Changes can be legislated but change is most effective when it comes from within the organization. So finally, I am pleased with the NSAA organization but now is the time for the organization to make some needed changes to address gender and ethnic equality in the leadership and throughout the organization and I'm confident that the needed changes will occur and can occur in an orderly manner through the existing constitution and bylaws of NSAA. Any questions? [LB1021]

SENATOR ADAMS: Thank you. Are there questions? Thank you then. [LB1021]

CINDE WENDELL: Okay. Thank you. [LB1021]

SENATOR ADAMS: Next opponent. [LB1021]

DAN FLANAGAN: Senator Adams and committee, Dan Flanagan, D-a-n, last name spelled F-l-a-n-a-g-a-n. I come representing a couple of different venues. One, of course, I'm president of Papillion-La Vista, but I've also served on a couple of other boards, one in Norfolk, another Class A school, and also Tilden, Elkhorn Valley which is a Class E school, so I've had several different levels of participation on board activity. I've also been, for 25 years, an NSAA speech and drama judge, so I've been involved with it from that particular position. I come to tell you that I do appreciate the NSAA because of its organization and structure, its ability to manage our activities as a school district. Because it is member-driven, we need to remember that, and it has been responsive to our needs as a board of education. As already been mentioned by a number of people on both sides, I am concerned, as they are, about representation issues like gender and ethnic representation and population representation. However, we need to remember that we can't simply indict the management of NSAA for that because we as local boards are NSAA. We are the ones responsible for that, and if we're going to be making changes like gender and ethnic representation, it's our responsibility and I pledge that I will definitely do my part in that. But I see NSAA as focused on the best interest of students, and that's what I come here today to tell you. From my perspective, they do a good job of that. I do have a couple of concerns about LB1021. One is, I don't see that there is a good reason for changing...and we're talking

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about changing something that I know is not perfect by any means, some of the foibles have been mentioned today, however, it's a system that works and it works for us as a local school district. Yet some of the proposed changes within it I'm concerned about. The establishment of an appeals board, another level of governance and bureaucracy seems to be costly and, from my opinion, creating an uneven playing field which has also been mentioned and some problems that we'll have to deal with as a local school district. In summary, I see problems with a proposed top-down management which is proposed by LB1021 because I do see the NSAA as a democratic organization already. We do have an opportunity as a local district to influence the direction and they do meet our needs. So I'm not exactly sure why we need to change. The burden of proof is on those who are proposing LB1021 it seems to me. It serves the populous of Nebraska, which our attorney just said a few minutes ago, which is extremely unique from west to the east. It's difficult to administer that kind of a populous situation. But I do come before you to say that we as a local district of Papillion-La Vista appreciate the leadership of Dr. Tenopir and we think that they serve the students in a manner which we want to continue doing. But I think we need to remember that they do it hand in glove with us as local district and it's our responsibility because it is membership driven. Thank you. [LB1021]

SENATOR ADAMS: Thank you, sir. Are there questions? Thank you then. Next opponent. Any additional testimony? [LB1021]

JEREMY MURPHY: (Exhibit 7) Good afternoon, Senator Adams and members of the Education Committee. My name is Jeremy Murphy, spelled M-u-r-p-h-y. I'm the associate director for education issues for the Nebraska Catholic Conference. We are opposed to this bill and we would like to focus on Section 4 in particular, this on pages 3 and 4 of the green copy. The final clause of Section 4, and this is on page 4, lines 3 and 4, contains unprecedented language indicating that private schools, "shall be treated as public schools for the purposes of the High School Activities Association Act." This is objectionable and we would ask that this clause be stricken from the bill. We think the clause is vague and overbroad. There's no internal limitation like the word "only" or "solely" within this clause suggesting that it could have parallel implications in other context. Our schools choose to operate differently than public schools, and a good example is single-gender Catholic high schools, and we do not want this language to jeopardize any of our school's operations or formal organizational structure. We do not see or understand the meaning or purpose of including this language. We think there could be unintended consequences of this language which are beyond the scope of this bill. We think the bill interferes with the independent governance of private schools. Several Catholic school administrators have indicated they have concerns about the bill. The bill does not appear to be necessary or beneficial. I would thank you for your attention to our concerns about the bill. I would note, I think we have about 39 Catholic secondary schools that are member schools of the NSAA. That's the latest estimate that I've come up with, so. [LB1021]

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SENATOR ADAMS: All right. Thank you, Jeremy. Are there questions? Jeremy, is your opposition just because of that Section 4? [LB1021]

JEREMY MURPHY: That's our primary objection to the bill. I guess beyond that there's kind of a general objection to possible interference with the independent governance of private schools. [LB1021]

SENATOR ADAMS: All right. [LB1021]

JEREMY MURPHY: So I think it goes beyond that, but I think our primary opposition is to Section 4 of the bill. [LB1021]

SENATOR ADAMS: Okay. Thank you. Any questions? Thank you then. [LB1021]

JEREMY MURPHY: Thank you. [LB1021]

SENATOR ADAMS: Any other opposition testimony? If not, we'll go to neutral testimony. John. [LB1021]

JOHN LINDSAY: Thank you, Senator Adams, members of the committee. For the record my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of Omaha Public Schools. Omaha Public Schools appears today in a neutral capacity on LB1021. This specific legislation isn't something that OPS supports nor opposes, but if legislation creating a governance structure for high school activities were to move forward, we believe that there are two key areas to consider: (1) the construct of one person, one vote, and (2) the idea that high school activities are broader than just traditional sports, and representation in multiple areas brings balance to any governance structure. High school activities impacts students on the basis of race, gender, ethnicity, poverty, and special needs. A legislative body that governs high school activities would be well-served by a broad base of representatives, including men's and women's athletics but also including representatives that take into consideration students with disabilities, that take into consideration rules to assure all students can participate in activities equitably regardless of their family income and that represent the other nonathletic activities that are widespread in our community high schools. OPS seeks to encourage equity in each area that impacts the lives of students it serves, including equity in student activities. Should the committee decide to move legislation forward on high school activities, we would thank you for keeping equity as a priority. [LB1021]

SENATOR ADAMS: Thank you, John. Are there questions? Thank you then. Other neutral testimony? Any other neutral testimony? Seeing none, Senator Avery to close. [LB1021]

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SENATOR AVERY: Thank you, Chairman Adams. The first testifier after I made my opening statement got it right. Mr. Mayfield said that this bill contains many of the most cherished elements of open accountable and responsible government. It does. Mr. Tenopir, the executive director of the NSAA, he got it right too. He said this is a pretty drastic makeover. He didn't say takeover. It's not a takeover, it's a makeover and it's needed. He's exactly right. It seems to me I'm not going to go into a point by point counterpoint to all of the objections raised, I could but I will not take your time. We'll have Executive Session on this at some point. This is a reasonable proposal to bring fairness, openness, and accountability to an organization that has failed to do this on its own and they have had a full century to do it. It is a state actor. It's time that it come under some state's regulation. The change is needed. I think that even those who oppose the bill admitted change is needed. Put this bill on the floor and we'll get that change. Thank you. [LB1021]

SENATOR ADAMS: Thank you, Senator Avery. Are there questions for the senator? Thank you, sir. (See also Exhibit 8) That will end the hearing on this particular bill, and we will move on to LB962. Senator Council. Ladies and gentlemen, if you don't intend to stay, I'd ask you to vacate quickly and quietly, so that we can proceed with the rest of our hearings. Senator Council, maybe 30 seconds break and let people. All right. We're going to begin this hearing on LB962 if I can have everyone's attention. Senator Council, you are free to open on your bill. [LB1021]

SENATOR COUNCIL: (Exhibits 9, 10) Thank you very much, Chairman Adams, members of the Education Committee, my name is Brenda Council. Last name is spelled C-o-u-n-c-i-l. I am the senator representing the 11th Legislative District which comprises an area of north Omaha, and I'm here today...fortunately. I didn't know whether I was going to get here. I was stranded in the nation's capital as a result of the blizzard, so I'm happy to be here today to introduce LB962. Let me begin by saying that lead is a potent, pervasive, neural toxicant, and that elevated blood lead levels can result in decreased IQ, academic failure, and behavioral problems in children. Indeed, recent research establishes that childhood lead exposure causes permanent brain damage with lifelong consequences. People exposed to lead during childhood also have problems with judgment, emotional control, and attention which gives evidence to the fact that there has been research making a correlation between lead poisoning and juvenile delinquency. All of these characteristics have an effect on a child's ability to learn. The purpose of LB962 is to improve the health and remove impediments to full cognitive development of all of Nebraska's children by imposing a blood lead testing requirement along with the immunizations required for enrollment in kindergarten. Blood lead testing will facilitate early detection and referral for treatment of lead poisoning, reduce the incidents' impact and cost of lead poisoning, inform parents and guardians of their children's exposure to lead, and most importantly, promote the importance of reducing exposure to lead as an integral component of preparation of youngsters for

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school and learning. I became aware of the lead poisoning risks to children and the negative impacts upon their cognitive development through my involvement in the community advisory group that was established after Omaha was designated as a Superfund site as a result of lead contaminated soil in the area. While Superfund focuses on soil, I learned through my involvement about the risk of lead poisoning from lead paint which is associated with older housing stock and other sources of lead poisoning of children. Through my involvement in the Community Advisory Group, I learned that a small percentage of children were being tested for lead, and an even smaller percentage were being tested at the most important critical time during their lives which the general consensus is between 12 months and 36 months of age. When the Community Advisory Group started its work six years ago, only 16 percent of Medicaid eligible children in Douglas County were being tested for lead poisoning. Through education and outreach efforts, that number has risen to 33 percent which still leaves 60 percent...67 percent of Medicaid eligible children in Douglas County not being screened for lead. In addition, only 28 percent of all children in Douglas County were being tested for lead poisoning. While I have focused on Omaha and Douglas County as sharing these statistics, this problem is by no means exclusive to that area. Only 16 percent of all children in the state of Nebraska are currently being tested for lead poisoning, and incidents of lead poisoned children are found across the state. Allow me to share some data regarding some of your counties, the counties you represent to illustrate this point. Senator Adams, in the county you represent in 2008, 275 youngsters were screened for lead poisoning. The Center for Disease Control has established 10 micrograms per deciliter of lead in the child's blood as being dangerous. However, I can share with you data that shows that even a small percentage of lead concentration in blood can have a damaging effect on a child's brain. But in Adams County in 2008, 275 children were screened for lead poisoning. Nine of them were found to have elevated blood lead levels. That's more than 10 micrograms per deciliter. One of them was found to have between 20 and 45 micrograms per deciliter. The closer you get to 45 micrograms per deciliter, you close in on a need for medical treatment, a very painful and costly medical treatment to reduce the amount of lead in a child's blood, but it cannot and will not reverse any brain damage that would have been caused by such an elevated blood lead level. Senators Avery and Haar share Lancaster County. In 2008, you had 1,971 children screened for lead. Seventeen of those children had elevated blood lead levels. Six of those children fell in that category of having between 20 and 45 micrograms per deciliter, and for Senator Haar in Saunders County, there were 72 tested; one with an elevated blood lead level. Senator Sullivan isn't here today, but she had 507 children screened for lead in the many counties that she represents. Eighteen of those children had elevated blood lead level, but what is significant in one county that she represents, of the 18, 14 of those children were in Hall County, and seven of those children had blood lead levels between 20 and 45 micrograms per deciliter. Senators Haar and Ashford, Douglas County statistics show that in 2008, there were 47,885 children in the area. Only 13,389 of those children were screened for lead which is 28 percent, and of that number, 263 tested with elevated

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blood lead levels. In addition, over 30 of those children were between 20 and 45 micrograms per deciliter, and another 5 were between 45 and 70 micrograms per deciliter which warrants the medical treatment that I referred to earlier. Upon discovering these statistics and the need to ensure that all children in the state of Nebraska were screened for lead, I looked for a legislative means to increase the testing of children for lead poisoning. After the Legislature passed a bill during the last session adding whooping cough to the immunizations that children needed to have before entering seventh grade, I focused my attention on the childhood immunization requirements of the state as a vehicle to achieve the objective of assuring that all children in the state of Nebraska were screened for lead poisoning. In connection with that, I explored whether other states had used this vehicle--the immunization requirements as a means of advancing this objective. I discovered that several states had, in fact, added lead blood testing to the immunizations required for entry into kindergarten, and one of those states was our neighbor, Iowa, who enacted their law in 2008. And at the time that Iowa enacted its law, they were concerned because only 70 percent of the children in the state of Iowa were being screened for lead. Compare that to only 16 percent in the state of Nebraska. Since Iowa enacted its law in 2008, the number of children being screened for lead poisoning in Iowa has increased to 90 percent. Now the law is modeled after the Iowa law, but fits squarely within our current immunization statute, and what I mean by that is LB962 contains the same opt-out option for individuals who for religious purposes do not want their children tested for lead because it does require an extraction of blood. It also includes an opt-out provision for individuals who it has been medically determined that their child is at low risk of exposure to lead poisoning. And the data that Iowa relied upon is data that was developed by the Center for Disease Control and the World Health Organization. Now I know some of you have received e-mails from individuals who were concerned about the standard that is applied in LB962 to determine whether or not a child is at low risk of exposure to lead poisoning. But, again, that standard...those criteria were taken from the Center for Disease Control and the World Health Organization and parallels the language in the Iowa law. I'm certainly open to considering using other standards such as the questionnaire that Medicaid providers are to complete if they do not screen a child for lead testing. It requires similar information but is not as comprehensive, so if that addresses the concern that was expressed in that e-mail, I'm more than willing to make that amendment. There was also a concern expressed about the cost associated with the requirement. The reason I chose to use the childhood immunization statute is because this would be an exam that would be a part of the standard well baby exam that is performed on children generally at ages 12 months, 24 months, 36 months, and it would just be one additional test in that series of tests that physicians perform on children at that time. So in terms of any additional cost for the exam itself, if there's any additional costs it would be incremental. With regard to the cost of the laboratory testing, I know there was a figure of \$100 that was floated around in one or more of the e-mails. I have yet to find a laboratory in Nebraska that charges that much, and, in fact, I have learned and someone behind me will testify to the fact that one of our public

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laboratories which is operated by the University of Nebraska Medical Center has indicated that the test should average...the lab testing part of the test should average about \$22 and with a law requiring the screening, the more tests that are conducted the lower the cost of the lab fees go, so we're looking at somewhere between \$22 and \$7. In terms of families' ability to pay, first and foremost, again, Medicaid eligible children, these tests are supposed to be conducted if a child is determined to be at high risk of exposure to lead poisoning, so it would already be covered for those families who are Medicaid eligible. For those families who have insurance, again, it should be covered as a part of their well baby examination. For those caught in the middle, we have community health centers. We have six public health centers across the state of Nebraska. The director...the president of one of them will be testifying after me as to the fact that if a family is unable to pay, that that test will be performed, and if they do have any means of paying, it's on a sliding scale basis. So I don't think that should be a concern of the committee in terms of preventing youngsters from attending school because they can't have the blood lead test. My concern is placing children in a position that they enter kindergarten in the best possible prepared manner to learn, and they cannot do that if their cognitive brain development has been hindered by lead poisoning. The bill requires that the family provide evidence that the lead screening has occurred at some time between 18 months and 4 years because those are the periods in a youngster's life where there's the most hand-to-mouth activity, and that is the way lead enters the blood system is through ingestion, so that's why the bill focuses on that. And before I conclude, I would like to offer into the official record, two letters of support that I have received for LB962. One is from Jeff Kuhr, Ph.D., and it's from Friends of Public Health in Nebraska. "Friends of Public Health in Nebraska supports LB962 based on knowing the serious long-term health effect of not treating elevated blood lead levels. This bill would assure that screening be available to all children of Nebraska. Our major concern is supported in the December 2007 Department of Health and Human Services Division of Public Health Childhood Blood Lead Poisoning Surveillance Report for 2001 to 2005 that notes, all children do not have universal access to blood lead screening. This is especially important in our rural areas that tend to have older housing stock with greater potential for exposing children to lead." The second letter I'd like to offer into the record is from the Public Health Association of Nebraska, Kay Oestmann, president. "The Public Health Association in Nebraska supports LB962 to address the need for all children in Nebraska to be screened for lead poisoning. According to the Center for Disease Control, approximately 250,000 U.S. children aged one through five years have blood lead levels greater than accepted levels. Lead poisoning can affect nearly every system in the body and because it often occurs with no obvious symptoms, it frequently goes unrecognized. Lead poisoning can cause learning disabilities, behavioral problems, and, at very high levels, seizures, coma, and even death. A standard is needed to assure all children in our state are screened and treated appropriately. LB962 will provide the vehicle for this to happen." With that, I will conclude my opening and answer any questions the committee may have. [LB962]

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SENATOR ADAMS: All right. Thank you, Senator Council. Are there questions for the senator? Senator Avery. [LB962]

SENATOR AVERY: Thank you, Mr. Chair. Senator Council, you have, I have no doubt, looked at the fiscal note on this? [LB962]

SENATOR COUNCIL: Yes. [LB962]

SENATOR AVERY: And the actual cost in 2010-2011 would be over \$107,000; 76.6 of that, of course, would come from the feds. How optimistic are you in the climate that we have in the Legislature this session, that you will be successful with this? [LB962]

SENATOR COUNCIL: The interesting thing about the fiscal note, Senator Avery, is as I understand the fiscal note it's based upon an estimate in the increase in the number of Medicaid children who would be screened for lead. The fact of the matter is that those children should be screened for lead currently. We are currently not screening for lead when that is one of the requirements of an early child...what a well-baby examination that a Medicaid provider is to perform. So if you accept that 33 percent of Medicaid children in Douglas County are being screened currently and that the other 67 percent don't need to be screened, and that's just an assumption because of a determination that they're at no risk of exposure to lead poisoning, then I challenge the numbers that have been provided as the fiscal note because, again, the fact is, is that lead screening is to be a part of an examination of a Medicaid child in the first instance, and if we haven't been doing it, we should be doing it, and those costs should be reflected in the Department of Health and Human Services budget as it exists. [LB962]

SENATOR AVERY: Thank you. [LB962]

SENATOR ADAMS: Other questions for Senator Council? Senator, the by-county numbers that you gave us then, I'm assuming those were derived from the Medicaid numbers, and are they from Head Start? [LB962]

SENATOR COUNCIL: No, Senator. They're from...any time there is an elevated blood lead level, it must be reported to the county health department, so those are not just Medicaid eligible youngsters. [LB962]

SENATOR ADAMS: Okay. Thank you. Any other last questions? Thank you then. [LB962]

SENATOR COUNCIL: Thank you. [LB962]

SENATOR ADAMS: And we'll proceed to proponent testimony. [LB962]

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KARA EASTMAN: Good afternoon. My name is Kara Eastman, K-a-r-a E-a-s-t-m-a-n. I'm the executive director of the Omaha Healthy Kids Alliance, and I'm here today in support of LB962 because it is good for our kids. Lead is still the number one environmental hazard to children, and many people still believe that it's no longer an issue. Awareness building of this issue is critical because the only way to know if a child is being exposed to lead is through a blood lead test. I'm concerned that if initiatives like these aren't passed that federal agencies like HUD, CDC, and EPA, who are looking to states like Nebraska to enact bills like this one, that they will decide that we are not eligible for funding, and I think that this is something that needs to be looked at. One of the issues that we see in Nebraska in compiling some of the data that Senator Council presented is that we had 441 children with an elevated blood lead level throughout the state, and 263 of those came from Douglas County, so we do clearly have an issue throughout the rest of the state. I also want to point out the fact that 2,217 kids had a level between 5 and 9.5, and as Senator Council said, even a small amount of lead in a child's body can pose significant problems. This is something that Senator Council also noted about our neighbors in Iowa, and I think it's key to point out that they have seen...they've been able to identify many more poisoned kids, and they've also seen an increase in testing of younger children as a result of a bill that was passed that looks similar to this one. Prevention is a key step in eliminating childhood lead poisoning, and this bill takes one step forward in raising awareness and making sure that we are teaching and educating people about this problem. Thank you. [LB962]

SENATOR ADAMS: Thank you, ma'am. Are there questions? Senator Howard. [LB962]

SENATOR HOWARD: Thank you. Thank you, Chairman Adams. Kara, I agree with you that it's important to have this lead testing. What I want to ask you is what's the treatment? When a child is found to have an elevated level of lead in their blood, what's the next step? [LB962]

KARA EASTMAN: Well, as Senator Council said, I mean, treatment when a child has a level of 40, 50, or 60 is, you know, often chelation which is not a good form of treatment. Below that, there is no form of treatment, and so we need to be focusing our efforts on prevention as well. I mean, that is really the only way to keep our kids from being poisoned. The lead test goes a long way to educating families, educating parents about the importance of keeping their kids safe. So, you know, this needs to be coupled with education as well, and that's something that our organization is working with our health department and our state to do. [LB962]

SENATOR HOWARD: So what you're saying to me is if we require this testing prior to entering kindergarten, we find a child with high elevated levels of lead, there really isn't a treatment for this. The child's just identified? [LB962]

KARA EASTMAN: Right. There isn't a treatment. However, what this does is signal the

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parents or the people...the guardians of the kids to look in the house for the sources of lead. In Douglas County, for example, when a child is identified with an elevated blood lead level, case management begins, and somebody goes into the home and does an environmental investigation to show the parents where the lead is coming from. This is crucial. We have to be educating our families about how their kids are being poisoned. [LB962]

SENATOR HOWARD: Well, and I don't think any family would intend to live in a home that was a hazard to their child, but there are situations where due to economic issues, a family is living in a less than...a house that maybe you wouldn't choose, and it's not always easy to just relocate a family. [LB962]

KARA EASTMAN: Absolutely, but there are very simple steps that our county health department and our organization teach people on how to keep their kids in the home safe from lead. It doesn't necessarily mean that the family has to move. There are simple things. I mean, even a good cleaning of the home can protect a child from dust that's getting into their mouths. And so it's...that kind of education coupled with the awareness and the lead tests that will provide all of these. [LB962]

SENATOR HOWARD: But this can be done without having this testing legislated. [LB962]

KARA EASTMAN: I think that we need to be looking to our physicians to provide this education. I mean, it's not the only place that it should come from, but it's a primary source. I think as a mother, I know that I listen to my physician in telling me what my kid needed...what kinds of tests my kid needed. I didn't raise my child in Nebraska in the beginning, and so lead wasn't an issue. And so...but I think that our physicians need to be providing this test to parents as a way of identifying, you know, if our kids are being exposed to lead. It's the only way we can know, and I think it's a very important step. [LB962]

SENATOR HOWARD: Thank you. [LB962]

KARA EASTMAN: Thank you. [LB962]

SENATOR ADAMS: Senator Ashford. [LB962]

SENATOR ASHFORD: And I want to second that. When I was in charge of the Housing Authority, Senator Council was in charge of the group that had meetings around her community and around the entire community, and that process did heighten the awareness of lead paint...lead paint, specifically, which people had...I think we tended to ignore. And so, as a result of that, I know the Housing Authority for one and numbers of families that live in Section 8 Housing had the benefit of Senator Council's initiative

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because we did a thorough inspection of all the Section 8 houses as a result of Senator Council's efforts and did find significant lead...potential lead issues in those homes, and there were significant changes made to...it is absolutely amazing how many dwellings in Omaha, especially the older parts of the city have these issues. And I don't know, Senator Avery makes a good point that we're in time of cost consciousness (laugh). That's maybe mild...putting it mildly, but we still can't ignore the residual costs that...and I know Senator Avery is not saying this. I know he agrees with me that we can't ignore the residual costs that come about when we don't adequately...and we don't adequately test...and...and...and...and then...and then the real challenge then is when we get this information and executing on the data, especially about the conditions that are out there. Right? [LB962]

KARA EASTMAN: Right. And if I can respond to that, lead poisoning right now directly costs the state of Nebraska about \$400,000 each year. [LB962]

SENATOR ASHFORD: Oh, it's got to cost more than that. [LB962]

KARA EASTMAN: Well, those are the direct costs. You know, eliminating lead poisoning would reduce crime, increase graduation rates, increase lifetime earnings, and improve the health of our children, saving Nebraska millions of dollars each year. [LB962]

SENATOR ASHFORD: I think millions is more accurate, yeah. [LB962]

KARA EASTMAN: Absolutely. Well, I mean, lead poisoning costs the United States \$57 billion a year, so. [LB962]

SENATOR ASHFORD: Yeah, that's a good...big number. Thank you. Thanks, Senator Adams. [LB962]

SENATOR ADAMS: Are there other questions for this testifier? Thank you, ma'am. [LB962]

KARA EASTMAN: Thank you very much. [LB962]

SENATOR ADAMS: Next proponent. [LB962]

LELIA COYNE: (Exhibit 11, 12) There are two documents there for the senator. I am Lelia, L-e-l-i-a Coyne from Lincoln. [LB962]

SENATOR ADAMS: Could you spell your last name, please? [LB962]

LELIA COYNE: C-o-y-n-e. [LB962]

SENATOR ADAMS: Thank you. Go right ahead. [LB962]

LELIA COYNE: Senator Council and colleagues, thank you for introducing LB962 to the Nebraska Unicameral. Lead poisoning is a serious public health problem even at low levels of exposure. The proportion of Nebraska children affected is undetermined but far from negligible. It produces irreversible lifelong damage to cognitive development, behavioral stability, and physical health, particularly during the first seven years of life. It is almost entirely preventable if the child is removed from exposure sources. Therefore it is entirely appropriate to include mandatory screening for elevated blood lead levels prior to entering into the school system as part of the overall fitness requirement. However, legislation requiring such screening must be effectively targeted, attentively administered, and positive results appropriately followed up. I have some major concerns with LB962 as presently written. These concerns derive primarily from equating lead testing with immunizations. Vaccinations confer immunity to the disease in question. Contrariwise, a blood lead level test provides evidence of ongoing or recent exposure, neither protection from lead's toxicity nor the damage resulting from it. It is a warning that immediate action needs to be taken to prevent further damage. Any measurable exposure will have consequences. To reiterate, vaccinations prevent disease. A positive lead test counsels urgent reduction of ongoing exposure sources. I need three points of clarification as to how this legislation would work in practice. Firstly, to whom would the results be reported, and who would hold the records? If they are to be useful for stimulating proper action, they must be provided to public health officials for compilation, follow-through, and reporting. Results reported only to the school district would be closed to needed educational and remedial intervention by public health programs. Secondly, what explanation and pre-education will be provided to parents prior to the testing to explain the importance of undertaking it and acting on positive results? Most Nebraskans remain uninformed about sources of lead exposure risk, and also of the urgency of responding vigorously to even low levels of exposure. Thirdly, will there be an action level at which investigation and reduction of the exposure source is recommended or mandated? I now have two primary concerns with the reporting criteria adequate to satisfy the requirement. Firstly, exception three of LB962, which exempts testing of a child deemed at low risk should be struck or serious consideration be given to the expense of verification and certification of low risk relative to that of performing the test. There is no true assurance of lack of ongoing lead exposure short of a negative blood lead level test. Few medical practitioners are presently qualified to develop and administer an adequate questionnaire. Secondly, historical test results would not be as useful a preschool testing mandate as would be addition of a recent affirmation of absence of ongoing exposure sources. A child who was tested at one, two, three years of age or annually through age six, if at high risk, according to the recommended guidelines of the Nebraska Coalition to Eliminate Childhood Lead Poisoning...I will add few, if any, of these children have been tested at that level, should already have had attention directed toward reducing past elevated levels. Past damage cannot be undone

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now. I'm going to skip two paragraphs of this... [LB962]

SENATOR HOWARD: We're at the red light... [LB962]

LELIA COYNE: ...yeah, in the interest of brevity. In conclusion, I heartily support making mandatory a recent blood lead level test prior to entering school as a very sound policy in addition to encouragement to follow the existing guidelines for testing at prescribed earlier childhood intervals, or even better, to aggressive reduction of LBP dust hazards in pre-1978 houses and public buildings. And this is a very important thing. Most of our...many of our schools are pre-1978, and they are doing renovations with no lead-safe practices, and they need to be brought into this. There are two to three years of active need before seven years after our kids enter school. We need to be testing for working on private...public as well as personal issues. I think, however, to be effective, LB962 requires some significant modifications. Thank you, madams and sirs for your time. In addition, I have provided you with some referenced source of the backing for all of these things. I have another paper that I could provide you with respect to Nebraska testing which is very low outside of Omaha. [LB962]

SENATOR HOWARD: Thank you. Thank you, Lelia. Do we have any questions for this testifier? I think you covered it. Thank you. [LB962]

LELIA COYNE: Thank you, ma'am. [LB962]

SENATOR HOWARD: Next proponent. Welcome. [LB962]

ADI POUR: (Exhibit 13) Good afternoon, Senator Howard and committee members. My name is Adi Pour and I'm director of the Douglas County Health Department, and... [LB962]

SENATOR HOWARD: Adi, could you spell that? [LB962]

ADI POUR: That is spelled A-d-i P-o-u-r. The Douglas County Health Department is testifying in support of LB962. As you have heard before, child lead poisoning is the number one environmental disease that affects children, and it is completely preventable. Lead has no function in the human body, but unequivocally has shown to affect the developing nervous system, and is associated with reduced IQs, academic failure, behavioral problems, and learning disabilities. And then, of course, we know the higher the blood lead levels the more serious defects are going to be. This country has made great strides in addressing lead in the environment by prohibiting leaded gasoline, lead-based paint, and having more stringent ambient air quality levels just to mention a few. However, lead is still with us and will be part of our environment for many years to come. On the other hand, research is telling us that the adverse effects of lead on a young child occur even at lower levels. Therefore, this bill is necessary. The only way to

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tell if a child has an elevated blood lead level is through a blood test. Most children with elevated blood lead levels do not have any signs or symptoms. Therefore, they go undetected. Blood lead testing will facilitate early detection, referral for treatment of lead poisoning as well as recognition and remediation of the lead exposure. At this time, Medicaid requires that children be tested for lead at ages one and two. Medicaid will pay for the blood lead tests, and so do several insurance companies. Even with this mandate and extensive outreach to physicians, only 33 percent of children on Medicaid have been tested in Douglas County. This leaves out 66 percent. Just for brevity, the bill would require parents and physicians to have a discussion, hopefully early, about what the requirements are to enter school, and at that time, with all the different immunizations that are being required, a blood lead test would also be added. This is much simpler than adding another immunization. No concerns over side effects of a vaccine, just a simple finger stick or a venous draw potentially preventing irreparable damage in a child's life. This bill promotes the importance of reducing exposure to lead as an integral component of preparing children for school and for learning. Happy to answer any questions. [LB962]

SENATOR ADAMS: Are there questions for this testifier? Thank you, Senator. Yes, Senator Howard, go right ahead. [LB962]

SENATOR HOWARD: Oh, you bet. Thank you, Chairman Adams. Adi, as...and I know you've worked for the...with the health department for quite some time now. I see you periodically on television and always doing a good job. Is the health department doing an outreach program of any kind regarding this lead issue? I haven't seen anything for...I...I...a considerable amount of time, just a general information piece for parents are concerned. [LB962]

ADI POUR: This is a very good question. I mean, there are several programs in Douglas County because we are the largest Superfund site in regards to children with elevated blood lead levels in Omaha, a distinction that we really do not prefer. But the Omaha Kids Alliance has been actually created to do outreach and education in our community. You know, it is difficult because it needs to be ongoing. There is some awareness that is going on on TV. We have billboards that are out there. We have a community health work program. We have people really try to go...we work very closely with the big clinics because, again, that is a population who needs that education to be aware of it. We do a lot with awareness, but it probably is not enough. [LB962]

SENATOR HOWARD: Can you tell me a little bit more about the alliance outreach that you mentioned? [LB962]

ADI POUR: The Omaha Healthy Kids Alliance, it's...Kara Eastman is the director of it. It was really created when the Superfund site came on board. We as a community decided we needed to have not only somebody overseeing the EPA and their activities

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that were going on, but needed to have community input and needed to have an outreach organization. OHK has done a wonderful job. They have volunteers who get entrance into the homes. As you indicated before, it's not easy to go into a home and tell the parents, you know, your child has an elevated blood lead level and now I want to see in your kitchen or...and your window sills where potential lead-based paint could be. But these outreach workers have really been very, very successful in getting into these homes. We have community health workers that are specifically trained, so there is a lot of outreach going on. I am surprised that you are saying that it isn't so visible. But I want to share with you in regards to Nebraska, I would be willing to bet that Omaha is the gold standard because we are so much aware of the lead problem in Omaha. But I don't think you are going to see a lot going on out in western Nebraska, and I would make sure that you agree that there is a lot of lead-based paint in those areas too where children are just not getting tested at this time. [LB962]

SENATOR HOWARD: Well, I'm sure there's a lot of lead-based paint in any section where there's older housing. You had mentioned that some of the efforts that are being done, and I'm aware of the children who are covered by SCHIP or Medicaid with their annual screening could be tested. I just wonder how many of those are done. You may not know; you may not have any idea. [LB962]

ADI POUR: Well, 33 percent of the children that we test are on Medicaid, and that means they are through a program as you are describing, and so they are being reimbursed. In addition to it, you will hear from another testifier after me. The community health centers are doing an excellent job doing testing, and then over the last several years, not so lately, we have received funding from the Center for Disease Control to provide free testing for children. We will go to health fairs and places like that where individuals will come. Those are not the preferred places. We prefer people to go and get tested where their medical home is with their physician, but still, those outreach dollars have helped us. We have covered the testing that is going on at One World Community Health Center at this time through some of the HUD money that the city of Omaha has received. So we have tried to make sure that everybody who wants to get their child tested is able to do it even they do not have any means for it. [LB962]

SENATOR HOWARD: Thank you. [LB962]

SENATOR ADAMS: Other questions for this testifier? Thank you then. [LB962]

ADI POUR: Thank you. [LB962]

SENATOR ADAMS: Next proponent. [LB962]

RICHARD BROWN: Thank you, Senators, for allowing me to speak to you. My name is Richard Brown. That's R-i-c-h-a-r-d B-r-o-w-n. I am the chief executive officer of Charles

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Drew Health Center. We have provided primary healthcare services for the past 26 years in Omaha. I personally have had 32 years of health services administration experience in five states. I am a champion for health and healthy living, and we do support this bill. At Charles Drew Health Center, we have 12,000 individuals that last year came to our office for services; 43,000 medical and dental visits. We tested nearly 1,000 children last year for blood levels, and we found that 20 percent of them were high. Just...we're on the down swing, I think up until 2007, and now tests are going back up, I believe, because of the efforts of the organizations that you've mentioned and the awareness in the community, and so we are getting more kids tested, and that's great. And you've heard without repeating a lot, we know that the brain damage that comes from high lead levels is just severe, and it's just terrible low IQs and antisocial behavior. I mean, actually, neural imaging studies of the brain activity shows that lead is associated with loss of gray matter of the cerebral cortex in the area of the brain that regulates attention, executive functions, judgment, social behaviors. I've seen these individuals as children; I've seen these individuals as adults. We're talking about people, who because of the lead levels, they can't learn. They can't understand as well as others. They drop out of school. We got a 50 percent high school drop-out rate in Omaha. How much of that is attributed to perhaps high lead levels in the blood? The cost of lead testing has been mentioned, and it doesn't cost that much. I've heard \$7 up to \$28. If a person absolutely doesn't have health insurance or any means to pay, it will be free at Charles Drew Health Center and other community health centers, if necessary. I mean, there is a minimum fee, based upon a sliding fee scale, and we insist and encourage people to pay for their medical visits. But we don't turn anyone away, and so the cost can be taken care of. This bill is about the safety of our children. It's about the well-being of our children. This bill is also about improving the quality of life and the productivity of adults in our community. It is preventable, and 107,000 I understood was the fiscal note impact, and was it 76,000 that was federal government? I thought I heard. Anyway, what I want to say is that that's a minimal amount of money to spend on such a situation that is preventable, and that will have negative and severe cost consequences in the millions if we don't do a simple thing like get everybody tested that should be tested, so we'll know what we need to do to prevent them from living the lifestyle that we know that they may have to live as a result of having this problem. Thank you and urge you to support this bill. [LB962]

SENATOR ADAMS: Thank you, sir. Are there questions for this testifier? At...may I ask a question then? There is little doubt in my mind, though I don't have any background in the health world or have done the research that you certainly have. There's little doubt in my mind, but what this may have an impact on the learning of students. I guess the question that I have in light of this bill and a policy decision--do you see the lead poisoning rising to the same level of other diseases that we have immunization for, or what... [LB962]

RICHARD BROWN: Well, there's no... [LB962]

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SENATOR ADAMS: ...see what I'm saying? I'm just... [LB962]

RICHARD BROWN: Yeah, there's no immunization...well, as we know, there's no immunization for this, but there are conditions that exist that if a parent knew about them through, unfortunately, being forced to get their child tested before they get into school, then that parent has an opportunity to change those surroundings, so that their child doesn't further become poisoned by the lead. And so, I'm not sure it'll rise to the level of immunizations; this is sort of a different category. But the effects of not testing and not identifying that there's an environment in which needs to be changed, is just tremendous. There's a lot of parents that just don't know. And as we know, parents, you know, they'll do what school says; they'll do what the doctor says. And they have no idea what the damaging effects of this lead is. They're just trying to, you know, get by and let the kids play wherever they want to, so they'll get a break, you know, and the lead is a real problem. [LB962]

SENATOR ADAMS: Fair enough. Thank you for your answer. Anyone else? Thank you, sir. [LB962]

RICHARD BROWN: Okay. [LB962]

MORGHAN PRICE: Good afternoon. My name is Morghan, M-o-r-g-h-a-n, last name is Price. [LB962]

SENATOR ADAMS: Would you spell your last name for us, please? [LB962]

MORGHAN PRICE: I'm sorry. P-r-i-c-e. [LB962]

SENATOR ADAMS: Okay. Thank you. [LB962]

MORGHAN PRICE: Okay. As both a mother and an educator for the community of Omaha, I have the luxury of knowing to get my son tested for lead. We rely on our physicians to protect our kids, but not all physicians are testing, let alone talking about lead. I learned about lead after an education training with a local lead organization and not a physician or a healthcare provider. Everyone should have the luxury of this information prior to being informed that their children are sick from it. As I watch my 16-month-old grow and develop, I can't help but imagine what he would have been like if I did not know how to protect him in my 1920 home, and the importance of ensuring my efforts are not in vain by having his blood tested annually. My older son is now ten years of age, and to my knowledge, has never been tested for lead. Understanding the effects of this poison, I can't help but wonder how many other young people have slipped through the cracks. Passing this law will be a proactive step in ensuring well-rounded efforts of education and prevention of childhood lead poisoning. [LB962]

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SENATOR ADAMS: Thank you, ma'am. Are there questions for this testifier? Thank you then. [LB962]

MORGHAN PRICE: Thank you. [LB962]

SENATOR ADAMS: Next proponent? [LB962]

JOHN LINDSAY: Thanks, Senator Adams, members of the committee. For the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a lobbyist on behalf of Omaha Public Schools. Most of what I was going to say has already been said, Senator Adams, so I would just...the only things I repeat is that within Omaha Public Schools we have a great deal of area that has experienced high levels of lead--Senator Howard's district being one of those, I'm sure she could attest to. And then the testimony you've heard regarding the impact that has on students and so we are in support of this simply for those reasons. And I won't take any more of your time. [LB962]

SENATOR ADAMS: All right, thank you, John. Are there questions for Mr. Lindsay? Guess not. Thank you. Other proponent testimony? Then we'll move to opponent testimony. Is there any opposition testimony? Neutral testimony. Any neutral testimony? Seeing none, Senator Council, you can close. [LB962]

SENATOR COUNCIL: Thank you, Senator Adams and members of the committee for your patience and indulgence. I appreciate this opportunity to close. I appreciate the questions that have been posed by not only the members of the committee, but those who testified with regard to the operations of the bill and the objective. Clearly, as Senator Howard pointed out, if a child is tested and discovered to have an elevated blood lead level, they have an elevated blood lead level. And the test itself is not going to alter that condition, but I firmly believe that we're talking about preparing children for learning as well as providing educational programs to them when they enter school that the data that would be available to schools...one of the issues that has always been raised and is often raised is about the misclassification or the high number of children, particularly from my district who are classified as in need of special education. And I don't need to share with this committee the cost associated with special education. If our educators have information regarding what kind of environmental exposures children have that they could develop the programs necessary to address their cognitive development issues, but another point, and I don't think it's been emphasized enough is that if a child is tested with an elevated blood level and out...I can just use Douglas County specifically. If they have a blood lead level of more than 15 micrograms per deciliter...all of these elevated blood lead levels are reported to the county health departments. Dr. Pour referred to their outreach workers and their community health workers. Once that's reported, the health department dispatches a team to inspect the home, and to provide recommendations on how to eliminate the lead hazards. Now, that

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benefits not only the individuals that are currently residing in that home--we think about the impact it has on future children who are born into that family and reside in that home as well as the families who come behind when that family moves out. If they're aware of the hazards because their child has tested with an elevated blood lead level, they're taking the steps and the measures to eliminate that hazard. The...an ultimate objective of all of the various efforts that you have heard about today...the Omaha Healthy Kids Alliance, the Douglas County Health Department, is to get to healthy homes, so that children aren't exposed to the degree that they are being exposed. But if you look across the state of Nebraska and the concentrations of older housing stock throughout the state of Nebraska, significant percentage of the children in this state are at risk of being exposed to lead and the effect on their ability to achieve academically. The intent of this bill is plain and simply to place the youngster in a position that if they need treatment they can be treated. You asked Dr. Brown about immunization versus, you know, lead screening. Both of them are preventive, you know, you're immunized to protect you against. The lead testing is preventive in the sense that it places a parent or guardian in a position of knowledge, so that they can take preventative steps. You would be surprised at the number of parents and guardians who have no idea of the effect of lead and lead poisoning on their children. And, in this regard, is the connection between eliminating those hazards and better preparing their children to achieve academically, and I think that is a goal of every member of the state of Nebraska. And I would urge the committee to advance LB962. I'll answer any questions you may have. [LB962]

SENATOR ADAMS: Thank you, Senator Council. Are there any final questions for the senator? Apparently not. Thank you for your patience. [LB962]

SENATOR COUNCIL: Thank you for your time and attention. [LB962]

SENATOR ADAMS: That will close the hearing on LB962, and we will open the hearing on LB1006. Senator, you're up. [LB962]

SENATOR HOWARD: Welcome, Senator Adams. [LB1006]

SENATOR ADAMS: Thank you. If we're ready, Senator Howard, you say when. [LB1006]

SENATOR HOWARD: When is good. [LB1006]

SENATOR ADAMS: (Exhibit 15) All right. All right. For the record I'm Greg Adams, representing the 24th Legislative District, and here to open on LB1006. For the record, some brief history leading up to this bill, which probably needs no repeating to this committee, but nonetheless: We've had two interim hearings on this; and throughout most of the interim, the Education Committee and some of your staff looked into this

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issue of when a child should start kindergarten. And, needless to say, at both of those hearings we heard a long list of testifiers. And to the best of my recollection--it may not be yours--but to the best of mine, what we consistently heard, I thought, was one testifier after another, well-intended, well-informed professional people, and everybody having a little different opinion as to when this ought to be. And though I've probably said this publicly more than once, I think it deserves repeating. A young superintendent said to me during the interim: Adams, we need to fix this; and whatever you do will help and also create another problem. And I suspect they're right, given the testimony that we heard during that interim hearing--or both of those interim hearings. What you have in front of you in this bill, frankly, is in response to the Executive Session that we held at the conclusion of the second interim hearing on this, where the committee suggested that, one, we change the kindergarten eligibility start date and that we move it from October 15 to July 31, which is really the essence of this bill; that's exactly what it does. Does it solve all the problems? No. And, like, whenever we set this date, depending on what side of it you fall as a parent, you might say, oh, it needs to be changed; or great; or you've really messed up my plans in what you've done. I do think, though, that by moving it to July 31, what we have done, to some degree, is to compress that wide age spectrum, potentially, of students starting in kindergarten; it does compress it some. The next problem that was presented in the bill is: What do we do about the 4-year-olds? What this bill proposes to do is if that child is between the...their birthday falls in that age bracket between August 1 and October 15, they could be admitted into kindergarten if they have been so assessed as ready for kindergarten. And what this bill proposes to do is to say to each school district: You need to develop that assessment methodology--how you're going to make that determination. And, quite frankly, what the bill also does is to require the State Department of Education to develop an assessment. What the page is handing out to you now is an amendment that I would propose. Though I wish we didn't have to put this amendment in, I think we have to. And what the amendment does is to take the State Department of Education out of the assessment development, because of the fiscal note; and you all know what happens up on the floor when a bill has got a fiscal note. And I think we have a greater priority here, and that's to change that kindergarten eligibility date, more so than getting an assessment developed by the State Department of Education. So what the amendment would do would be to limit the state department from that. Maybe at some point in time we would want to come back to that--at another year, when revenues look different--and say to the Department of Education: We'd like to get you involved. But in the meantime, it would just be the school districts; they'd develop their own assessments and determine whether those 4-year-olds are ready for kindergarten. Basically that is the bill. However, you know, there is one other date that I personally wrestled with, and that is: When do we start this? And here again, what group do we want to make mad? And as you all know, it seems like in this job it's always a matter of making somebody mad--so pick your fights. The beginning date on this would be the school year of '12-13. And, quite frankly, the balance that I weighed was this: Do we start it right now and impact the parents, if you will, of kids who are already in the loop? They've made plans about

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kindergarten; they've made plans about preschool; they understand the rules; they understand the eligibility requirements. Or do we take it out to that '12-13 date so that parents of those younger kids, who have not yet made those kinds of plans, will know what our intention is in legislation with eligibility start dates and have time to plan. And I've said: Let's give these folks out here that opportunity to plan, and these will have to deal with the law as it currently is. That's the essence of LB1006. Questions? [LB1006]

SENATOR HOWARD: Thank you. Committee, do we have questions? Well, I can give you one. I remember during the interim hearing there was--I believe she was a principal who came in and said that she could tell by working with the child or looking at the child if that child was ready. She knew the children that would be going to her school. Would that suffice? If every school district is to develop their own assessment, would that sort of assessment suffice? [LB1006]

SENATOR ADAMS: I think that might be a bit too subjective. [LB1006]

SENATOR HOWARD: So are you envisioning a written--a report of some sort? [LB1006]

SENATOR ADAMS: It could be that; it could be the school psychologist sitting down with the child. [LB1006]

SENATOR HOWARD: Okay. Thank you. First opponent. Did I say "opponent"? You're a proponent, right? [LB1006]

CAROLINE WINCHESTER: (Exhibits 16 and 17) Proponent. [LB1006]

SENATOR HOWARD: Good. Thank you. [LB1006]

CAROLINE WINCHESTER: I was hoping it was... [LB1006]

SENATOR HOWARD: First proponent. If you want to go ahead. [LB1006]

CAROLINE WINCHESTER: Okay. Thank you, Senator Howard and the Education Committee. I would just like...I am Dr. Caroline, C-a-r-o-l-i-n-e, Winchester, W-i-n-c-h-e-s-t-e-r. I am superintendent of schools at Loup City Public Schools, and I'm also representing NRCSA, the Nebraska Rural Community Schools Association. We strongly support LB1006 and also applaud Senator Adams' amendment, which he just introduced. Changing the cutoff date for kindergarten entrance to July 31 would greatly enhance educational opportunities for our most disadvantaged students. The date change increases the likelihood of reducing the achievement gap for at-risk groups...and...since students with birthdays in August, September, and early October would now be allowed to attend school district preschool. If you're not currently

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aware--the guidelines with the October 15 date and with Rule 11--those children that are eligible for kindergarten are not allowed to attend preschool. And what that does is it probably jeopardizes our most at-risk students, because our young-age students...particularly if you had, say, an October 10 birthday, you may not be allowed to enter preschool. We can't start till they're 3, so it might be November or December before you start. And then if you're told you have to start kindergarten in August, you're taking our most at-risk students and then causing them to have even less preschool time. There is also considerable data saying that students that--late-summer birthdays--that enter school at age 6 perform at higher rates. We've seen in our school district, where it was 50-50 with parents holding students back, it's now more 80 percent, because the affluent parents can afford a private preschool, whereas the others can't. There's a large gap in our school district--16 months in last year's kindergarten. And if you look at that, that's 27 percent of the age of a young child, which is a tremendous gap. In addition, maturity becomes an issue. We know in our school district a lot of our junior high students that have behavior, social, and academic issues are of young age groups; and that's also supported by research. Just in conclusion, I would like to say that I think LB1006 is in the best interest of student learning for all students. Are there any questions? [LB1006]

SENATOR HOWARD: Thank you. You did... [LB1006]

CAROLINE WINCHESTER: And I do--in addition, I have 33 letters of support for LB1006 from teachers and parents. [LB1006]

SENATOR HOWARD: All right. You can give them to the committee clerk and...or one of the pages will pick them up, and we'll take those. So thank you. And thank you for finishing within the light time frame. Are there any questions for this testifier? Senator Sullivan. [LB1006]

SENATOR SULLIVAN: Thank you, Senator Howard. Dr. Winchester... [LB1006]

CAROLINE WINCHESTER: Oh, sorry... [LB1006]

SENATOR SULLIVAN: ...I've got a question. That's all right. [LB1006]

CAROLINE WINCHESTER: ...I didn't hear. [LB1006]

SENATOR SULLIVAN: Something that you didn't touch on but I'd like to ask you about nonetheless was there's actually a fiscal note attached to this bill; it has to do with some expenditure needed to develop an assessment. I'd like your reaction on that and if you feel it's necessary and what impact that will have. [LB1006]

CAROLINE WINCHESTER: Yes, well, Senator Adams, I think, has removed that with

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an amendment. But in answer to your question, one thing that...if our district had parents that wanted an assessment for their young child, to determine whether they felt they were, you know, able to attend kindergarten, our school psychologist...I visited with her. And there are a number of tests out there that, you know--readily available to school psychologists--that could be used to--you know, if parents so chose, you know, would like an assessment--that we could do. [LB1006]

SENATOR SULLIVAN: Okay. Thank you very much. [LB1006]

SENATOR HOWARD: Any other questions before we let you go? Well, I don't see any. Thank you. Next proponent. Welcome to the Education Committee. [LB1006]

MARY YILK: (Exhibits 18) Well, thank you. I'm sure all of you are tired after this long afternoon; but members of the Education Committee, my name is Mary Yilk, Y-i-l-k, elementary principal at Doniphan-Trumbull School. I am here to represent the Nebraska Council of School Administrators as a member of the NCSA legislative committee. I am here to support the bill LB1006. And many of you have been here for the three testimonies that we've had, and we're all asking why--why the change? Well, elementary principals brought this concern ten years ago about 4-year-olds being in the kindergarten...the entrance age for kindergarten. We knew that there was the big gap and that students were showing that they were immature and not ready for school. Instead of changing the entrance date, the Legislature changed mandatory age from 7 years to 6 years--be 6 years old by January, you had to go to school. It did not address the very young entering kindergarten but did try and close the age gap. The gap of 4- to 6-year-olds is still an issue as students enter their first years of public school. And I do want to thank Senator Adams and all of you for coming towards improving the educational system at the beginning of the private school years. What I want to show you--I will give you my handout, but what I wanted to show you is--I was that elementary principal that you asked: Well, what does "ready" mean? And that kept me thinking: Okay, how can I show them visually what is ready? I do have my early childhood endorsement, and when I was going to school...I know this is going to look very simple to you, but when you ask a student to draw a picture of a person--you don't tell them who; you don't tell them--you give them a piece of paper. And from that you can tell their language skills and their development; there's so much that you can analyze through that drawing. If you look at the first drawing...parents come to me and say: Is my child ready? Can I...do you think I should send my child? I'm really torn; what should I do? And it is...you know, I don't say they can't come or can, but it's usually the ones in tears that I will give this Evanston Early Identification test. On number 1, if you look, it was a September 4 birthday; they were going to turn 5, and the mother just wasn't sure what to do. So I gave this assessment. The mother chose to hold this child back--this was last year's drawing--because she was so torn what to do, and so she held him back until this school year. The second one is a July 29 baby. Even though we are saying July 31, which I think all of us can live with...and I see the red light; can I go ahead and describe

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these drawings? [LB1006]

SENATOR HOWARD: Would you like a question so you can continue? [LB1006]

MARY YILK: Okay. Yes. [LB1006]

SENATOR HOWARD: Feel like I've asked one. [LB1006]

MARY YILK: I am so sorry. [LB1006]

SENATOR HOWARD: Thank you. [LB1006]

MARY YILK: July 29. Again, this was a person; they don't have the body parts and all of this. The parent chose to hold them back. This girl is now a seventh-grader. She did show leadership skills when she started school at 5; she was president of our student council. She had a lot of family issues that she was able to handle, and she is being very successful in school. The next page--this was a very borderline child; the parent chose to hold this child back until they were a good 5; the birthday was October 1. And this girl now is a senior, played sports, very academically doing well, going to go to college and is a peer mentor for students. So she was a great leader. This is just this year--I was just going to show you what a good 5-year-old drawing looks like. You'll see all the details; it's all there, okay? That's a November 17 baby. This is the September 4; if you look at the very first page, this is one year later. Look at the details. That language came into that child--the system of what's around them. This child is being very successful starting school. So that's a difference between a 4-year-old starting and a good 5. Again, number 6 is a good 5--February 4. These were at random; I just pulled--except the ones that I wanted to show you. And then this is the "Analyzing Children's Art"; and I do give this to parents just so they can see where their child might be with their language and how they're processing towards them. [LB1006]

SENATOR HOWARD: Thank you. That's very enlightening. I think I could do one of these. [LB1006]

MARY YILK: (Laugh) Yes. I wouldn't want to show you my language development. [LB1006]

SENATOR HOWARD: Do we have any questions for this testifier? Thank you. [LB1006]

MARY YILK: Um-hum. I will leave this because the rest of it is why the change and all that. But the wrap-up: I would, again, like to say the NCSA appreciates the first step of making our early education in Nebraska excellent. Changing the entrance age to 5 by July 31 will ensure that all entering kindergarten will be a good 5. These important extra three months will make a huge difference in children's lives. This will give 5-year-olds a

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chance for a positive lifetime of learning and being ready for learning. I personally feel the next step would be to change the compulsory age to match the entrance age to close the age gap. Again, NCSA does support LB1006. If there is anything that I can do or research that you need, please feel free to call me. And thank you for your time and your commitment to children, because you have really worked on this all summer and fall. So thank you. [LB1006]

SENATOR HOWARD: Thank you. And aren't you glad I could remember your comments from the summer? [LB1006]

MARY YILK: Yes, because it haunted me. And in... [LB1006]

SENATOR HOWARD: I'm impressed myself. [LB1006]

MARY YILK: Right. And in here it will tell you what is "ready." [LB1006]

SENATOR HOWARD: Thank you. [LB1006]

MARY YILK: I also did that... [LB1006]

SENATOR HOWARD: Okay. [LB1006]

MARY YILK: ...because...and then explained what it is for you. [LB1006]

SENATOR HOWARD: All right. Thanks so much. [LB1006]

MARY YILK: Um-hum. [LB1006]

SENATOR HOWARD: Do we have other proponents? Welcome. [LB1006]

LINDA FREYE: (Exhibits 19, 20, and 21) Thank you. My name is Linda, L-i-n-d-a, Freye; and that is spelled F-r-e-y-e. Good afternoon. I am Linda Freye, and I'm a member of the Lincoln Education Association. And I'm here to offer testimony in support of this bill, which would move the age of kindergarten eligibility from the October date to the July date. I offer this testimony as a kindergarten teacher who is ready for parent-teacher conferences in 45 minutes, so I'm going to speak quickly. Okay. I've had 12 years in a kindergarten classroom. My whole career, basically, has been in early childhood ed. I was an instructor at UNL in child development, working in the preschool there and the day care. I've taught kindergarten, like I said, and I've also been a Head Start teacher. So my heart is in early childhood education. It's important for you to know that the kindergarten of today is not the kindergarten that I remember and, I suppose, most of you remember. Remember when we were there half days--morning or afternoon? Gone are those days of the rug and the nap and the milk and cookies and

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that kind of thing, because today we have all-day instruction. Kindergarten is focused on the rigorous academic achievements of kids. Students in my class are now...I was kind of trying to make a list of what we do; here are a few of them. We identify all alphabet letters and sounds; we read 36 high frequency words; we blend and segment consonant-vowel-consonant words; we learn word families; we spell those consonant-vowel-consonant words; we write stories with a beginning, middle, and end; and we include punctuation, spacing, and capital letters. In math: we tell time; we count; we identify money; we add and subtract. And we still have to have time to learn how to share, get along, take turns, and use the bathroom appropriately. Children who are 5 years old when they enter kindergarten will exhibit behaviors in their physical development, as well as in their social and emotional development, that are appropriate for that age. Being 5 when you start kindergarten, with this maturity in place, will always help that child succeed in each and every subsequent grade. Typically, a child who is only 4.5 when school starts in August is developmentally at a disadvantage to the other students who are already 5 and, in some cases, age 6. An example from this year: I had somebody turn 5 on October 15, and somebody turned 7 on November 15; and that is a big difference in attention, focus, abilities, and all of that. So thank you for listening to me, and I'll take any questions. [LB1006]

SENATOR HOWARD: Do we have any questions for this testifier? You make me really glad my youngest one has graduated from law school; her birthday was September 24. [LB1006]

LINDA FREYE: And, last, I forgot to tell, the bottom document is just an example--I teach here in Lincoln--and what we do for kindergartners. So you can see, in the area of literacy, what our standards are. So as I rambled, you can see what we cover. [LB1006]

SENATOR HOWARD: Thank you very much. [LB1006]

LINDA FREYE: Thank you. [LB1006]

SENATOR HOWARD: Other proponents. Welcome. [LB1006]

MELODY HOBSON: (Exhibit 22) Thank you. My name is Melody Hobson, M-e-l-o-d-y H-o-b-s-o-n, and I'm simply here to represent the State Board of Education. You are getting a letter from the State Board of Education, and the state board is in support of LB1006. They are very aware of the differences in age that children come to school, and so they are supportive of decreasing the age range of children entering school. The board does recommend that the model assessment procedure adopted by the State Board of Education be taken out of the bill. And I noticed that Senator Adams has made that amendment. It's not...it's...while it's a good idea, we simply don't have the capacity right now to do an appropriate job of research and assessment development. But if you have any questions, I'd be happy to answer. [LB1006]

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SENATOR HOWARD: Thank you. Do we have any questions? I guess not right now. Thank you. [LB1006]

MELODY HOBSON: Thank you. [LB1006]

SENATOR HOWARD: Welcome, Mr. Kohout. [LB1006]

JOE KOHOUT: Thank you, Senator Howard. Vice Chairwoman Howard, members of the committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of the Ralston Public Schools, here to register their support of LB1006, primarily for the reasons that, you know, that the issues raised by both Senator Adams and Dr. Winchester about closing the gap; that was the main focus of their discussion. And our current superintendent came out of the curriculum division and thought this was just a fantastic bill, so I offer his support. And as a young--as a guy who's going to have a kindergartner here in a few months, it's always fascinating to hear the discussion. So I'll try to answer any questions you might have. [LB1006]

SENATOR HOWARD: Thank you. Do we have any questions? Good luck with that school. [LB1006]

JOE KOHOUT: Thank you. [LB1006]

JAY SEARS: (Exhibit 24) Good afternoon... [LB1006]

SENATOR HOWARD: Welcome. [LB1006]

JAY SEARS: (Exhibit 23) ...Senator Howard, members of the committee. I'm Jay Sears, J-a-y S-e-a-r-s, and I represent the Nebraska State Education Association. Before I start, I would like to let you know that there was one other kindergarten teacher that was going to come down from Arlington, Nebraska--Janet Warner. She had a death in her family and is at a funeral today, but she will be sending you all her written testimony, and I'm sure it'll sound much like what Linda Freye just did with you, because kindergarten teachers are wonderful people. The Nebraska State Education Association does appear before you today to support LB1006, and we support the amendment that Senator Adams has also offered. We realize the fiscal restraints of all of our departments in the state of Nebraska. I'm sure many school districts already have assessments that they use to decide whether or not a child is ready for kindergarten. Just a personal note, I'm a 6-year-old starter in kindergarten. My mom was a teacher, and she knew I wasn't ready to get on my pony and go 2 miles to the rural school in Iowa, where I started. So I didn't start until 6. So I don't know if the pony didn't know where I was going or I didn't know, but...and you can do your further assessment of whether or not me waiting until 6 actually helped my education. We support the issues

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in the bill. One of the things, I think, we need to realize is that setting ages doesn't guarantee the right range of developmental abilities in a classroom. It helps; it's starting to narrow it. You heard what was happening from the interim sessions, and I think this is a good move to narrow some of that gap. The other issue that I think we also have to think about is it's a good idea that it's not going to start until 2012. But there's also another gap for us. Here's a whole new group of 4-year-olds, many of them whose parents cannot afford public or private preschool on a pay-as-you-go basis. Senator Adams started with: when we pass legislation, we solve one group of problems, but we create another one. And so just to put on your table--thinking down the road: we have a cohort of 4-year-olds who have no place to go, no matter what you do with that age range. And so we need to be looking at how do we prepare children that have various developmental abilities enter the world of education? So I thank you for the time today to testify before you and for your late afternoons and evenings that you spend on the behalf of education in this state. So thank you very much. That concludes my testimony. [LB1006]

SENATOR HOWARD: Thank you, Jay. Yes, Senator. [LB1006]

SENATOR SULLIVAN: Thank you, Senator Howard. Well, I just have to beg the question, then, Jay: How can we deal with that cohort of 4-year-olds that we are now kind of leaving out there? [LB1006]

JAY SEARS: In 2012 we'll be in a much better economic time, and then we can start to fund preschool, public-paid, for all children. So...but there is--there is that real issue of some of our parents don't have options for their children. And most often those are the children who need the public education process at a very early age. So I also grew up in north Omaha, and so maybe my starting at 6 was also because of the lead poisoning; I don't know; it's hard telling. [LB1006]

SENATOR HOWARD: Do we have any other questions? [LB1006]

JAY SEARS: Thank you very much. [LB1006]

SENATOR HOWARD: Thank you. Other proponents. Opponents. Neutral. Welcome, Mary Campbell. [LB1006]

MARY CAMPBELL: Senator Howard, members of the committee--Mary Campbell, C-a-m-p-b-e-l-l, assistant superintendent for government relations, Lincoln Public Schools. I had not intended to testify--I will finish this very quickly for the committee clerk. I guess I just wanted to register a couple thoughts in a neutral vein. And I think the second-largest district in the state definitely represents the lack of consensus around some of the components of this bill. In going around and talking to the experts in instruction and curriculum and the district office, I couldn't really get a consensus on: Is

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there a perfect date? And so, hence, neutrality on that. We'll see what works or not. We're a little less split of opinion on the question of whether there is a reliable, quality assessment to be used to test children for earlier admission. So I was all over the map in talking to people about whether they think there is a really good way to make that kind of assessment. I think one thing that proponents and opponents and us as neutral would probably be in agreement with is just the reality that making those required assessments will indeed impose additional time and resources needed from all the districts that are faced with looking at children that fall into that category. So just, I guess, a little reality check on that. [LB1006]

SENATOR HOWARD: Thank you. Do we have any questions? I don't see any questions. Thank you. [LB1006]

MARY CAMPBELL: Thank you. [LB1006]

SENATOR HOWARD: (See also Exhibit 24) And I'll note we did get written opposition from John Lindsay on behalf of Omaha Public Schools. Any other neutral testimony? [LB1006]

SENATOR ADAMS: Thank you, Senator Howard and committee members. I'll make the conclusion very short. Just simply to summarize again what we're doing. We're moving from an October 15 to a July 31 kindergarten eligibility date. It would go into effect 2012-13 school year. We would allow the 4-year-olds that fall between that August 31 and October 15 gap to go in, if appropriately assessed. And we're going to leave that to the schools to develop their assessment. And the current language says that the state department will develop the model. Given the fiscal situation that we've got, the amendment that you've been provided takes the state department out of that. I'll stop at that. [LB1006]

SENATOR HOWARD: Thank you. Any questions? Looks good from here. And that will end our hearings for today. Thank you. [LB1006]