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Education Committee  
February 07, 2011

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[LB372 LB637 LB657]

The Committee on Education met at 1:30 p.m. on Monday, February 7, 2011, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB657, LB637, and LB372. Senators present: Greg Adams, Chairperson; Bill Avery; Ken Haar; Ken Schilz; and Kate Sullivan. Senators absent: Gwen Howard, Vice Chairperson; Abbie Cornett; and Brenda Council.

SENATOR ADAMS: This will be the first day of hearings this week for the Education Committee. We have three bills that we're going to hear today, the first one of which is LB657. That will be introduced by Senator Janssen. Is he here? Okay. Good. And then I'll be introducing LB637 and LB372 as the afternoon progresses. Let me first of all begin by welcoming you all here, and let me introduce you to those on the committee who are here with us today. I'm going to start on my right. The committee clerk is Becki Collins. And what I'd like you to do, if you choose to testify today, what I want you to do is to come up here when it's your turn, and you need to fill out the appropriate form to indicate that you're testifying, and you need to hand it to Becki before you testify. All right? And then when you get up here to the microphone, the very first thing I want you to do is to state your name for the record, and spell it so that it's very clear to us and to the transcribers for the record. And then you can begin your testimony. In addition to that, I would ask any of you, unless you are credentialed press that have your laptops going or your BlackBerrys going, to shut them off so that you can pay attention to what's going on in this committee hearing. And if you need to do otherwise, I'd ask you to leave the hearing room and then you can come back in. All right? Now with that, we'll begin this hearing. And let me initiate in this way, I need a feel for hands: How many of you will be here to testify in support of LB657? All right. On the other side of it, how many are going to be testifying in opposition to LB657? Okay. Here's what we're going to do. I'm going to limit the testimony to three minutes per person. We will use the light system to three minutes per person. And we'll try to get through all of the testimony. And if for some reason it seems to be straining on too late into the afternoon with more testifiers than have raised their hands, I may put a limit to it. All right? With that, Senator Janssen, you are recognized to open on LB657. [LB657]

SENATOR JANSSEN: (Exhibits 1 and 2) Thank you, Senator Adams, members of the Education Committee. For the record my name is Charlie Janssen; that's C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent District 15 in the Nebraska Legislature; hail from Fremont; and District 15 covers the entire county of Dodge County. I appear before you today to introduce LB657. LB657 would repeal the provisions of LB239 passed in 2006. LB239 expanded Nebraska's postsecondary education residency statutes to permit aliens not lawfully present in the United States to qualify for in-state tuition if they graduated from a Nebraska high school and provided to the state postsecondary educational institution they wanted to attend an affidavit stating that he or she will file an application to become a legal resident at the earliest opportunity he or she is eligible to do so. I'd like to point

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out there is currently no process available of this sort to become a legal resident. LB239 was one of the most controversial bills passed during the Ninety-Ninth Legislature. The bill received 27 votes on Final Reading and was promptly vetoed by the Governor. The Legislature overrode the veto by a minimum of 30 votes. Several votes changed in the process. The public was rightly confused. Some were disappointed, many were outraged. Gamesmanship appeared to be in play in the eyes of some people. This change in law has come up in nearly every statewide election conducted since then. I was asked about my position on in-state tuition for illegal immigrants more than any other position statement during my campaign for the District 15 seat. From following election coverages over the years I'm almost certain that each of you has also fielded that same type of question. I think it's appropriate that the One Hundred Second Legislature be given an opportunity to reexamine this policy. Only three members who voted for LB239 on Final Reading and the override motion remain in today's Legislature. Senator Raikes, the late-Senator Raikes, Chairman of the Education Committee during deliberations on LB239, voted no to advance the bill to the full Legislature, and did not vote for the bill on Final Reading or the override motion. I have great respect for Senator Raikes, and his votes were influential to me as I considered policy arguments for and against LB239 and whether or not to introduce LB657. As I read through the floor transcripts of debate of LB239, comments made by Senator Flood and others also made an impression. There was a great deal of questions and anxiety about the appropriateness of making aliens not lawfully present in the United States eligible for in-state tuition benefits. Many brought up federal law 8 U.S. Code 1623 language. This was considered. It reads: Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident. I'm not an attorney, but the law of the land seems very clear to me. Nebraska cannot grant in-state tuition to aliens not lawfully present in the United States unless we offer in-state tuition to all citizens or nationals of the United States. Nebraska state statute 85-501 still requires "All state educational institutions shall charge nonresident fees to be paid by nonresidents of Nebraska who shall matriculate at any such institution." And I am certain that we are still charging students from Illinois, California, and any other state of the Union, the nonresident rate. Something has to give. As we learned at last year's public hearing of LB1001, a similar proposal to LB657, our statute is considered a conflict preemption clause. That is a legal term for it defeats the purpose of federal law. And by that I mean, in order for an adult to avail himself of the benefit of in-state tuition in Nebraska, he has to remain here to receive the reward, to receive the subsidy. He has to remain unlawfully present, and so we have a Nebraska law giving an incentive to violate federal law. We also need to consider the harm done to the person using this process. We are subsidizing an illegal immigrant that can be deported at any moment. These adults cannot work regardless of how highly educated and perhaps highly indebted they are due to the escalating rates of both in-state and out-of-state

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tuition rates. We are also harming the very adults we profess to be helping. Under federal law, once you turn 18 your immigration violation becomes your own. You accrue what is called unlawful presence. Once you accrue one year of unlawful presence, you come up against the ten-year bar, which means you can never get a U.S. visa for the next ten years. So if those adults want to live the American dream, we have lured them down a primrose path by giving them a reward to stay here an extra year or perhaps an extra four years or more, and then they hit the ten-year bar and they cannot get legal status. We are hurting the persons more than we are helping them. In addition to offering these persons a cruel, false hope, Nebraska is opening itself up to unnecessary legal actions and costs to the taxpayer. We are violating federal law and we are encouraging illegal behavior. We have already been sued once. The first case in Jefferson County was recently dismissed but is expected to be refiled as soon as the plaintiffs follow the instructions of Judge Korslund to ask the federal Department of Homeland Security to stop Nebraska's colleges and universities from giving in-state tuition to illegal immigrants. And I will have a handout on that later with their intentions to do just that. If the DHS does not do so, the plaintiffs have the right to refile in district court. Accounts of the first trial indicate that the university, the state colleges, and community college boards spent many thousands of dollars on legal counsel, both in-house and by contract, in that first case. I'm not sure that at a time where the university pleads constantly for more and more state tax dollars that this was a great expenditure of funds. Taxpayers rightly continue to object to this state law and the policy of our university and our colleges. How many students are we talking about here? According to my request for information from the University of Nebraska, one student uses this section of statute at the University of Nebraska-Lincoln. No students use this section of statute at the University of Nebraska Medical Center; 30 use it at the University of Nebraska-Omaha; 17 at UNK. The Nebraska state colleges report no such students. The Community Colleges Association chose not to respond to my office's request for information. I do recall, last they did respond, and it was a lower number. I would note that 40 states, 40 states have considered offering this unlawful benefit and have chosen not to, I think, for good reason. They do not want to encourage a culture of lawlessness. On some illegal immigration issues, we profess to demand that the federal government take care of this problem, but then in this case we conveniently choose to disregard the federal government's explicit command to not reward unlawful behavior. This has me stumped. This blurring of the issue only causes further disrespect of our laws, our politicians' abilities to speak straightforwardly and honestly. I would note that in order to respect the supremacy of the federal laws, I did insert a clause stating that Nebraska will respect any change in federal law that changes the current federal law which we are now blatantly disregarding. If Congress sees fit to pass a law authorizing in-state tuition to illegal immigrants without requiring that all citizens of any state also receive in-state tuition, Nebraska will comply with that law. I did read the technical notes and there may be an issue with that, and if it would be at the committee's discretion to amend that out I would be more than open to that as you proceed, and happy to work with you on that. All that being said, I hope the committee gives strong consideration to

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this bill. Last year, a vote was never taken in Executive Session on LB1001. I don't think that serves us well and I don't think it's fair to the general public. We are all aware that this is a widely followed issue. People need to know where we stand on this issue. We continually tout the openness of our process and then sometimes we fail to live up to those standards for whatever reason. I think we need to indicate whether we will respect federal law or continue to ignore or disregard it and tell people why we've chosen that path. We'll probably hear several testifiers today. As you all know, I've been involved in this issue since my arrival in the Legislature. And I did read over the weekend probably some of the proponents of this, a "Midlands Voices" in the Midland section of the Omaha paper. This was pretty much a copy paste of last year's article with this year's numbers put on it, which also appeared last year prior to the hearing on this. It's written by Dennis Baack, John Bonaiuto, Roger Breed, Stan Carpenter, Michael Dulaney, Marshall Hill, J.B. Milliken, and Jess Wolf. I can't say they wrote it; they put their names on it. It talks about the reasons to keep the so-called DREAM Act. I'm not going to read this article to you. Of course, you're welcome to read it. But I'm going to counter the points that they made in there. First off, they said, "In order to qualify for in-state tuition, a student is required to have lived in Nebraska...", and they go through the eligibility, and also to "sign an affidavit." The affidavit stated...again, there is no such affidavit. There is no process for this to happen. The second one: They say "...in-state tuition law was supported by 30 state senators over the governor's veto." Again, only three senators serving on the One Hundred Second Legislature voted yes on LB239. Another one: "A legal challenge of Nebraska's existing law was dismissed by Jefferson County District Court." The suit will come back to DHS, if DHS refuses to enforce 8 U.S.C. 1623. And at this time, I'd like to hand out a letter from Kris Kobach which indicates he is the legal counsel on this. He is legal counsel for this and states that this actually will come back so there will be more expense due on this issue. They assert: "Since 1982, federal law has required that our public schools educate children whose parents are not permanent residents." That's Plyler v. Doe, 1982, and that did not require postsecondary education. Another point made in the article: "These students would...have been classified as international students and required to pay nonresident tuition, which can be two to three times the rate paid by resident students." I question, if in-state tuition rates are still expensive and rising almost annually, is this affordable? At Peru State College, right now, a student from anywhere outside of Nebraska can go to Peru State College and receive an education there for \$1 more than the in-state tuition requirements. So it kind of diffuses that argument as well. Overall, it says it's "...entirely consistent with the goals of Nebraska's P-16 Initiative." I'd like to point out that the P-16 Initiative is chaired by Governor Heineman, who vetoed LB239 back in 2006, and, I believe, he's on record in supporting the repeal of that to this day. There are other ways for students to gain legal access to our colleges and universities. This was just a quick...pulled this right before lunch actually. Just last year, 2010, we've got 10,271 institutions that accept nonresident students with the proper visas. They gave out 847,529 of them last year. This is not so burdensome that a person cannot gain legal access to a college or university if they choose to do so. I've got the fiscal note here,

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and this reminds me of something we dealt with in Government Committee, Senator Avery, and you made some comments about a fiscal note that was given which kind of slapped at the face of the process that we have here. The University of Nebraska, the university system specifically says they're going to need 6.5 full-time employees at a cost of, well, you can see your fiscal note, around \$300,000 to do so. Yet, the state colleges, community colleges, they seem to think it will have no expense. So that's going to make me personally question who we're funding if it takes a university system \$300,000 to do the exact same thing that the state colleges and community colleges can do for nothing, or absorb the cost, if any or, I think, they said marginal or negligible. So I'd like you to discount this. This is something that...and we always talk about fiscal notes. I do take that somewhat personally, much like you did, Senator Avery, when we were talking about getting rid of a commission, some numbers that were pulled just to try to kill a bill, just for those purposes alone. I'm saddened to see that one of our institutions of higher learning has actually chosen to take that road. I thank you for your attention. I urge you to advance LB657 to General File. I would like to submit for the record a letter from Troy Wiegand of Lincoln. He will receive his doctorate in chemistry in this spring term and was expressly prohibited to receive in-state tuition during his five-year stay in Nebraska. He plans to leave Nebraska after graduation, an understandable decision when considering his treatment by the university after pointing out the illegality of our state policy. I certainly hope that you'll take the opportunity to read this. It's about an individual. He and his wife came here to continue their education, and it is the policy of the university if you matriculate here for continuing education, that you pay out-of-state rates, regardless of how long you've been here, as long as you continue as a student. And this particular student, now soon to gain a master's (sic) degree, his wife, I believe, as well, are choosing to leave our state due to this policy. So we're kind of getting the reverse of the brain drain that we always try to stop. This person is quick to point out that he votes, his wife votes; they both hold full-time jobs in Nebraska, have lived here for three years now. They still have to pay out-of-state tuition. So they're very upset. They spoke at the Regents meeting. The Regents basically said: You matriculated here for college and this is the way it is. I believe, Senator Avery, you had spoken to this individual as well, and he made mention of those communications in here as well. I'll hand those out. I bring this to you, very hopeful that this will be something that you will strongly consider this year. This is not...for any other reason, we're sitting here looking for ways to cut our state budget. And we're also trying to...I'm not...I'm talking about a lot of facts here. We are in direct violation of federal law. It's hard for me to explain to people that we know we're violating federal law. I come...I weigh in on a lot of illegal immigration policy matters, and I just can't emphasize enough how many times...I believe there was a rally held out here, saying let the federal government deal with this; this is a federal issue. That deals with another bill I have. But in this...I mean that has to strike at you just a little bit that now we're saying the state does it; let's don't listen to the federal government. President Obama, in his State of the Union address, mentioned this is something he wants to take on. Now I welcome that. I welcome the federal government taking a more active role. And when they do, we've

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complied with that. If the President and the Congress make the so-called DREAM Act national law and make it a true DREAM Act and they go with it this way, that's fine. We've had our say. It went through the process. But I seriously doubt if the President tells us to do that, we will revert away from that, and that's essentially what we're doing. So if you can put yourself in that position for a second, the President and the Congress go ahead and say, we are now going to do this, but we as a legislative body say, you know what? We don't want to do this so we're not going to. Would that be right if we did it then? Because if it's right then, then it's...if it's not right if we do it then, it's not right now. So I'd just ask you to really give this some strong consideration. I know you will. I just wanted to try to make a stronger case for it this year because it's just something that keeps coming back and coming back. And at the very least, I think, as state senators we need to discuss this on the floor of the Legislature and make a statement. I'm happy to answer whatever questions you may have. And I'm sorry that I got a little long-winded with my opening. [LB657]

SENATOR ADAMS: Thank you, Senator. Committee, are there questions for Senator Janssen? Senator Sullivan. [LB657]

SENATOR SULLIVAN: Thank you. And thank you, Senator Janssen. You ended your remarks by referencing the federal legislation. Can you...do you know what's going on there at this point? [LB657]

SENATOR JANSSEN: You know, perhaps somebody coming after me will know exactly where it's at, but I am following it. I think during the lame duck session it failed to advance. The President showed a strong indication of wanting to bring it back and try to work with both sides of the aisle so much and so forth to move it forward. Again, I'm not opposing what the President wants to do. If that's what he wants to make the law of the land and the people that are elected to do that, I will comply. That's what I'm asking here today is that we comply with the law of the land. Look, there are a lot of laws out there that I don't agree with but I comply with them. Several mornings I don't agree with the 65-mile-an-hour speed limit on the way down here. I choose to comply with it because I don't want to get pulled over. So, yeah, I think, it's something the President wants to take on. Will it or will it not pass? I can't speak to that. But in the meantime, I certainly think we, as a state, should be complying with our federal laws, just like I would expect it if they flipped the other way. I would expect us to continue to comply with the federal law in that case. [LB657]

SENATOR SULLIVAN: With regard to the federal legislation as it is on the books right now, is there a clear definition of "benefit" with respect to postsecondary education? [LB657]

SENATOR JANSSEN: Yeah. I think I read it actually in my testimony. It's... [LB657]

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SENATOR SULLIVAN: Well, it referred to benefit, but it really didn't say what benefit is. [LB657]

SENATOR JANSSEN: A benefit or subsidy that is not...you cannot give to somebody here not legally present that you do not otherwise offer to somebody that is here legally present. In this case, I would use the example of the student from California coming to Nebraska would not receive that same benefit of a nonlegal United States citizen who, for whatever...the rules that we made up in Nebraska: graduated from a Nebraska high school, met this other affidavit agreement which does not exist, so the benefit there being the tuition. That is a benefit or a subsidy. [LB657]

SENATOR SULLIVAN: Of the nine other states who have similar legislation on their books, do you know what's going on there? Are they proceeding with trying to repeal it or have there been some lawsuits, or do you know? [LB657]

SENATOR JANSSEN: I can't speak to specific lawsuits. I know certain states have repealed what I'm attempting to do today. I think Oklahoma has had some proceedings on that. I could get you the breakdown. Last year I had the breakdown of states; it hasn't changed. I know you were on the committee last year, but you're probably like me: I don't save all my notes from every hearing. But, I think, it does strike me that 40 states have all heard this type of legislation and have chosen not to do it because it's in conflict for, among other reasons, probably financially, but among other reasons, that it's in conflict with federal law. [LB657]

SENATOR SULLIVAN: Could you...and one last thing. Could you clarify what your legislation would propose to do with the students that are currently enrolled? [LB657]

SENATOR JANSSEN: It would...basically they would have to pay the...they would have to pay out-of-state tuition rates. [LB657]

SENATOR SULLIVAN: So it would become effective with the student... [LB657]

SENATOR JANSSEN: Yeah. Last year I actually tried to exclude them, but the opponents used that against me. And so this year I've said it just starts right away so that I would assume the next semester they would pay out-of-state tuition rates. Or in this case, if I was one of those students, I would probably go apply for a visa so I was not coming up against that ten-year bar. I think that's the important thing. I mean we're not making this stuff up here. These adults are 18 now and they are now subject to these penalties in their own name, and they're jeopardizing their very own status of ever becoming a United States citizen. I just think there's something wrong about that. And, you know, when people a lot of times try to make Senator Janssen the villain and he's...you know, Charlie is trying to do these bad things. That's just not true. What we're trying to do is get people down the right path, and there is a path, as we've clearly

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talked about. There's nearly 900,000 students last year took this legal path to go through, get a visa, and come here and compete. How fair is it for somebody to break the law, come here, and get ahead of them in line? I think it slaps at our very democracy. [LB657]

SENATOR SULLIVAN: Thank you. [LB657]

SENATOR ADAMS: Are there other questions? Senator. [LB657]

SENATOR AVERY: I'm not so sure this is going to be a question to Senator Janssen. But you circulated a letter here from a constituent of mine that makes false statements, and I just, for the record, want to point out that I did everything I could to help Mr. Wiegand, getting information from the university as to why he was classified as an out-of-state student. I was told that he came to Nebraska for the express purpose of entering the graduate program in chemistry, and he didn't have a period of residence in this state prior to applying for admission and that was why he was classified as out of state, the same treatment anybody else in that situation would be given. Now he didn't like...for awhile he was very happy that I was trying to help. When it turns out that the message that he got was not what he wanted, then he started making statements about me that were untrue and are contained in this letter. I never said to him that you are out of state because you're white. I wouldn't do that. That's ridiculous. So this is a lie and I don't like seeing it distributed, frankly. [LB657]

SENATOR JANSSEN: Senator Avery, we all...I guess, I can't really apologize to you for doing something, circulating a letter of a constituent of your's opinion. It's a he said, he said issue. What I was trying to get at is Mr. Wiegand has been somewhat discriminated against in the tuition status. He asked to send a letter. I asked him to come testify. He chose not to. He sent the letter in. I certainly didn't feel like it was my right to go through and delete things in there. I certainly didn't want to get in between you and him in any dispute you guys have. [LB657]

SENATOR AVERY: Yeah, I can understand that. But the fact is, he was not discriminated against because he was not treated differently from any other student in his circumstance. And I would even... [LB657]

SENATOR JANSSEN: One could argue that the state of Nebraska is changing the circumstances based on we kind of pick and choose what circumstances we want to abide by in this case. [LB657]

SENATOR AVERY: What I find really odd about his circumstance is that he was not given a tuition waiver as a part of an aid package that most graduate students get. Now maybe that has something to do with the weakness of his application. He was admitted to the program. Sometimes that happens. You're admitted to a graduate program; you



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do not get assistance because you don't rank high enough on your GRE scores or something of that sort. But it's not discrimination if you are treated the same way as anybody else, given your particular circumstances. And he was not discriminated against. He was unhappy with the decision but that's not the same thing. [LB657]

SENATOR JANSSEN: I would certainly hate to speculate on the academic achievements of Mr. Wiegand, but he appears to be getting a master's degree from the University of Nebraska-Lincoln which I'm certain you hold in high esteem. [LB657]

SENATOR AVERY: And in chemistry that's not easy to do. [LB657]

SENATOR ADAMS: Committee, are there other questions for Senator Janssen? Senator. [LB657]

SENATOR SCHILZ: Thank you, Senator Avery. Senator Janssen, thanks for coming in today. Can you...and this is just for my clarification. If somebody is here in the state legally, has a student visa or their folks are here on a work visa, are those folks then given legal status to be able to have in-state tuition? [LB657]

SENATOR JANSSEN: From a foreign...I believe if they're from a foreign country and they come here through legal matters, then the students would qualify and most likely go through the student visa thing. Of course, under Nebraska state law, if they were here for, I believe, the way we are currently not respecting the federal law, or at least if they were here for three years, I guess, they would fall under the same status. Even though they would be here legally, they could use that same status to enroll in a postsecondary education. [LB657]

SENATOR SCHILZ: So the point is, today, the way the law sits, is that someone who is here, undocumented, illegally, gets the same sort of treatment as somebody that went through all the hoops to make sure they're here legally and doing things correctly. Is that right? [LB657]

SENATOR JANSSEN: Well, one could argue that they're actually...the person here that broke the law for whatever reason is being treated better because they get put in line first to go there. And, look, you know, the thing, Senator...and I appreciate the question, is we're trying to do is shed some light on it. The students that are taking advantage of this, I have no doubt that they are great students. That's never been called into question. I just hate it...I hate it when we're hiding behind this. We're making up our own laws which are jeopardizing them. There are real chances here to make something meaningful happen. We could...we'd have an opportunity if we worked together, both sides, pro, con, to this issue: proponents, opponents. If we could work together through student visas available. There's ways to do this. We could work with the federal government to do this. But we can't start off by slapping in the face the law, the federal

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government. When we start that way, we send the wrong message. We set the wrong precedent. And, oh, by the way, I own a company in Fremont. What's going to happen when this student has gone to, you name the college, the University of Nebraska, for four years? Right now, we have a bill, it's LB403 that you have to provide proof of citizenship to get a job in the public sector. We've got a bill this year, Senator Coash brought it forward, to bring that to the private side. So now these individuals graduating, they're not citizens yet and there is no application process for this. They keep talking about this affidavit. It simply does not exist. So they come to me for a job and I think, you're highly educated; I would love to hire you, Mr. Schilz, but I just can't because we have no legal...you have no legal status in our country. And now when you go to get that legal status, they're going to say, wait, you've remained here for four years; you're up against the ten-year bar now. I've said it before: It's a primrose path and we're hiding behind the wrong message when we do that. We truly as a state need to step up and say, look, there's a way to do it; it's the right way and we're not going to ignore federal law anymore. And I'm hopeful that this year we can have this discussion on the floor and it will help move this whole debate forward and try to get away from some of the toxic stuff that goes back and forth and let's concentrate on the facts and let's concentrate on a real solution. And I've worked very hard over the last years, especially this last year. I've worked hard with my staff on doing that. Unfortunately, the message gets skewed by some. They don't look at it as work to solve a problem. They look at it as creating a problem. They throw around words like racism. They throw it all over the place. And that's not what it's about. It's about working together. I want to work together, but every time I try, it comes to name-calling and personalizing the issue. What we need to do is sit down together and talk about these issues, which I'm very happy that the executive director of the, what's formerly known as the Mexican-American Commission, did come and meet with me, and I actually wanted to get that on the record before. He sat down. It was refreshing. It's the first time that anybody that I would say opposes the legislation that I bring forward sat down and had a meaningful, real one-on-one conversation with me about how we move forward. We may not...we agreed that there are some gray areas that we could work together on. But it has to stop with name-calling up front and it has to start with real solutions. What I bring before you here today is a solution. It's a solution for federal law. The federal law can change and I will abide by it. I will be right here. If you amend that out, which is fine, I looked at the technical notes, and this bill passes, I'll be the first one to introduce it that we comply with federal law, that we give this benefit back. [LB657]

SENATOR SCHILZ: And then one other, thank you, Senator Janssen, and then one other question that I have and you talked about this a little bit, sort of. You know, we say it won't affect very many...or the people say it won't affect very many students. Do we have any data that shows what these students are doing once they graduate or once they get their degree? [LB657]

SENATOR JANSSEN: I'm not familiar with any tracking system. If they are working,

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most likely they are working illegally unless there's some other type of citizenship path they've found. There are certain ways that people can gain citizenship other than the traditional methods, which I don't want to go through the scope and depth of right here and now, but it's not the traditional ways. Most likely there is, that I am aware of, there is no tracking of this. And unfortunately, maybe they're moving back to a different country so they're taking the education afforded them by the taxpayers of Nebraska and taking that to another country, or they're working illegally in the United States right now. I'm just...I just found...I came here; there was a problem; I'm looking for a solution for it. [LB657]

SENATOR SCHILZ: Thank you, Senator Janssen. [LB657]

SENATOR ADAMS: Are there other questions for the Senator? Seeing none, thank you, Senator. [LB657]

SENATOR JANSSEN: Thank you, Senator Adams. Thank you, committee. [LB657]

SENATOR ADAMS: We will begin. Now remember, we're going to use the lights for three minutes with proponent testimony. How many proponents are there again? May I see hands? Okay. [LB657]

SUSAN SMITH: My name is Susan Smith; that's S-u-s-a-n S-m-i-t-h, and I'm representing Nebraskans Advisory Group, which is a grassroots organization of concerned citizens whose focus is opposing illegal immigration, or at least educating senators and other citizens on the negative impact of illegal immigration. Senator Janssen did such an excellent job of covering all of the many points to his bill and why we need to have it advance to the floor for a full debate and vote, and so maybe I should just speak to that end of it. I can only tell you that between last year and this year a lot of citizens are feeling like this bill is going to get in front of the committee and it's going to get killed and not advance to the floor. And there is just a lot of frustration. There's probably a lot of not good thoughts that they may be having about members of the Education Committee. And truthfully, I'm at a loss for words of what to tell them because we just...we want...both sides are so passionate about this issue. And so when you have a bill like that where you have so many people taking time off work, traveling, in spite of health problems they show up, to not have that bill advanced out to the floor so we can hear what all the senators have to say about it and then take a vote, we just feel total frustration with that because we don't understand why a committee with, you know, highly educated individuals on it, highly experienced people in our legislative system would not advance that bill out so that we can have a full discussion. There are many times when, I think, I've thought a certain...I've made up my mind on a bill and then it gets out there on the floor and it totally changes my mind because I get to hear what all the senators have to say about it. So I thank you for your time and I would please ask that you advance this bill. [LB657]

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SENATOR ADAMS: All right. Ma'am, if you'll hold tight for a moment in case there are questions from the committee. Are there any? Seeing none, thank you for your testimony. [LB657]

SUSAN SMITH: Thank you. [LB657]

SENATOR ADAMS: Next proponent. [LB657]

JOHN WIEGERT: My name is John Wiegert, J-o-h-n W-i-e-g-e-r-t. Thank you for allowing me the opportunity to speak before your committee today. Like I said, my name is John Wiegert. I'm a resident of Fremont. I've been an educator for 18 years and I was one of the initial petitioners in Fremont regarding the Fremont illegal immigration issue. Today, you are hearing concerns to repeal the state tuition for illegal aliens. I am hopeful and confident you have spent quality time researching this law and what it does. However, I'd like to reiterate that the in-state tuition for illegal aliens directly rewards these people for their parents' illegal acts. The law does nothing to fix our broken immigration system. All we are doing is enticing these people to be here, and they are accruing civil penalties and that is putting their pathway to legal citizenship in jeopardy by remaining here instead of going back to their country of origin and getting a student visa, which happens tens of thousands of times a year. I would like to illustrate the unfairness of the in-state tuition for illegals on a personal level. My cousin is a former resident of Nebraska but has since moved to Washington State. His son recently graduated from high school in Washington and wanted to attend UNL. He had the tough decision of deciding to attend UNL because he would have to pay out-of-state tuition. In essence, this is a penalty against a legal, taxpaying family when compared to the in-state tuition law which allows for students who are in the state of Nebraska illegally to attend UNL at in-state tuition rates. There is the argument, as Senator Janssen stated earlier, that this is a federal issue. Well, the federal government acted on this in 1996 and said you cannot offer a benefit to someone that is not legally present in the U.S. that you wouldn't offer to somebody that is legally present in the U.S. with this legislation to repeal the in-state tuition for illegals in the state of Nebraska would be in...with this legislation, I'm sorry, to repeal this in-state tuition for illegals in the state of Nebraska would be then in compliance with federal law. In drawing to a close, more and more Nebraskans are living in tough times. Further, the in-state tuition for illegals is inherently unfair, especially at a time when Nebraskans are struggling to make ends meet and the Legislature having a budget deficit of nearly \$1 billion to reduce. It is unthinkable this committee would kill such legislation that has been endorsed by the Governor, the Attorney General, and many other state senators, and wanted by many Nebraskans. This bill is of priority to be addressed by the entire Unicameral, and I encourage the Education Committee to respect such by passing the bill out of committee. Thank you for your time. [LB657]

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SENATOR ADAMS: Are there questions for this testifier? Thank you, sir. [LB657]

JOHN WIEGERT: You bet. [LB657]

SENATOR ADAMS: Next proponent. [LB657]

DALE MONSELL: My name is Dale Monsell, D-a-l-e M-o-n-s-e-l-l, and I'm representing the Nebraska Taxpayers for Freedom. Repeating the federal law that was read earlier, federal law Title 8, Chapter 14, Section 1623 states: an alien who is not lawfully present in the U.S. shall not be eligible on the basis of residence within a state for any postsecondary education benefit unless a citizen or national of the U.S. is eligible for such a benefit. According to this statute, Nebraska is in violation of the federal law. Nebraska universities increasingly are limiting enrollments. College entrance slots are fixed and limited. Current law places Nebraska citizens in direct competition with illegal aliens for limited slots and tuition benefits. Nebraska now is encouraging young illegals to violate federal immigration law because breaking the law is a prerequisite to receive in-state tuition rates. Providing in-state tuition to illegal aliens tells legally applying foreign students that they are...excuse me...they are (inaudible) coming here legally. It raises illegal immigrants to a higher status than legal foreign exchange students. Nebraska currently denies in-state tuition to legal aliens who hold valid student visas. Increasing enrollment pressure by accepting illegals denies opportunities to legal aliens and Nebraska citizens. The low economic status of most illegal alien families qualifies the children for means-tested financial assistance. Our higher education systems have only limited aid to grant, and that given to illegals deprives Nebraska's citizens. Illegal students, upon graduating, will not become easily legally employable. Graduating illegals who hide their status still suffer from recession...excuse me...will compete with lawful citizens for a finite number of jobs. Several sectors of the Nebraska economy still suffer from recession effects. They cannot legally work in the U.S. even with a college degree. Students from neighboring states attending Nebraska universities (inaudible) paying higher tuition here. Nebraska citizens' students should not have to suffer discrimination because of the illegal action of illegal alien parents. Our state government has no reason to rescue students whose parents committed illegal acts. These students should hold their parents accountable. Illegal aliens are nationals of foreign countries. Their education is the responsibility of those nations. When Nebraska students pay tuition for postsecondary education, state taxpayers heavily subsidize it. Overburdened Nebraska taxpayers do not approve spending our tax dollars to educate illegals. LB657 will save taxpayers money. Illegal aliens cannot legally work in the U.S., so to... [LB657]

SENATOR ADAMS: Excuse me, sir. Are you nearly done? Your time has been up. Okay, I'll let you finish. [LB657]

DALE MONSELL: Illegal aliens cannot legally work in the U.S., so tax dollars expended on their higher education to prepare them for professional jobs seems wasted.

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Continuing this resident tuition only encourages other young illegals and their entire families to sneak into our state to avail themselves of this generous educational benefit and eventual amnesty. We urge you to advance LB657 to the floor of the Legislature. Thank you. [LB657]

SENATOR ADAMS: Thank you. Are there questions for this testifier? Senator Avery. [LB657]

SENATOR AVERY: Thank you, Mr. Chair. Thank you for your testimony, sir. I just have one question. You...I think early in your comments you said the university is limiting enrollment? Could you explain what you mean. Putting numerical limits on how many students they will admit. Is that what you meant? [LB657]

DALE MONSELL: Well, I should be able to answer that better, but, no, I really am not sure. [LB657]

SENATOR AVERY: My understanding is the only limits they put on enrollment are certain minimal requirements and standards for admission; not any numerical limits. They will accept anyone who meets their entrance requirements. And, in fact, we are in hot pursuit of students...we, I keep saying that...the university is in hot pursuit of students all the time because we are trying to grow the university. I don't think there are any numerical limits on admissions. And they're building new residence halls every year in order to accommodate more students. So I just wanted to see if you could clarify that. If not, then I would like for my comments to clarify it. Thank you. [LB657]

SENATOR ADAMS: Are there other questions? Thank you, sir. Next proponent. [LB657]

JERRY HART: Hi. My name is Jerry Hart, J-e-r-r-y H-a-r-t. I am from Fremont. Like John Wiegert, earlier, I was one of the original petitioners to get the ordinance in Fremont on the ballot against the illegal aliens there. Just as a quick background, I am retired now. I'm a CPA. I spent 30 years working for the Internal Revenue Service and 11 years as the tax manager at public accounting firms. It seems to me, in my opinion, that what we've got is...what we're trying to do here is reward and give incentives to people to come to this country illegally. And to me that is completely and totally wrong. Illegal, and you've heard this before, illegal is illegal. And to me it doesn't matter. They should not be rewarded. They should not be getting special treatment. They should not be getting any incentives or support for being here illegally. To me, it's a slap in the face to everybody that's come here and done it the right way. If there's anything that people here illegally deserve, it's to be deported, period. They should not be getting benefits. They should not be catered to. And it seems to be what we're trying to do here. I've got a grandson that lives in Georgia, a very smart kid, and wanted to come to UNL to go to college. He couldn't afford the out-of-state tuition, so he didn't...he wasn't able to do that, yet, we're going to reward people that are here illegally. Now I've heard the saying,

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well, these kids couldn't help how they got here; they couldn't help...their parents brought them here. Well, that's their parents' problem. Don't penalize everybody else, including the taxpayers and people who can't get in-state tuition, for things that the illegal parents did to bring their kids here illegally. They should not be rewarded. They should have been penalized. I don't want any of my tax dollars going for illegal aliens or for any support for them, any reward for them, any incentive for them. Again, if they deserve anything, it should be that they should be deported. Thank you. [LB657]

SENATOR ADAMS: Thank you, sir. Are there questions for this testifier? Thank you. [LB657]

JERRY HART: Thank you. [LB657]

SENATOR ADAMS: Next proponent. [LB657]

MIKE BARGES: Thank you, Senator Adams and the rest of the committee. My name is Mike Barges, and that's M-i-k-e B-a-r-g-e-s. And I come before you today here with a little bit different of a direction and, I think, one of the things that we need to take into consideration is that when we incite people to break the law, we set ourselves up for lots of problems, and one of those problems being that if something happens with one of those illegal immigrants in our country and in our state, and they break a law, they kill somebody and they end up fleeing the state, we have very little actions that we can take. So I know this is a hot-button issue and it leaves honorable people, such as this committee, at the mercy of people who want to call you bigots, and I did hear people here earlier saying things negatively to some of the people who are proponents of this. And I find that very disturbing. My great-grandfather was an immigrant from Mexico and I wouldn't be here if he hadn't came. So I'm not a bigot. My grandfather is Mexican, so...but these people who are trying to squash this are people who are trying to take the easy way out when it comes to illegal immigration. At face value, many people say, what's the harm? Illegal immigrants just want a better way of life for themselves and their families. The answer is simple. I and many others have no problem with legal immigration. I welcome a diverse nation. I think it makes us a strong nation, and...but we can't have a whole segment of our society in our community that has no ties to this community. My brother was murdered by an illegal immigrant two years ago, two years ago, one month, and four days ago. This person worked and lived in Nebraska for many years. He was unimpeded in such actions. And the illegal immigrant who murdered my brother fled to Mexico within hours of the murder. Legal immigration is not the issue. Legal immigration is not the issue. The issue here today deals with illegal immigration. This is about giving benefits to people who are in this country illegally. This is a commonsense issue. We cannot have a whole segment of people in our society not bound by our laws. They have nothing holding them in this community. And when they cause harm to someone else, all they need to do is flee for their home country to avoid prosecution. This happened to my brother. This is a commonsense issue. They have

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broken our immigration laws and we are debating whether we should reward them, and I find that appalling that we reward people who are breaking our immigration laws. And I hope that you will advance this so that all of our senators can come out and stand up and say, yes, I want to give illegal immigrants a benefit above and beyond regular citizens of the United States. If you squash it here today, then you will be doing a disservice to all the people in Nebraska, because I want to know how my representatives are voting and I want to know how everybody...everybody wants to know how their representatives are going to be voting. So let's advance this so that they have an opportunity to vote. Thank you very much. [LB657]

SENATOR ADAMS: Are there questions for this testifier? I guess not. Thank you. [LB657]

MIKE BARGES: Thank you. [LB657]

SENATOR ADAMS: Are there other proponents? Any other proponents? If not, then we'll switch over to opposition testimony. And again we'll go with the three minutes. Good afternoon, Senator. [LB657]

DiANNA SCHIMEK: (Exhibits 3 and 4) Good afternoon. May I have a page please? Good afternoon, Chairman Adams and members of the Education Committee. Thank you for the opportunity to testify before you today. For the record, my name is DiAnna Schimek and I am here to testify in opposition to LB657. Included in the packet delivered to you last Friday is an updated time line which indicates the history of in-state tuition laws in this country. It has been ten years since the state of Texas passed the first legislative bill allowing in-state tuition for students who meet certain requirements. During the following ten years, ten more states passed similar legislation, and those states ranged across the political spectrum. Sometimes this legislation was passed easily. Sometimes it wasn't. In Nebraska, it took three bills, one interim study, and a vote to override the Governor's veto, to get it passed. The bill was debated backwards and forwards and upside down. But 30 legislators believed it was the right thing to do and it became law. It has always been alleged that the in-state tuition bill was in violation of federal law. We presented good arguments on the floor of the Legislature in 2006 to challenge that charge. Also, since 2005, there have been a number of court challenges to those laws in Kansas, California, Texas, and lately in Nebraska. Ultimately, all of those challenges have been dismissed for lack of standing or have failed based on their merits. And I should qualify that by saying that the Texas case is still pending. Nothing has happened there yet. In addition, Homeland Security issued a letter in response to a query from the North Carolina Department of Justice in 2008 that in-state tuition is not a public benefit and, therefore, not in violation of federal law. It is difficult to understand why anyone would be against this law. Tuition for out-of-state students is nearly triple what it is for students from Nebraska. Most of the students affected by this bill come from families that struggle to support their children, let alone



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educate them. In addition, students from undocumented families cannot apply for federal Pell Grants or scholarships. These are public benefits and are prohibited by federal law. The bottom line is that we lose some of our best and brightest students if they cannot afford college. The issue should not be a political football. It is time to implement the spirit of the law as well as the letter of the law. We need to encourage, not discourage, the education of every student in our state. We need to give every student who graduates from high school in Nebraska the opportunity to better his or her life and to help the economy of our state. I respectfully ask you not to advance this bill from committee. Thank you. [LB657]

SENATOR ADAMS: Thank you. And right on the mark with time too. [LB657]

DiANNA SCHIMEK: I practiced this time. (Laugh) [LB657]

SENATOR ADAMS: I was going to suggest that but thought maybe I shouldn't. Are there questions? Yes, Senator. [LB657]

SENATOR SCHILZ: Thank you, Senator Adams. Senator Schimek, thanks for coming in today. [LB657]

DiANNA SCHIMEK: Sure. [LB657]

SENATOR SCHILZ: And then I grabbed your letters here as we were sitting here, and it's interesting. And this is...this sits here and I hear words like, I started to think about what career I wanted to be in; if I wanted to continue with my education or work. [LB657]

DiANNA SCHIMEK: Which letter are you on? [LB657]

SENATOR SCHILZ: The very first...second letter in your thing. It's... [LB657]

DiANNA SCHIMEK: Okay. Thank you. I haven't seen all these letter ahead of time. [LB657]

SENATOR SCHILZ: "...if I wanted to continue with my education or work. But as I kept thinking, I discovered that whatever I choose to do, it would be hard due to my status." [LB657]

DiANNA SCHIMEK: Correct. [LB657]

SENATOR SCHILZ: By giving them in-state tuition, that does not change their status, does it? [LB657]

DiANNA SCHIMEK: No. No, it doesn't. [LB657]

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SENATOR SCHILZ: Okay. And then here at the bottom, "I dream about living my life without fear or pressure with trying to find a school where they can accept me." I mean this...aren't what we are talking about here is the children themselves? [LB657]

DiANNA SCHIMEK: Yes. [LB657]

SENATOR SCHILZ: And if we're stuck in a situation, and we've had this conversation, if we're stuck in a situation like this where these kids are even afraid to put their name at the bottom because of legal ramifications... [LB657]

DiANNA SCHIMEK: Right. [LB657]

SENATOR SCHIMEK: ...then why are we allowing this to happen? [LB657]

DiANNA SCHIMEK: It's a good question. [LB657]

SENATOR SCHILZ: I mean, why are we allowing it to happen? As testifiers before said, illegal is illegal, and we are creating second-class citizens and promulgating that by allowing this to go forward, aren't we? [LB657]

DIANA SCHIMEK: Well, Senator, we are not in charge of immigration law. That is the federal government. And we cannot pass laws regarding immigration. [LB657]

SENATOR SCHILZ: Are we one of the 50 states in the United States of America? [LB657]

DiANNA SCHIMEK: Yeah. [LB657]

SENATOR SCHILZ: Do we...are we required to then, to the best of our ability, uphold federal law because we're a part of that? [LB657]

DiANNA SCHIMEK: Yes, but we can't...we cannot pass laws that are in opposition to federal law that we have not been given permission to regulate, and we have not been charged with enforcing federal law. That is up to federal officials to do. [LB657]

SENATOR SCHILZ: Right. Absolutely. But then, I guess, the question is...you're exactly right. So then as we provide these types of whatever you want to call it, benefits or whatever... [LB657]

DiANNA SCHIMEK: It's not a benefit, in this instance,... [LB657]

SENATOR SCHILZ: Or whatever. [LB657]

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DiANNA SCHIMEK: ...technically and legally. [LB657]

SENATOR SCHILZ: Or whatever. Then all of a sudden, don't we set those kids up for failure at some point? When are they ever going to get their status as a citizen? Do we know, tell me this. Do we know that any of these student that have gone through here have that process in place that they're working to become citizens? Has that been done in the three years that this has been on the books? [LB657]

DiANNA SCHIMEK: That I can't answer because I don't know who these students are, Senator. [LB657]

SENATOR SCHILZ: And I wonder why that is? [LB657]

DiANNA SCHIMEK: You wonder what? Why I don't know who they are? [LB657]

SENATOR SCHILZ: If it's such a good thing, if it's such a great thing, how come we see "signed by UNL student." How come we...I mean these kids are afraid. [LB657]

DIANA SCHIMEK: Because their parents are vulnerable. [LB657]

SENATOR SCHILZ: Absolutely they're vulnerable. I mean I'm scared for them. I don't see how they're going to go forward and be successful in life in the United States unless they can get either a visa or citizenship. [LB657]

DiANNA SCHIMEK: And many would like to do that very thing. But you realize that until they're 18 years of age they can't apply for citizenship either. If you'll see some of the other letters in this packet, you will notice that one person has been trying for ten years... [LB657]

SENATOR SCHILZ: I saw that. [LB657]

DiANNA SCHIMEK: ...and thinks it'll probably be another five years before they can actually get citizenship. Our process is exceedingly slow. And even people who are familiar with the process have trouble getting through the process in spite of their knowledge, in spite of the help they may be getting from immigration lawyers and whatever. [LB657]

SENATOR SCHILZ: Right. And I don't disagree. I agree with you 100 percent on that level. And are you here representing an organization? [LB657]

DiANNA SCHIMEK: No, I'm not. [LB657]

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SENATOR SCHILZ: You're just here representing yourself. Okay. And I was just wondering what are people doing to take our concerns to the federal level to make sure that we're trying to get some of those things changed? [LB657]

DiANNA SCHIMEK: Well, I do know that in past years we've talked about it at length on the legislative floor. I truly believe that that is where it is going to have to be solved in the long run. Otherwise, we're going to have these...we're going to have all these states trying to do different pieces of legislation and have to expend sometimes huge amounts of money to defend those pieces of legislation, or in the case of, like, Fremont, those city ordinances. And you get a patchwork. And then it's not good at all. So I do think the federal government has been very remiss, that's the kind of terminology I can use, is they've been remiss in addressing this. [LB657]

SENATOR SCHILZ: Yeah. I don't disagree with that. Thank you very much for your answers. [LB657]

DiANNA SCHIMEK: You're welcome. [LB657]

SENATOR ADAMS: Are there other questions? Thank you. [LB657]

DiANNA SCHIMEK: Thank you. [LB657]

SENATOR ADAMS: Next opponent testifier. [LB657]

HOWARD DOTSON: Good afternoon, Senator Adams and senators of Education. My name is Reverend Howard Dotson, H-o-w-a-r-d D-o-t-s-o-n. I've sent my testimony to you via e-mail this weekend. I'm an urban Presbyterian pastor who's spent the last six years in an urban context serving the Latino community. I've worked with dozens of Latino youth and after school in tutoring and soccer programs. Nationwide, 50 percent of our Latino youth fail to graduate high school. Intervention and prevention working with at-risk Latino youth has been integral to my ministry in L.A., St. Paul, and now in Omaha. Having more of these kids graduate high school and attend college is going to provide me with invaluable mentors to the kids I'm trying to help graduate. Gallup Research indicates that the best predictor of a young adult actually graduating college is in your SAT score. It's your sense of hope. The same goes for high school. And you're the Education Committee. Many of our Latino youth face the same social problems that our ancestors endured when they were the second generation, when the Germans, the Italians, the Jews came here, and their parents were still back home and they lived in two worlds. Psychologists and sociologists have researched this acculturation stressor that these kids are facing. That's one of the reasons they have a hard time graduating. For the Latino students that do graduate, they should be affirmed and encouraged and given the red carpet instead of being punished for a decision their parents made. The anti-immigrant laws that are playing out are shameful. The arguments about them

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draining our public services...when we alienate these kids, they're going to leave and their parents are going to leave, and when Latinos leave we lose the economic engine that has helped keep us at one of the lowest unemployment rates. We should do our best to empower our youth, all of our youth. I live in a community that struggles with poverty and crime, and I want to see these kids on the platform with their cap and gowns. So please help me and help these college students to inspire my kids to graduate too. Thank you. [LB657]

SENATOR ADAMS: All right. Thank you. Are there questions? Thank you, sir. Next opponent. [LB657]

RON WITHEM: (Exhibit 5) Senator Adams, members of the Education Committee, my name is Ron Withem, R-o-n W-i-t-h-e-m. I'm actually here today to read a statement from President Milliken who was unable to be here today. His testimony probably is a little more than five minutes. I'm going to, as opposed to editing his testimony, I'm going to get as far as I can and obviously if the Chair will feel very comfortable in asking me to stop when I get too far along. Dear Senator Adams and members of the Education Committee, I am disappointed that I am not able to be with you today to express the University of Nebraska's opposition to LB657 and our continued support for all Nebraska high school students who want to pursue the dream of an affordable college education in our state. The University of Nebraska has been a strong voice in favor of the current state policy since before its adoption in 2006, and on each occasion that unsuccessful attempts have been made to change it. Five years ago, Nebraska joined a group of states that have provided the opportunity for students who are not citizens or legal residents of the state to attend a public college or the university at resident tuition rates. Last fall, 48 of these students attended one of our four campuses. The ability of these young people to contribute to the economic growth of our state and to their own self-sufficiency depends in large measure on their ability to further their education. At a time when most state and national leaders agree that increasing educational attainment is key to our ability to compete effectively in the knowledge-based innovation economy, repealing a state law that promotes this goal is counterproductive at best. The United States has lost its leadership position in the proportion of young people with a college degree. A recent College Board report shows that in the last few years the U.S. has fallen to twelfth among industrialized nations in the percentage of people ages 25 to 34 who have at least an associate's degree. The American work force of tomorrow is losing ground against workers in other countries. We will regain our lead only by making higher education more accessible, not by closing the doors on students who are able and want to pursue a degree. Our strength as a nation is largely due to the opportunity we have provided to immigrants from across the globe to pursue economic success here, and I am convinced that our future success depends on this as well. Recently, NCSL, in collaboration with the College Board, kicked off a yearlong campaign to improve college completion rates. NCSL's initiative is similar to one announced earlier by the National Governor's Association. The objective of these activities is to reach the

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goal of having 55 percent of Americans with a postsecondary degree by the year 2025. Currently, Nebraska is among the top ten states in the country in high school graduation rates but only eighteenth in college-going. And we are below the national average in overall educational attainment. With that, Senator, I'll ask you to...I see the light has gone off. I'll ask you to read the rest of President Milliken's remarks. As indicated earlier, President Milliken, along with the other leaders of education in our state have also signed a (inaudible) statement in opposition to this bill. Thank you for your time. [LB657]

SENATOR ADAMS: Thank you. Are there questions? Yes. Senator Avery. [LB657]

SENATOR AVERY: Thank you, Senator Adams. Mr. Withem, are you familiar with the official policy of the University of Nebraska toward out-of-state students when it comes to tuition? [LB657]

RON WITHEM: Yeah, I believe, it was fairly accurately described. But you're talking about a student from Iowa who wants to go...well, that may not be a good example because we do have unique rates at UNO for Iowa students. A student from Illinois who wants to come to Nebraska to get an education, they, in fact, do pay out-of-state tuition. And the Regent policy is if a student has come to Nebraska for the exclusive purpose of pursuing higher education, it's very difficult for them to attain resident status during that time. [LB657]

SENATOR AVERY: And you said very difficult. What would they have to do to gain residency? [LB657]

RON WITHEM: Well, one thing they could do, and this is where we disagree with the arguments that this is illegal, if they graduate from a Nebraska high school, if they would, you know, transfer in to Nebraska prior to enrolling and get a high school diploma from a Nebraska high school and live here for three years, then they would be eligible. If they...I think it's a one-year attainment. If they came to the state solely for the purpose of pursuing higher education and lived in the state, I believe, it's a year prior to matriculation, then they could become a resident for tuition purposes. [LB657]

SENATOR AVERY: So it's the position of the university that the policy we have for out-of-state tuition, and in particular in the case that was mentioned earlier when Senator Janssen was giving his testimony about a chemistry grad student, that this is in no way linked to the bill that we're now talking about? [LB657]

RON WITHEM: I'd say they are entirely two different policies. This is about people who largely, as you've heard in this committee many times, these are children of people who brought them here to this country and the parents don't have legal status nor do the young people. So that's basically what this is about. [LB657]

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SENATOR AVERY: And they will be graduates of high school in Nebraska? [LB657]

RON WITHEM: That is, as I understand state law, they will be graduates. They will have had three years of residence and they will file an affidavit that as soon as they qualify they will attempt to attain resident...a legal resident status. And there are several ways they can do that. I think it was attested here before that there's no way that they can become a legal resident, but there are ways in which they can. [LB657]

SENATOR AVERY: That's very good. Actually, I have the policy right here in front of me. [LB657]

RON WITHEM: And I came close to...? [LB657]

SENATOR AVERY: You did a good job. [LB657]

RON WITHEM: Hey. [LB657]

SENATOR AVERY: I wanted to clarify that because there was some mention of Troy Wiegand who is a constituent of mine, and I had, in fact, tried to help him. And at one point he even wrote letters to the Daily Nebraskan praising me for the help that I was giving him. When I wasn't able to get it done is when he decided now it's linked to the other issue. [LB657]

RON WITHEM: One of the joys of holding public office, isn't it. (Laughter) [LB657]

SENATOR AVERY: Isn't it. Yes. [LB657]

RON WITHEM: Thank you, Senator. [LB657]

SENATOR AVERY: Thank you. [LB657]

SENATOR ADAMS: Are there other questions? Yes, Senator Schilz. [LB657]

SENATOR SCHILZ: Mr. Withem, thank you. You mentioned...and I had asked previous testifiers, did you say...did I hear you correctly that you said there is a process in place that these students are using to become...to get their visas or to become naturalized or... [LB657]

RON WITHEM: Well, there are provisions in which a person can become a legal resident. And it has been awhile since I reviewed these but I remember things like if they have family in the country they can make application. They can, if they have unique skills, perhaps they can. And those are the two that I remember. It's a long, lengthy process, though, and very, very difficult. [LB657]

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SENATOR SCHILZ: Can they do that while they're here? [LB657]

RON WITHEM: That I'm not sure of. It's a good question...very good question. [LB657]

SENATOR SCHILZ: Okay. Thank you very much. [LB657]

SENATOR ADAMS: Are there other questions for Mr. Withem? Yes, Senator Avery. [LB657]

SENATOR AVERY: One more time. Mr. Withem, the Supreme Court...or, I think, it's the U.S. Supreme Court, has ruled that public...states have to provide access...undocumented...children of undocumented workers access to public education. Is that correct? [LB657]

RON WITHEM: In a K-12 sense it's my understanding. [LB657]

SENATOR AVERY: Yeah, in K-12. [LB657]

RON WITHEM: Yeah. [LB657]

SENATOR AVERY: And do you know what the rationale was for that decision by the court? [LB657]

RON WITHEM: I don't. I'm sorry. I'm just aware that the decision was there. I'm not sure why it was made. [LB657]

SENATOR AVERY: Well, I think, reference was made to the desire not to create a permanent under class of undereducated or uneducated individuals because of their lack of access to public education. Would you consider the program we now have that Senator Schimek was talking about that this bill addresses, does that in any way try to achieve the same purpose as the ruling of the court? [LB657]

RON WITHEM: I believe it does. And if we were to...when you (inaudible) President Milliken's testimony, a lot of it is referenced under the economic need of our country to have a higher educated population in order to become competitive in the global knowledge-based economy. And, I believe, what may be at that time what a high school education would buy you, we're getting to the point where you have to have an associate...at least an associate degree, if not a four-year degree. So, yes, I think, it's very much in line with the Supreme Court decision you referenced. [LB657]

SENATOR AVERY: Thank you. [LB657]



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SENATOR ADAMS: Other questions? Thank you. [LB657]

RON WITHEM: Thank you very much. [LB657]

SENATOR ADAMS: Next opponent. [LB657]

MARSHALL HILL: (Exhibit 6) Good afternoon, Senator, and senators of the Education Committee. My name is Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l. I'm executive director of the Nebraska Coordinating Commission for Postsecondary Education. A great deal has been said on this issue. I won't attempt to recount it nor will I attempt to repeat it all. I've asked for the clerk to distribute to you some comments, some data points that the commission has asked me to put in front of you on this issue. It clearly, to us, is a matter of judgment. There clearly are strong concerns on both sides of this issue. For the commission, it comes down to two areas upon which they have formed their opinion. The first issues are practical. They've been referred to before. We simply are at a point in our country's history where we cannot waste the talents of any of us who are here, and the commission feels that it's better to have better educated Nebraskans than less well-educated Nebraskans. We're looking at a group of people who are largely impoverished, who lack mobility, who will probably lack mobility as they mature, certainly unless they become better educated. The country desperately needs an educated populace and we feel it's important to do what's necessary in order to get to that point. I'd like to respond to a couple of points that have been raised earlier: one to clarify what type of aid is available to these students. No federal financial aid is available at all to these students. No Nebraska need-based financial aid is available to these students. Whatever aid they might have access to is private aid that might be available at independent institutions. The last reason that the commission asks that you not advance the bill has been referenced earlier too. And I suppose it boils down to simple human compassion. Students that were brought here, with no influence on that, by their parents, they're going to become adults. They're going to be in our society or in somebody's society, and the commission believes it's important that they be as well educated as possible. I'd be pleased to respond to any questions you may have. [LB657]

SENATOR ADAMS: Thank you, Marshall. Are there questions for Marshall? Yes, Senator Schilz. [LB657]

SENATOR SCHILZ: Thank you, Senator Adams. Dr. Marshall, thank you for coming in today. I guess the question that I have, you know, you talked about compassion and all that. And, I guess, the first question that I have for you is...I mean, I think, we all understand the reasons that they can't get the state aid or the federal aid is because they're contrary with the laws of the United States of America. Correct? [LB657]

MARSHALL HILL: They are contrary with the eligibility requirements for both of those.

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Yes. [LB657]

SENATOR SCHILZ: Right. Which basically says they're here undocumented or illegally or...is what we're going... [LB657]

MARSHALL HILL: Yes. [LB657]

SENATOR SCHILZ: Okay. So then once they would receive their degree, what can they do with that? [LB657]

MARSHALL HILL: They can do a number of things. They can go back to their home country and work there or work elsewhere. They can remain here and hope that at some point our country will deal with this problem. I think we will have to deal with this problem at some point, and, I think, there's hope for that. [LB657]

SENATOR SCHILZ: I don't disagree. Do you...the next ten years? [LB657]

MARSHALL HILL: I would hope so. [LB657]

SENATOR SCHILZ: Fifteen, 20 years? [LB657]

MARSHALL HILL: I don't know, Senator. [LB657]

SENATOR SCHILZ: Okay. (Laugh) And that's.. [LB657]

MARSHALL HILL: None of us do. [LB657]

SENATOR SCHILZ: Right. And that's my point. I guess the question is, is if we're going to allow these folks to come in and do this and allow ourselves to perpetuate, basically, an air of fear for these folks to wonder what's going to happen to me tomorrow, okay, then is granting them in-state tuition really a benefit or more of a hindrance? Because they pay a lot of money, no matter whether it's in-state or out-of-state. But then if they can't do anything here...or if they're always worried about whether they're going to be picked up tomorrow or the next day, does that really do them...I mean, is that where we want to be? [LB657]

MARSHALL HILL: Senator, I acknowledge the complexity of the issue. I don't believe there is a wholly right approach to this on either the proponents or the opponents. I'm speaking as an individual right now. All right? [LB657]

SENATOR SCHILZ: I understand. [LB657]

MARSHALL HILL: Nevertheless, I believe, you either get on the side of trying to make

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human progress or you don't. And, I believe, that at some point our country is going to have to wrestle with this issue, and either we have attempted to move forward before that happens or we haven't. [LB657]

SENATOR SCHILZ: Okay. Thank you. Appreciate it. [LB657]

SENATOR ADAMS: Are there other questions for Marshall? Thank you, sir. Next opponent. Good afternoon. [LB657]

SHIRLEY MORA JAMES: (Exhibit 7) Good afternoon. Good afternoon, Mr. Chairman and distinguished members of the Education Committee. My name is Shirley A. Mora James. That's S-h-i-r-l-e-y A. M-o-r-a James, J-a-m-e-s, no hyphen. I'm a civil rights attorney from Lincoln, Nebraska, and local counsel for the Mexican American Legal Defense and Education Fund in the federal case, Keller v. City of Fremont, Case No. 10cv270, and in the state case, Mannschreck v. Clare, C10-8, the Nebraska case that challenged our in-state tuition law. I am licensed in all the Nebraska state courts, federal courts of the District of Nebraska, the U.S. Immigration Court in Omaha, the U.S. Court of Appeals for the Eighth Circuit, and the U.S. Supreme Court of the United States. I'm the current president of the Nebraska Hispanic Bar Association and I am here speaking in that capacity and also as a concerned Nebraska taxpayer today. I want to closely examine the July 9, 2008, federal guidance letter from the Department of Homeland Security/U.S. Immigration and Customs Enforcement, which is attached to my letter. Specifically, this was an answer to the North Carolina Attorney General's Office regarding in-state tuition for undocumented students. On July 9, 2008, ICE wrote a guidance letter to the North Carolina Attorney General's Office stating that granting admissions to postsecondary educational institutions to undocumented students is not a violation of federal immigration law. Further, the ICE letter clearly states that, "admissions to public postsecondary educational institutions is not one of the benefits regulated by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and is not a public benefit under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996," which has just previously been referred in previous testimony. Without a doubt, according to ICE's legal opinion, college admission to undocumented students is not a benefit under current federal immigration law. Moreover, the ICE guidance letter further states, "therefore, the individual states must decide for themselves whether or not to admit illegal aliens into their postsecondary institutions." In addition, on November 10, 2010, the California Supreme Court in Martinez v. Regents of the University of California, S16779, which is the case number, ruled that in-state tuition for undocumented students does not violate federal law, it is not implicitly preempted by federal law, and does not violate the privileges and immunities clause of the Fourteenth Amendment. And finally, in the Nebraska case, Mannschreck v. Clare, C10-8, the Jefferson County case challenging Nebraska's in-state tuition statute was in fact dismissed December 17, 2010. Therefore, based on the above-mentioned rulings and ICE's guidance letter, it is in my legal opinion that

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Nebraska Revised Statute Section 85-502, enacted in 2006, is statutorily and constitutionally valid. Hence, the state of Nebraska has the authority to grant admission and allow for in-state tuition for undocumented students if it so wishes. Thus, I finally respectfully request that you all vote in opposition of LB657 and continue to give our best and our brightest Nebraska students the opportunity to obtain a college education. I want to thank you for your time and kind consideration of this most important matter. And if you have any questions for me, I'd be more than happy to answer them. [LB657]

SENATOR ADAMS: Thank you. Are there questions? Senator Avery. [LB657]

SENATOR AVERY: Thank you, Mr. Chair. I want to ask this question just so that the record is extremely clear. Is it your opinion, based on your knowledge of the various case law that you have cited, that the federal law does not in any way prohibit Nebraska from providing in-state tuition to students who are children of illegal immigrants...is that...would you state that is absolutely your opinion based on your understanding of these case laws? [LB657]

SHIRLEY MORA JAMES: If those students are undocumented. [LB657]

SENATOR AVERY: Yeah. [LB657]

SHIRLEY MORA JAMES: If they're not U.S. citizens, yes, that's correct. [LB657]

SENATOR AVERY: And the reason for that is that Nebraska in-state tuition law does not afford undocumented students a more favorable path to in-state tuition than they do other U.S. citizens? [LB657]

SHIRLEY MORA JAMES: That questions was specifically the issue in the Martinez v. California. And what...basically what you're doing is you're comparing apples to oranges. Nebraska residents get Nebraska resident tuition. Out of state have to...out-of-state residency. And so the clause that some people are attempting to pass off as trying to compare resident...Nebraska residents that are undocumented to U.S. citizens that are out of state is not a comparison, and the court has... [LB657]

SENATOR AVERY: So they're not in the same category and they're not treated differently under the law or under UNL or university policy? [LB657]

SHIRLEY MORA JAMES: No, they're not, because they're not even within the same policy. [LB657]

SENATOR AVERY: So the policy is consistent in its intent and consistent in its application, to your knowledge? [LB657]

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SHIRLEY MORA JAMES: Yes, it is. [LB657]

SENATOR AVERY: Thank you. [LB657]

SHIRLEY MORA JAMES: And it is statutorily and constitutionally valid. [LB657]

SENATOR AVERY: Thank you. [LB657]

SENATOR ADAMS: Senator Sullivan. [LB657]

SENATOR SULLIVAN: Thank you. Thank you for your testimony and clarification. Just to sort of follow up on that. That was relative to the benefits, but you said that the case law supports the fact that our law is not in violation of federal law. Can you expand...or did they expand on that in their opinions? [LB657]

SHIRLEY MORA JAMES: Yes. Ironically, our state law reflects the same points that California state law dealing with in-state tuition for undocumented students, and they required them to live in the state for three years; that they graduate from a state high school just like we do; and that they indicate that they will become adjusted as soon as they possibly can. So it tracks our same law. And the court looked at...the challenge was an out-of-state Hispanic male who was challenging the fact that he, as a U.S. citizen, even though he was out of state, didn't get in-state tuition. What people fail to realize is the key is are they a resident of that state. If you're out of state, there's no way you can be a resident if for the purpose you come to this state is to get that education, that higher education. So they've been unsuccessful in Kansas in a federal case where you had an out-of-state student that challenged it as a plaintiff. They were unsuccessful in California using the state forum instead of the federal forum. And they weren't even successful here in Nebraska to get past a motion to dismiss. So it is what it is. What the Legislature did in 2006 is legal. It was legal then; it's legal now. And I believe that it will continue to be legal unless the federal government passes a law that makes it illegal. [LB657]

SENATOR ADAMS: Senator Haar. [LB657]

SENATOR HAAR: A couple of questions. Do you know of any laws where children are held responsible for their parents' actions? [LB657]

SHIRLEY MORA JAMES: No, Senator. I mean...okay, in a sense...and, you know, with all due respect, but basically what we are, not we, but certainly the person that brought this bill is trying to treat the children that were not asked to come here, that usually don't find out that they're undocumented until they either want to get their driver's license or they want to go to college, and then that's when they find out. I know these kids. I mentor them. We don't hold the children of bank robbers to any type of punishment

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because their parents are bank robbers. Why should we hold these children and punish them for the acts of their own parents? In regards to whether or not they can get adjusted, there are ways to get adjusted. And the more educated you are, the better chance you have getting a T visa or, you know, they could marry a U.S. citizen and get adjusted, you know, my nephews or my nieces. And the more educated you are, the visas are easier to get. And God forbid that they're a victim of a crime, which I have a client that is, she's going to be able to get her U visa. And God forbid, if they are victims of sex trafficking or human trafficking, they can get a V visa. There are ways that they can...eventually do get adjusted. [LB657]

SENATOR HAAR: Are those particularly easier (inaudible) long term? [LB657]

SHIRLEY MORA JAMES: Actually a U visa and a V visa would be a lot easier than, like a 24i where...and I have one of my mentees that you're going to be hearing her story pretty soon. She wants to be a doctor. And she had a relative that was adjusted, but there is a 15-year wait for her to be able to adjust through her legal family, 15 fifteen years. She has already waited ten years. [LB657]

SENATOR HAAR: Okay, so legally we don't hold kids responsible for the action of their parents. But morally, if somebody knows that their parents brought them illegally to the United States, let's say when they're ten years old, should they go back to where they came from or when they're 12...what would be an appropriate age? And I, a tongue-in-cheek question, of course. [LB657]

SHIRLEY MORA JAMES: Yes. A lot of these kids, they're Americans and they've been acculturated into this society. A lot of them don't speak the language of their home country of their parents. They're probably more American and more adjusted to our society than we are, and more in tune to what's happening. And, you know, I was fortunate. My family came at a time when Mexican-Americans could come here legally, and that was at the turn of the century when Southern Pacific was down to Mexico recruiting. I can't say that about my white European ancestors. I can't tell you that they came here legally. There is some question to that, which is ironic. [LB657]

SENATOR HAAR: But, you know, because I've been trying to think about all the various arguments, and I have a 14-year-old granddaughter who is starting Lincoln High as a sophomore, and I can't imagine her saying, gee, my parents are here illegally; I'm going to, by myself, go back to the country where I was born. [LB657]

SHIRLEY MORA JAMES: Well, especially if they don't have anything to go back to. Where are they going to go back? That's a really tough situation. You know, these kids...I know one young girl, she was two years old and did not find out she was not documented. Now keep in mind, her other brothers and sisters are U.S. citizens. So, you know, we're talking about mixed-status families, and, you know, God forbid that she

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gets picked up because she doesn't have anyone to go back to. She has no family in Central America, none. And she doesn't speak very good Spanish. And if you ask her, she is an American; she's been pledging the allegiance to the flag since she was in kindergarten. [LB657]

SENATOR HAAR: Very complex, isn't it? [LB657]

SHIRLEY MORA JAMES: Yes. [LB657]

SENATOR HAAR: Especially when it comes to families. And I totally agree, the federal government has to take some steps. [LB657]

SHIRLEY MORA JAMES: Absolutely. It's within federal jurisdiction and it's time that our federal leaders...I mean, I contact our senators, both Johanns and Nelson, on a regular basis, saying we have to move forward. We need federal reform. And they know that. [LB657]

SENATOR HAAR: Yeah. They know. [LB657]

SHIRLEY MORA JAMES: They know that, you know. [LB657]

SENATOR HAAR: Okay. Well, thanks for your testimony. [LB657]

SENATOR ADAMS: Senator Schilz, did you have a question? [LB657]

SENATOR SCHILZ: Yes. Thank you, Senator Avery (sic). Thank you, ma'am, for coming in today. [LB657]

SHIRLEY MORA JAMES: My pleasure. [LB657]

SENATOR SCHILZ: Greatly appreciated. And, you're right, I mean, this is an issue that absolutely is one of those that cuts both ways on this. Do you know, can you tell me, for these 48 students that are involved in the university system, do they have people at the university that are helping them, or is there a program at the university for these students to do what the law says today and be on a path to citizenship or to get a visa? [LB657]

SHIRLEY MORA JAMES: Well, I don't know about all of them. I know about the kids I know. And... [LB657]

SENATOR SCHILZ: Well, it's required for all of them according to the law today. [LB657]

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SHIRLEY MORA JAMES: Yes. But I don't know them personally, okay? [LB657]

SENATOR SCHILZ: Right. [LB657]

SHIRLEY MORA JAMES: What I know is that one of my mentees is waiting. She has another five years and then she'll be able to adjust her status through a 215i, I think...no, 245i petition. I also have another one that is currently getting ready to get married to a U.S. citizen. So she's going to be able to adjust. I also have...she's a client but also is soon to be a student, and she will be able to get a visa through a U visa because she was a victim of domestic violence. [LB657]

SENATOR SCHILZ: I see. And, quite honestly, I think, that's...that's good that these kids are doing that, because, I think, you would agree that, you know, to have a degree and still be undocumented or illegal or whatever is somewhat counterproductive to what we're talking about here. [LB657]

SHIRLEY MORA JAMES: Actually getting a degree will give them a better opportunity to get a visa. [LB657]

SENATOR SCHILZ: Unless they get busted in the process. Then what do they get? [LB657]

SHIRLEY MORA JAMES: Well, they can always go back. [LB657]

SENATOR SCHILZ: To where? [LB657]

SHIRLEY MORA JAMES: To wherever they're sent, you know. [LB657]

SENATOR SCHILZ: That's the problem, isn't it. [LB657]

SHIRLEY MORA JAMES: That is, because they usually don't have a family to go back to. [LB657]

SENATOR SCHILZ: Right. And why is that? [LB657]

SHIRLEY MORA JAMES: Because we have not had the vision... [LB657]

SENATOR SCHILZ: They all came here. [LB657]

SHIRLEY MORA JAMES: We have not had the vision or the desire to... [LB657]

SENATOR SCHILZ: Control the...okay, okay. Who hasn't had the vision? [LB657]



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SHIRLEY MORA JAMES: Our federal government, because as state... [LB657]

SENATOR SCHILZ: Okay. I don't disagree. [LB657]

SHIRLEY MORA JAMES: ...as state government, we don't have the authority over immigration. [LB657]

SENATOR SCHILZ: Right. [LB657]

SHIRLEY MORA JAMES: I mean, it's called the supremacy clause. Okay? [LB657]

SENATOR SCHILZ: Absolutely. I understand. [LB657]

SHIRLEY MORA JAMES: And so the reality is our federal leaders need to address this and they need to address it now, because students, our very brightest, I'm talking about our honor roll, our doctors, our lawyers, our professors, our future professors, should be allowed, I mean, if you have that kind of knowledge, we should be able to educate them and keep them here in Nebraska. And they can do that. We only need four more votes and we'll have the DREAM Act. [LB657]

SENATOR SCHILZ: Okay. And then we talked a little bit about you saying that this law, the way it stands now in the state of Nebraska, does not go against federal law. [LB657]

SHIRLEY MORA JAMES: That's correct. And if you would look at the handout that I gave you, if you look at the last page, which is the ICE letter... [LB657]

SENATOR SCHILZ: Right. [LB657]

SHIRLEY MORA JAMES: Okay. Now these are the folks that enforce immigration, okay? [LB657]

SENATOR SCHILZ: Yeah, I understand. Thank you, ma'am. [LB657]

SHIRLEY MORA JAMES: And it's their opinion that what we're doing by allowing in-state tuition for undocumented students is... [LB657]

SENATOR SCHILZ: Permissible. [LB657]

SHIRLEY MORA JAMES: Yes. [LB657]

SENATOR SCHILZ: Right. [LB657]

SHIRLEY MORA JAMES: And we have a court in California, the Supreme Court in

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California, in Martinez, also in November said that it's permissible. [LB657]

SENATOR SCHILZ: Right. And if we would change that to getting the votes of 25 people, that would also be permissible under the federal law as well, right? [LB657]

SHIRLEY MORA JAMES: Twenty...explain to me. [LB657]

SENATOR SCHILZ: If we would pass this law, LB657, that would also be permissible under federal law as well, correct? [LB657]

SHIRLEY MORA JAMES: Absolutely...well, not under federal law. I think you're talking about states. [LB657]

SENATOR SCHILZ: Well, that's what we're talking about here. [LB657]

SHIRLEY MORA JAMES: Are you talking about state? [LB657]

SENATOR SCHILZ: No, the feds would not look upon that as being... [LB657]

SHIRLEY MORA JAMES: The state has the authority to either or not. [LB657]

SENATOR SCHILZ: Pick or choose. Right. [LB657]

SHIRLEY MORA JAMES: Yes. [LB657]

SENATOR SCHILZ: Okay. Thank you very much. Appreciate it. [LB657]

SHIRLEY MORA JAMES: You bet. [LB657]

SENATOR ADAMS: Senator Haar. [LB657]

SENATOR HAAR: So if I know of somebody who is an illegal immigrant, is it illegal not...is it against the law...does the law require me to report them? [LB657]

SHIRLEY MORA JAMES: No, it does not. [LB657]

SENATOR HAAR: Okay. From what you stated, even though the DREAM Act, which I was really hoping would pass, because the federal DREAM Act would give...basically you step to the head of the line, if you're educated, right, or if you served in the armed forces. [LB657]

SHIRLEY MORA JAMES: That's correct. [LB657]

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SENATOR HAAR: Okay. So in some ways, if somebody is educated, has gone through the four years of college, that's sort of DREAM Act-like, right, because they get a little better. Is that correct? [LB657]

SHIRLEY MORA JAMES: That's correct. [LB657]

SENATOR HAAR: Okay. Now we heard earlier that...but if somebody gets caught at the university, let's say they're a junior and they get caught for being an illegal immigrant, and then there's a ten-year penalty period for them before they can apply for any kind of visa again, or...? [LB657]

SHIRLEY MORA JAMES: If they are adjudicated through the immigration court. If they are going to school, okay,... [LB657]

SENATOR HAAR: Um-hum. [LB657]

SHIRLEY MORA JAMES: ...and they do not get caught but go back to their parents' home country, there is no bar. They have to be detained and go through the immigration court system. [LB657]

SENATOR HAAR: And what would be a situation for that? Why would somebody, I mean, because I've heard that locally if a police even suspects somebody, you know, is here illegally and they call ICE and nothing happens. So what would that...how could they... [LB657]

SHIRLEY MORA JAMES: No, ICE comes and gets folks. [LB657]

SENATOR HAAR: They do come and get folks. [LB657]

SHIRLEY MORA JAMES: Yeah. I represent folks. And let me tell you, they come and get folks. [LB657]

SENATOR HAAR: Okay. [LB657]

SHIRLEY MORA JAMES: Yeah. So that is a misconception. [LB657]

SENATOR HAAR: So how could somebody wind up... [LB657]

SHIRLEY MORA JAMES: But you have to keep in mind, though, presently...and this is what a lot of people fail to understand. Under the Obama administration there is a priority, and the priority is to seek out and deport criminals, not undocumented students going to college. There is a big difference. And just because you're here undocumented does not make you a criminal; that's a civil federal violation. But it is not a criminal

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violation until you are caught, deported...and I'm not saying voluntarily departed, but deported, which is different, okay? And then you come back before you're allowed to come back, then it becomes criminal. And a lot of people don't understand that, okay? So it's civil violation versus criminal violation. [LB657]

SENATOR HAAR: Okay. And I'm sorry to keep going on, but I need to understand this. [LB657]

SHIRLEY MORA JAMES: You bet. [LB657]

SENATOR HAAR: So if somebody were in college, under what situation would they potentially get caught and wind up in the immigration courts? [LB657]

SHIRLEY MORA JAMES: Not unless they committed a crime. [LB657]

SENATOR HAAR: Okay. Because, as you said, being here illegally is a... [LB657]

SHIRLEY MORA JAMES: Civil violation. [LB657]

SENATOR HAAR: And that would not be under...go to immigration court? [LB657]

SHIRLEY MORA JAMES: Yes, it would. [LB657]

SENATOR HAAR: It would. [LB657]

SHIRLEY MORA JAMES: Yes. Absolutely, it would. But immigration court could give them the ability to voluntarily depart, okay, instead of being deported, so... [LB657]

SENATOR HAAR: And then if they're deported or...and then they come back, that's when that ten-year... [LB657]

SHIRLEY MORA JAMES: Then that's criminal. [LB657]

SENATOR HAAR: That's when the ten-year, you know, you can't even apply for ten years. [LB657]

SHIRLEY MORA JAMES: That's criminal. That would be criminal if they came back before they were allowed to come back. [LB657]

SENATOR HAAR: Okay. [LB657]

SHIRLEY MORA JAMES: Okay. [LB657]

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SENATOR HAAR: Well, we may be in touch for some more clarification. This is... [LB657]

SHIRLEY MORA JAMES: You can call me if you have any questions. I'd be happy to talk to you. [LB657]

SENATOR HAAR: Even this part of it is more complex than I thought, and, so... [LB657]

SHIRLEY MORA JAMES: It's very complex. [LB657]

SENATOR HAAR: Yes. Okay. [LB657]

SHIRLEY MORA JAMES: It's not as simple as some people would like to put it. It's very complex. [LB657]

SENATOR HAAR: Thanks. [LB657]

SENATOR ADAMS: Are there other questions? Thank you, ma'am. [LB657]

SHIRLEY MORA JAMES: You bet. [LB657]

SENATOR ADAMS: Whenever you're ready. [LB657]

BRIAN HALSTEAD: (Exhibit 8) Senator Adams, members of the Education Committee, for the record my name is Brian, B-r-i-a-n, Halstead, H-a-l-s-t-e-a-d. I'm here on behalf of the State Board of Education and the State Department of Education in opposition to LB657. I'm having distributed to you a letter from the State Board of Education noting their opposition. And with that I would answer any questions you might have. [LB657]

SENATOR ADAMS: Thank you, Brian. Are there questions? Senator Avery. [LB657]

SENATOR AVERY: Thank you, Mr. Chair. Mr. Halstead, did the board take a vote on this position? [LB657]

BRIAN HALSTEAD: Sure. They have to take a vote on any piece of legislation or any action they take under the Open Meetings Act, they had to vote on it. Yes. [LB657]

SENATOR AVERY: Was it unanimous? [LB657]

BRIAN HALSTEAD: Oh, I don't remember. All I know is the board took a position on it. I don't believe it was unanimous, but I don't...just like any statute that's enacted by the Legislature, whether it's 49 to 0 or 25 to 0, it's still the law or the position of the board of the Legislature. [LB657]

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SENATOR AVERY: But you don't know if the vote was close or whether it was heavily in favor of the position you're taking or unanimous. [LB657]

BRIAN HALSTEAD: I know it wasn't unanimous. I don't recall the vote count. I just know it's now the current position of the State Board in opposition to LB657. [LB657]

SENATOR AVERY: Okay. Thank you. [LB657]

SENATOR ADAMS: Other questions for Brian? Thank you, sir. Next opponent. Good afternoon. [LB657]

MIGUEL CARRANZA: (Exhibit 9) Good afternoon. Chairman Adams and committee members, my name is Miguel Carranza; it's M-i-g-u-e-l, last name is C-a-r-r-a-n-z-a. I come to you humbled, disgruntled, and yet optimistic. I think we need to look back and see that Nebraska was founded and built by immigrants and is still strengthened by immigrants. If you haven't read the book Broken Hoops and Plains People that came out of the Department of English at UNL, you ought to. Paul Olson was the head of the TTT program that countered the contributions that ethnic groups in the state made to Nebraska. It came out in the mid-'70s. It's out of print. It included African-Americans, Italians, the Polish, Chicanos, and even the Swedes and the Danes. It talks about all those ethnic contributions. I'm humbled because although I'm only 5'6 1/2", 5'7" on a good day, I stand 7'7" today because I stand on the shoulders of giants, many of them immigrants, many who came undocumented when they came over, including my father. My mother was born here so they were already mixed-status adults marriage and didn't know it, and my father was Atanacio Carranza and he was the first person of Mexican origin to be elected to a county office in the state of Nebraska back in 1971. He served for our country and always considered him...he voted every election and was a staunch Democrat. That I won't vouch for all the time. I'm disgruntled because I see that at the same time that the National Science Foundation is telling us that we are at a crisis for producing researchers and scientists in the stem disciplines, that we would take away students that we have already educated K-12, played a major role, and yet we would miss our return from them. None of us would take that kind of money, put it in and spend it, and then say, okay, now I don't want the benefits of it. I'm optimistic because, I think, we as a state of Nebraska have an opportunity to be one of the ten states who are leaders in this effort, to take advantage of this brain power. Once an individual obtains a college degree, they become an even stronger asset to our state. So it not only is good humane sense, but it's also good business sense. If someone gets an engineering degree out of UNL or any other college, they get a teaching certificate, their opportunities they enhance, they don't guarantee but they enhance their opportunities to stay in this country because then they have an asset and they have an degree and then they have the opportunity to continue to contribute, and many of these undocumented immigrants will stay in the state of Nebraska. Thank you. [LB657]

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SENATOR ADAMS: Thank you. Are there questions? Senator Haar. [LB657]

SENATOR HAAR: We've known each other for 25 years. We're probably; both shorter because of age. (Laugh) I should have asked this question of Mora James. But, okay, let's say I'm here illegally from Germany, that's where my parents' great-great-grandfather immigrated from Germany. And I graduate from college and then I apply for a visa. Will they immediately come and pick me up and deport me? [LB657]

MIGUEL CARRANZA: You apply for...you graduated from college where? [LB657]

SENATOR HAAR: UNL or whatever. [LB657]

MIGUEL CARRANZA: It's funny you should ask that. I had a student in my class the other day who said he had a friend of his from Germany who graduated from UNL and applied for a...I don't know what kind of visa it was. It was a resident visa, they were on student visas, and was denied a student visa because he didn't have a job, and he couldn't find a job, so that he wasn't allowed to stay here. And he said, that's not unusual. So, I think, the whole idea is that if someone goes through higher ed, gets a bachelor's degree, especially in those vital sciences, and they're going to make a contribution, then they're going to stay here. They have to find a job, and that's...it's very important for them to be employed because we have enough unemployed students as it is. [LB657]

SENATOR HAAR: But if they're an illegal immigrant at the time, they probably can't get a job. [LB657]

MIGUEL CARRANZA: They can...their chances are increased because they have the degree. If they can show that they're...someone is going to hire them, that they have a job, then they have that ability...they...Shirley Mora James would know better the process... [LB657]

SENATOR HAAR: (Inaudible) ask that. I'll talk to her about that. [LB657]

MIGUEL CARRANZA: ...but they would have that opportunity to go apply. [LB657]

SENATOR HAAR: Okay. Then so if there was a family and the parents came and it doesn't matter whether the child knows that they came illegally, but they're eight years old, would you counsel that child to go back to wherever, to Germany? [LB657]

MIGUEL CARRANZA: No, I wouldn't, because right now our responsibility, because of Plyler v. Doe, is that we give them the best education we can, K-12, all states. That's

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the law of the land according to the U.S. Supreme Court. So I would encourage them to get a good education and then try to go on, so, I mean because they're here...they can go to school here. And unless, as Shirley mentioned, unless they...they've only committed a civil violation, not...I mean it is like...I think a civil violation is like a parking ticket. So, I admit, I've had a parking ticket. But they haven't done a criminal violation. So, I think, that they could be here. We educate them. We educate them K-12, and then we say, no, we're going to deny you access financially of going to a university or a college or a community college, and we're just...we've thrown away that asset. If they're good students and they want to be an architect, if they want to be an engineer, if they want to be a police officer, if they want to be a teacher, a Spanish teacher, I think, it's in our best business sense and good sense to make them productive citizens of Nebraska. And then they can start the process for becoming a citizen. [LB657]

SENATOR HAAR: Well, I just find the logic of holding...that the children ought to hold their parents accountable. I mean maybe there comes to an age, you know, when I'm 67, yeah, but. (Laugh) [LB657]

MIGUEL CARRANZA: Well, we don't even...even for us U.S. citizens, our children don't hold us accountable. It's only rarely do they sue their parents for, you know, whatever. But we're the adults and they're not adults until they turn a certain age. And so they put a lot of trust in us. And if they've come over, put their lives in their hands, brought us over at great expense and terror, then we trust them. And we go to school and we get an education. I say "we" in a more global sense. [LB657]

SENATOR HAAR: So it's not strictly a legal...I'm trying to sort out this legal versus compassionate versus Nebraska values, etcetera. It's very complex. [LB657]

MIGUEL CARRANZA: Yes, it is very complex. And I'm looking at it in the sense that we already have this commitment to educate undocumented students from K to 12, and we have these bright students who are 4.0, and at that point they don't qualify for state aid, they don't qualify for federal aid. If they're lucky to find private monies in a foundation, they may be able to go, but then we say, if we pass LB657 we say you have to spend \$14,000 a year to go to the university, as opposed to paying in-state tuition rates. And that doesn't make sense. I mean that's my money that we're spending in terms of school districts, and we should get the best return from that expense. And the best return is to have them be educated to go on and get college degrees and be productive members of the state of Nebraska. I don't want them to go back. One of the reasons we have the dearth of scientists and researchers in the stem disciplines is because we've trained a lot of international students. And for a long time, they would stay here because of the ability to work was here, but now, as you have Microsoft and all these companies who are building...taking their businesses to these other countries, they can go back to India, they can go back to China and have the same kinds of opportunities there, and they're back in their country of origin. And so that...those international students who are in the



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stem have started to return to their own countries after we educate them. And that's why...you know, (inaudible), I think, it's a...we're facing this wall in about five years that we will not be able to avoid. So we cannot get enough students to start taking...taking classes in the stem disciplines. We can't convince them that that's the best thing they can do. [LB657]

SENATOR HAAR: Well, thanks for coming. And I am evidence that the shrinking actually increases exponentially as we get older,... [LB657]

MIGUEL CARRANZA: Yes. [LB657]

SENATOR HAAR: ...so welcome. [LB657]

SENATOR ADAMS: Senator Schilz, you had a question. [LB657]

SENATOR SCHILZ: Yes. Thank you, Senator Adams. Thanks for coming in today. And just a simple question. If...as it sits today, and even if LB657 would go into law, it would not preclude someone who is undocumented from getting scholarships or things like that as long it's coming from private sources. [LB657]

MIGUEL CARRANZA: As long as it is coming from private sources. Yeah, it would indeed triple the cost of them going to higher education here, which we've shown...we already know that the immigrants are coming from backgrounds of low-income families. And when you start to triple the cost of going to college, it would probably decrease...I've some estimates where 80-90 percent would not go on to college because of that, because of the financial aspect of it. [LB657]

SENATOR SCHILZ: Okay. Thank you very much. [LB657]

SENATOR ADAMS: Are there any final questions? Thank you, sir. [LB657]

MIGUEL CARRANZA: Thank you. [LB657]

SENATOR ADAMS: How many more opponents are there? Okay, let's keep going then. Good afternoon. [LB657]

LANE CARR: (Exhibit 10) Good afternoon, Chair Adams, senators. My name is Lane Carr, L-a-n-e C-a-r-r, and I'm a junior at the University of Nebraska-Lincoln. I'm here today not only as a member of that university community and the student body, but as chairperson for the government liaison committee of the ASUN student government at the University of Nebraska-Lincoln. Today, I'm here to testify on behalf of students of the university in opposition to LB657. The Cornhusker community has emphasized acceptance and diversity for nearly as long as it has existed. From George Flippin, the

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university's first African-American athlete at a time when it was unacceptable to have such a player, to nearly 50 years later when the university was unique in accepting Japanese-American students during World War II, the University of Nebraska has encouraged diversity and acceptance. And, today, senators, there is no difference. A large part of fostering diversity is prioritizing access to education. Institutionally, the University of Nebraska does just that when it covers the remainder of tuition for students who qualify for Pell Grants, when it supports academic assistance through TRIO programs and Student Support Services, and when it increases the availability of scholarships. And yet there is another level of access that Nebraska offers to all students. Nebraska law allows all students who meet specific residency requirements to attend a public college or university and to pay in-state tuition rates, even those who are undocumented. This law further upholds the university's policy of offering an education to all who wish to pursue it. As a student of the university, I can attest to the value of the education that I have received, and I can only tell you that the diversity of thought and background at the university add to the learning environment. But I can also tell you that during these difficult times, requiring students to pay even a little bit more for their education causes some to have...hinders some from receiving a quality education. And LB657 would do just that. So let me reiterate: LB657 would directly inhibit some students from receiving a higher education. For a university and a state that has emphasized access to education, this is a move in the wrong direction. And that is why the ASUN student government has opposed LB657. I want to just briefly leave you with an excerpt from a message of a student who is benefitting from current state law. She writes, "I was brought to this country at a very young age and I have gone to school in Nebraska since I was little. It is thanks to this law that I can freely believe in higher education and be a productive student of this state. Neither my family nor I will ever be able to afford college at an out-of-state rate. College would not even be an option for me if it was not for this current law. I dream of one day being a teacher and a resident of this state. If in-state tuition is no longer an option, you will have crushed my dream of graduating from college." Members of the committee, on behalf of the students of the University of Nebraska, I ask you to oppose LB657 to allow this student and the other students who benefit from current state law to make higher education and their dreams realities. Thank you. [LB657]

SENATOR ADAMS: Thank you. Are there questions? Thank you then. [LB657]

LANE CARR: Thanks. [LB657]

SENATOR ADAMS: Next opponent. [LB657]

JIM CUNNINGHAM: Senator Adams and members of the committee, good afternoon. My name is Jim Cunningham, C-u-n-n-i-n-g-h-a-m. I'm appearing in my capacity as the executive director of the Nebraska Catholic Bishops Conference. The conference represents the mutual interests and concerns of the Archdiocese of Omaha, the

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Diocese of Lincoln, and the Diocese of Grand Island on matters involving public policy, under the direction of the diocesan bishops. The Nebraska Catholic Conference supported LB239 in 2005. We opposed LB1001 last session and we have not changed our position on this matter. And, therefore, we are in opposition to LB657 because it would repeal the current law. From our perspective, the passage of LB239 was something that we felt was fair and socially just. We felt it was logical and we felt that it promoted a spirit of solidarity in Nebraska. A successful student who has attended and graduated from a high school in Nebraska and desires to go on to postsecondary education in the state but who is undocumented, through no fault of his or her own, should have the same opportunity to be educated at the same tuition rate as his or her neighbor, his or her classmate, his or her fellow graduate. It made no sense to us that without this law you could have a situation where a student who had lived in Nebraska for 20 years or 15 years, at that age a student who lived in Nebraska for 15 years and graduated first in the graduating class of York High School would not be eligible for resident tuition, while that student's next-door neighbor, classmate, who had lived in the state for maybe five or seven years and graduated second in the high school class would be eligible for in-state tuition. From our perspective, as a matter of social justice and common sense and a sense of solidarity, LB239 proposed a sound policy and we were pleased to support it, and for the same reasons we are opposed to this bill that would repeal that. Thank you. [LB657]

SENATOR ADAMS: Thank you, Jim. Are there questions? Senator Haar. [LB657]

SENATOR HAAR: Do you look at this as a moral, or a legal issue? [LB657]

JIM CUNNINGHAM: Both. [LB657]

SENATOR HAAR: Both. [LB657]

JIM CUNNINGHAM: I think it has a moral dimension to it. [LB657]

SENATOR HAAR: And what is that? [LB657]

JIM CUNNINGHAM: The moral dimension is, is that we are all members of one human family and there is a need to respect the human dignity of every individual, and there is a need to try to find ways that we can deal with people in a way that, as I said, promotes a sense of solidarity. Given the fact that there are so many flaws and difficulties with this particular policy, and this is a way that Nebraska could respond positively within the sense of a morally sound approach. On the other hand, obviously there are legal complications to this whole thing, extremely complex legal things. I have great admiration for Shirley Mora James to be able to answer your questions about those complexities. There is a moral need to respect law, but at the same time there are so many other factors that weigh into this, such as the inherent injustices of a lot of aspects

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of the current immigration law: the fact that it is unworkable, inadequate, imposes barriers that are almost impossible to deal with; the fact that in many of the cases the visa lines are so long and backlogged that it is totally unreasonable to think that anybody could deal with that effectively. And so I think weighing all those things, I think you'd have to say that there are both moral and legal dimensions. [LB657]

SENATOR HAAR: Thank you very much. [LB657]

SENATOR ADAMS: Are there other questions? Yes, Senator Schilz. [LB657]

SENATOR SCHILZ: Jim, thanks for coming in today. [LB657]

JIM CUNNINGHAM: Sure. [LB657]

SENATOR SCHILZ: If this law stays the same, are those same moral and legal questions not still in place? [LB657]

JIM CUNNINGHAM: If the current law stays in place? [LB657]

SENATOR SCHILZ: Correct. [LB657]

JIM CUNNINGHAM: Oh, sure. [LB657]

SENATOR SCHILZ: So...okay, thank you. Thank you. [LB657]

SENATOR ADAMS: Other questions? Thank you, Jim. Next opponent. Good afternoon. [LB657]

JARED DAILEY: (Exhibit 11) Good afternoon. Hi. My name is Jared Dailey, J-a-r-e-d, Dailey, D-a-i-l-e-y, and I am a current student at the University of Nebraska-Lincoln, and I would like to read a letter from one of my fellow students. "February 5, 2011. To whom it may concern: Ever since we started elementary school back in Mexico, my brother and I have been expected and encouraged to do well in school so that one day we could continue our education at a university. During our years in U.S. elementary school and high school, we both worked very hard to maintain a well-rounded school career. My brother, now a senior in high school, is taking full course loads with advanced placement classes and still has the energy to run varsity track and cross country. I, on the other hand, took full course loads, including advanced placement classes, and led my fellow classmates as president, vice president, and committee chair of several organizations all four years in a row. We've managed to do this and graduate in the top 15 percent of our class. Our school career has been a very hectic one. Having to balance schoolwork and extracurricular activities is very challenging, but hard work and determination pay off. Both my brother and I were accepted into the University of

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Nebraska at Omaha. I am currently taking my sixth semester of college classes and my younger brother is about to graduate from high school. My brother and I take our education very seriously, and to us, being able to continue our education is very important. However, we cannot further our education if we cannot afford to pay for college. In-state tuition will allow my brother and I to continue to receive a great education and gain the knowledge necessary to fully contribute to this county as a civil engineer and an educator, respectively. Having to pay out-of-state or international tuition would result in great financial stress on our already overworked family. I'm certain my parents would not be able to send their two kids to college, since we can only make minimum wage, or less, but have many living expenses. I will not say that our dreams of continuing our education would be shattered because as a future educator, I believe, there are plenty of resources one can use to educate oneself if that is truly one's desire. However, in-state tuition is our most important aid in attaining our education and career goals. Please do not advance LB657 to the floor. Sincerely." Thank you. [LB657]

SENATOR ADAMS: All right. Thank you. Are there questions for this gentleman?  
[LB657]

SENATOR HAAR: Thanks for coming. [LB657]

SENATOR ADAMS: If not, thank you for being here today. Next opponent. [LB657]

ERIKA SCHOLZ: (Exhibit 12) Good afternoon, Mr. Chairman and distinguished members of the Education Committee. My name is Erika Scholz, E-r-i-k-a S-c-h-o-l-z. I am a U.S. citizen and a college student at UNL, speaking for a fellow student who is undocumented and currently attending the university. I will be reading her story. "My name is Mary and I am an American and my allegiance is to the United States. I was two years old when my parents made the decision for me to come live in America. In the middle of the fifth grade, we moved from California to Nebraska, and I have been living in Nebraska for 12 years now. I graduated from high school in 2006 and have attended the University of Nebraska for three semesters. I want you to know that most immigrants like my parents are hard working-class people, and eventually their children, given the opportunity to become educated, can become part of that middle class. Even though I am an honor roll student and have worked hard to make my community proud of me, I am still viewed as an undocumented person because of situations beyond my control. I believe that Senator Janssen, by trying to deny a postsecondary education to me, is just meanspirited and does not reflect the views of most Nebraskans that I know and who have supported me. I struggle just to pay in-state tuition and would not be able to afford out-of-state tuition. We are not hurting anyone. Nebraska does benefit from us and our families through taxes, being consumers, and aiding the state's economic growth. I am in the process of obtaining residency through a 245i petition. I have been waiting ten years to adjust my status to be legal, but because of backlog I have to wait five more years. Now I am 22 years old. I cannot bear to think that I could possibly be

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denied the opportunity to go to college until I am 27 years of age if LB657 passes, and that I would be in my mid-thirties when I can finish medical school. I ask you, when will I be able to move on with my life, achieve my dream of being a doctor, and start a family that I can support? We are already paying dearly for the decision our parents made for us. Please don't make our lives even harder. We are not hurting anyone by wanting to go to college and contribute to this great country. Please, Senators, vote no and kill LB657 in committee and let my American dream continue." Thank you. [LB657]

SENATOR ADAMS: Thank you. Are there questions? Seeing none, thank you. Next opponent. [LB657]

BOB QUASIUS: (Exhibit 13) Mr. Chairman and Senators, thank you for the opportunity to speak to you today. I am Bob Quasius. That's B-o-b Q-u-a-s-i-u-s, vice president of Somos Republicans, America's largest Hispanic Republican organization. Somos Republicans is an organization of conservatives. Most, though not all of us, are Hispanic and close to the immigrant community. My wife is an immigrant from Honduras. We understand immigrants are human beings, and a vast majority are hard-working, God-fearing members of society and deserve respect. We don't condone illegal immigration; neither do we condemn those who come here merely to work, because for most there was never a line to stand in. The plight of undocumented youth is especially compelling. Most came as young children, even babies, and had no idea of their status until they wanted to get a driver's license, and then learned of their bleak future. For most, the U.S. is the only home that they know. As conservatives, we believe in personal responsibility, which is quite different than family responsibility. One could argue that putting children of bank robbers in jail is justified because it would deter their parents from committing bank robbery. But would that be just under our value system? The undocumented students who stand to lose eligibility for in-state tuition rates already are denied grants available to students. And, for most, even in-state tuition is an enormous financial burden. Many may be forced out of school if required to pay out-of-state tuition. Their willingness to overcome already long odds to obtain an education speaks well of their character. All they ask is the chance to pull themselves up by their bootstraps and prove they are worthy to become citizens one day. Somos Republicans is at the forefront supporting the federal DREAM Act. We mentor a national network of DREAMers to work within the political system. I can tell you that each of their life stories is inspirational and we should welcome them as citizens someday. I have to admit, a few came to us wearing brown berets. After mentoring, they put their brown berets aside and became good little conservatives. As an alternative to bills like these, I ask each of you to instead endorse the guiding principles of the Utah Compact, which tells Congress to get serious about reforming our immigration system and rejects extreme measures. Last December, I wrote to several senators, including some members of this committee, asking for your support of the Utah Compact, which I called the Nebraska Compact. There's a copy attached to my statement. I'm extremely pleased that a bipartisan group of 11 Nebraska state senators sponsored LR39,

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embracing Utah Compact principles. If we had this bipartisanship in Washington, immigration reform would be complete. Nebraska is the first state Legislature in the nation to consider a Utah Compact resolution, and the example set here has helped persuade legislators in two other states to introduce similar resolutions. Let's see if Nebraska's Legislature will become first in the nation to fully embrace the Utah Compact, a powerful set of guiding principles that moderates the tone of the debate while also pushing Washington to get past the partisan gridlock and work together to solve the problem. Thank you very much. [LB657]

SENATOR ADAMS: Thank you, sir. Are there questions for this testifier? It looks like there aren't. Thank you. [LB657]

BOB QUASIUS: Thank you. [LB657]

SENATOR ADAMS: Next opponent. I know I'm sounding redundant, but may I see...we still have two more hearings yet to go. How many more opponents are there? Okay. Welcome. [LB657]

LELA SHANKS: Good afternoon. My name is Lela Shanks, L-e-l-a S-h-a-n-k-s. And as an African-American, I...at these hearings I continue, on immigration, I continue to see similarities in the legislation and in the bills proposed and in my own life experiences. So I would just like to briefly share with you the story of Dr. Percy Julian. He was an American chemist and scientist who discovered how to make cortisone out of soybeans. He also discovered how to make testosterone and other hormones out of soybeans. He also discovered how to make the drug physostigmine, which is used to cure glaucoma. But when Dr. Julian was in school, his white teachers discouraged him from going to college, not because he wasn't a citizen, but because he was an African-American. And in those days, African-Americans weren't able to get certain jobs. And so he was not discouraged however; he went on and got his Ph.D. and made these contributions. And I've just listed a few of his discoveries. And so the idea that we don't educate people because they aren't going to be able to get a job is really not very logical. It's unreasonable. And there are many African-Americans, however, who were never able to use their Ph.D.'s in their line of...in their majors. But education is never wasted on any individual or on their children or on their families. And so I hope that you will see this bill for what I believe it is: it's punitive, it's regressive against the youngest and most defenseless people in our society. And if it's a question of whether you're going to go with what's legal or whether you're going to go with what's humane, I hope you will go on the side of what's humane. Thank you. [LB657]

SENATOR ADAMS: Thank you, ma'am. Are there questions? Seeing none, thank you. Hi, Jay. [LB657]

JAY SEARS: Good morning. Oh, I guess, it's afternoon still. [LB657]

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SENATOR ADAMS: Almost evening. [LB657]

JAY SEARS: Almost evening. Senator Adams, members of the Education Committee, I'm Jay Sears, J-a-y S-e-a-r-s, representing the 28,000 members of the Nebraska State Education Association. And we are in opposition to LB657. We were in opposition to LB1001 and we supported LB239 in 2006. At that time, I gave you written testimony last year. I'm not going to be redundant and I'm not going to talk anymore. There have been more eloquent discussion today and I learned more from the people that sat here and talked to you today about immigration than I've known about in my 40 years in education. So with that I'll conclude my testimony and we can get on with the rest of it. So thank you very much. [LB657]

SENATOR ADAMS: Thank you, Jay. Are there questions for this testifier? Thank you, sir. Is there any more opposition testimony? Please. [LB657]

CHUCK BENTJEN: (Exhibit 14) Good afternoon. My name is Reverend Chuck Bentjen and I'm director of... [LB657]

SENATOR ADAMS: Excuse me, sir. Did you hand in to the committee clerk your registration? Those look like things to be handed out. Have you filled out the registration form for a testifier? You really need to do that quickly before you testify. Typically, we wouldn't go on without it, but for the sake of time why don't you begin your testimony, and then would you please hand that to the clerk as soon as you're done? [LB657]

CHUCK BENTJEN: Certainly. My name again is Reverend Chuck Bentjen. That's spelled B-e-n-t-j-e-n, and I serve as director of the Manna and Mercy Center for Faith in Public Life, which is an interfaith organization dedicated to promoting justice for all. Senator Adams and members of the Education Committee, it is often with a great deal of pride we Nebraskans proclaim that our public policies reflect or should reflect our values as people of faith. Without question, faith is important to a majority of Nebraskans. Nebraskans are people of faith with approximately...with at least 1.4 million people or 79 percent of the population claiming affiliation with an established religious organization. Ninety percent of those people profess Christianity. Thus, those of us in leadership roles in the faith community deem it important to raise our voices when there are public policy proposals inconsistent with those faith values. The Holy Bible is full of references in which God tells God's people to welcome the stranger in their midst. Leviticus 19:33-34 is a prime example: When an alien resides with you in your land, you shall not oppress the alien. The alien who resides with you shall be to you as a citizen among you; you shall love the alien as yourself, for we were aliens in the land of Egypt; I am the Lord your God. Jesus, himself, taught his followers: Truly I tell you, just as you did it to one of the least of these who are members of my family, you did it to me. The story of Ruth in the Old Testament is a particularly poignant story of an illegal



immigrant's survival in an unfriendly land. As the story unfolds, we are told of Ruth's faithfulness to not only Naomi when she immigrated to Israel as an illegal immigrant, but to the God of Israel. We are told of her industrious nature that not only enabled her to survive, but to find a way to become an important and valued person in the community. The post-resurrection New Testament focuses a great deal of attention to a strong disagreement between the Apostles as to whether Jesus died and rose for only the Jews or also for the Gentiles, foreigners and non-Jews. We fully understand Senator Janssen's position on this issue. He is fundamentally opposed to anyone who is in this state illegally receiving anything that can be deemed a state benefit, such as in-state tuition. As faith leaders, we also support the laws of our nation, including immigration laws, but we also recognize how unjust those laws are. We believe most Nebraskans simply do not understand that our current immigration laws make it virtually impossible for anyone south of the United States-Mexican border to enter the United States legally. Even those who are miraculously able to enter the United States legally, must wait for years upon years for their application to be processed and approved. Therefore, we are working at the federal level to promote comprehensive immigration reform. Until those laws are reformed, however, we are left with the reality that no matter what we do, desperate people will see a better life for themselves and their families just across the border. They will risk everything and cross that border for a taste of that better life. That leaves us to deal with how we will treat the foreigner in our midst. Clearly, if we turn to scripture as our guide, we should treat them as though they are citizens. [LB657]

SENATOR ADAMS: Excuse me, sir. The red light is on. And in fairness to everyone else who's testified, could you wrap up, please? [LB657]

CHUCK BENTJEN: Yes. In summary, I would just simply say that the proposal, LB657, is inconsistent with the faith values that Nebraskans profess, and we believe that our public policy should reflect those values of faith as opposed to the values that turn people away. Thank you. [LB657]

SENATOR ADAMS: All right. Thank you, sir. Are there questions for this testifier? Seeing none, thank you. I'll ask again, is there any more opposition testimony? Then I'm going to quick ask if there's any neutral testimony. Is there any neutral testimony? If not, Senator Janssen to close. [LB657]

SENATOR JANSSEN: Thank you, Senator Adams, members of the committee. The red light is already on; I can take the hint. (Laughter) I'd like to...actually I stayed in here for the majority of the testimony and I'm glad I did. The...and I'm actually, even though he is not officially a testifier yet, thank the Reverend Bentjen for pointing out that I brought it because I don't think...I bring many laws because I don't think we should be paying or enticing people to come here and stay illegally. What he didn't say is I think we should be enticing people to come here through the legal means which are necessary. I've heard several times that...I heard somebody say there's no line to stand in, what line to

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stand in. I was...and I echoed that many times on this topic of illegal immigration, only to come to find out that the United States accepts more, naturalizes more citizens, welcomes more citizens through the legal process than any other country in the world. So that needs to be noted. When we say it's a broken system, and I'm not saying there are not measures that need to be fixed in immigration policies of the United States, but there is a policy there and it is being utilized by over a million people a year, according to my recent data. Senator Haar, you know, you've kept bringing up paying for the crimes of your parents. And I kept hearing children, kids. Well, I think we all look at...we can all call a kid one thing, a child another thing, but when you're 18, in the eyes of the law you're an adult. I have served in the military at age 18, fought in a war at age 18. I was an adult. You go to college at 18; you're an adult. If your parent robbed a bank before then, you're not charged with it. But if you go on to rob a bank after that, you are charged with it. And when you go to college, you are now breaking the law in your own name, as pointed out in my opening testimony. So I think that gets a little bit fuzzy in there. But again, it was real interesting testimony. The one thing that I always try to push away from, I've tried consciously to really open up more so, more than ever to the opposition in this. I want their ideas. I want their insight. I want to work together. We've started toward that. I don't like to hear testimony, sad as it may be, and I may have his name wrong and I talked to him in the hallway, Mr. Barges. Mr. Barges talked about his brother, a family member, being murdered by an illegal. I don't think he would have felt any better if his brother was murdered by anybody, and I don't like it when issues like that get thrown into this. It wouldn't matter to me if one of my loved ones was murdered by whoever. Heinous acts are committed by everybody and that's not who any of us should seek to defend in this situation. And I hate when it's brought in to this argument of illegal immigration. I've met people that have come here legally. I've met some that have come illegally. People come here for a better life, for the most part, they do. But we're also an elected body and we have to uphold the laws of the land. And we can talk...we can mince words. It is the federal law that we cannot do this, and we're doing it. What would I prefer? Would I prefer...I think it would be...it's a horrible situation to be in. I couldn't imagine being 16 years old and being told, you need to go to a country you've never been to before. What we need to do is work so that these students can get up and read their own letters and sign their own names to their letters. How chilling is that, that we have people here supporting this program that basically makes people second-class citizens...afraid to address their...this body. But they're going to the university and they claim that they're going to become a police officer, a civil engineer, yet they can't legally be employed. They can't even come here and express their wishes to you; they don't feel comfortable doing that. Imagine the sense of relief that would come across them, which instead of people coming out here and trying to say what I'm doing is wrong, would work with me and we could work to get visas, student visas, for these people, these adults now, that could come to the United States. Imagine the weight that would be lifted off of them. And then we would know they were here. We would have a process by which to start. This law that I...this bill doesn't do all that, but it starts...it starts untangling it and gives us a pathway to start this. I want to work with the

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federal government. I want to work with you. I don't think this is a hurtful law. It wasn't brought out of anything other than to comply with federal law and to move Nebraska forward and, hopefully, play a significant part in immigration reform. It needs to be reformed. I'm not going to sit here and bellow on about it. I'm very passionate about it but I do want people to understand this is brought because I want to take on illegal immigration and make that pathway here. There are good people out there. We need to find a legal way to get them here and, I think, this does that. Thank you. [LB657]

SENATOR ADAMS: Thank you, Senator. Senator Avery. [LB657]

SENATOR AVERY: Thank you, Mr. Chair. Senator Janssen, just one question. You described the in-state tuition law that we now have as an unlawful benefit. Many testifiers after you addressed that. Did you hear anything in that debate that might cause you to question or reconsider your description of the current law as an unlawful benefit? [LB657]

SENATOR JANSSEN: I still believe it's unlawful. Senator Avery, you asked the attorney that actually challenged the law, so I don't think you're going to get the actual best-case scenario from the side which I'm coming from. I could have gotten the attorney from the other side. I would have, had I...I was under the understanding that each side only had a half hour for debate today so I only asked a certain number of people to come here because I wanted to, one, they had to get off work to come here and I knew I had 30 minutes. I thought I had 30 minutes for each side. So I didn't ask people to come up from Kansas or around the nation. [LB657]

SENATOR AVERY: Well, I actually was planning to ask you that question or those questions, but then I saw that we had a lawyer in the audience, so I thought it would be a bit better to ask someone who is steeped in the law (laugh), and you and I are not. [LB657]

SENATOR JANSSEN: Right. Well, and also you did ask somebody on the opposing side. So you've got to take that. That's like asking the defense attorney for the (inaudible). [LB657]

SENATOR AVERY: But there was nobody advocating for this that addressed the unlawful benefit issue. [LB657]

SENATOR JANSSEN: So, I think, I did. [LB657]

SENATOR AVERY: Yeah, but...yeah, you... [LB657]

SENATOR JANSSEN: And I used court law, as well. It wasn't...I was reciting. [LB657]

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SENATOR AVERY: But you didn't hear anything in the opposing arguments that you thought were worthwhile? [LB657]

SENATOR JANSSEN: I'm sure there was some worthwhile testimony in there. There was a lot of it. It was very repetitive after awhile. Yeah, the thing is, it was pointed out and, I believe, Senator Schilz pointed it out, even if that...all that's true, we're still sending the wrong message, Senator Avery. Do you want somebody to not feel comfortable enough to put their name on a document to come to you? And there's no track record of this. There's no affidavit. Why can't we track these people? The Coordinating Commission was here. Why can't they come to us and say, you know what? This has been going on since '06; here's what we have; here's the police officer; here's the adjusted person. We don't have that. I'm looking for a solution here so we can get rid of this, truly looking for a solution. And I'm hopeful someday, someday, just maybe that I'll get reached back to when I reach out to the other side of this. [LB657]

SENATOR ADAMS: Senator Haar. [LB657]

SENATOR HAAR: From the testimony I heard, some people say it's lawful and some...won't the courts decide that? I mean, is there a Nebraska court case that will challenge this or...? [LB657]

SENATOR JANSSEN: Well, there was one, and I think,...I can't remember the attorney's name. She spoke to the case and being dismissed without prejudice, which means it's going to be brought, and I handed a handout; I don't think you were here during that testimony, that it will be brought again. They have to get an opinion for standing, and then they will have, by virtue, it's my understanding and which you'll read in the letter from the attorney, Kris Kobach, who's handled several of these cases, that it will be refiled in Jefferson County Court. [LB657]

SENATOR HAAR: So at some point probably the courts will decide whether it's legal or not, and... [LB657]

SENATOR JANSSEN: You know, Senator, they can decide either way, but let's go back to the reality. And just...and I don't expect you to answer this. Just think about it. The way we're doing it right now, there are adults that are going to school that are afraid to put their name on letters to address you. That's just not right. It shouldn't have to be that way. [LB657]

SENATOR HAAR: Oh, I agree on that part, certainly. Thanks. [LB657]

SENATOR ADAMS: Are there other questions? If not, Senator, I want to apologize if you feel as though I've inhibited your opportunity to have more testifiers. You are right. We talked about 30 minutes. However, my understanding was, too, that prior to this I

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said if you're going to have more testifiers, let me know. So my apology if we had miscommunication, but... [LB657]

SENATOR JANSSEN: Certainly wasn't...no, I was...the way I planned on this was... [LB657]

SENATOR ADAMS: It wasn't intended to restrict your testimony. [LB657]

SENATOR JANSSEN: ...to only have a half-hour. I by no means wanted to say you tried to restrict it, and, I think, we were afforded ample opportunity, and certainly I was...I took some additional liberties with my opening and I appreciate the committee hearing that. [LB657]

SENATOR ADAMS: Fair enough. [LB657]

SENATOR JANSSEN: And would like to point out that my family is very good friends with Senator Schimek and I see her every year but here, so I don't know if she has taken off yet, but get along very well. [LB657]

SENATOR ADAMS: (See also Exhibit 18) Thank you, Senator. That will close the hearing on LB657, and we will proceed on to LB637. Senator, if you would take the reins. [LB657]

SENATOR SULLIVAN: We'd like to move on, folks. If we can move to the back of the room, please. Okay, as Senator Adams indicated, we're going to move on to our next bill hearing, which is LB637. It will be introduced by Senator Adams. Welcome. [LB637]

SENATOR ADAMS: Thank you, Senator. And this is a...my name is Greg Adams, A-d-a-m-s, representing the 24th Legislative District. And I hate to start a bill like this, because it seems as though I haven't done my homework. However, this is a very technical bill. And it has been brought to us by the Commission for Postsecondary Education, and Marshall Hill and others are present. And I'm going to let them walk through the more technical aspects of this bill. But the essence of it is to provide an update in our current statutes for the regulation of private and out-of-state higher education institutions that are doing business here in Nebraska or would like to do business here in Nebraska. And the postsecondary commission has been reviewing these statutes and at the same time have been in that position of having to be the regulator of degree-granting institutions here in this state or outside of the state coming in here to do business, and they believe that there's need for some revision. So with that, Senator, I will conclude my introduction. [LB637]

SENATOR SULLIVAN: Thank you, Senator Adams. Are there any questions for Senator? Thank you very much. We will now hear testimony for proponents for this

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legislation. [LB637]

MARSHALL HILL: (Exhibit 15) Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l, executive director of the Coordinating Commission for Postsecondary Education. Oh, I wish I could tell you that this was something simple for you to deal with. Unfortunately, that's not the case. As an illustration of that, the second page of your handout is a schematic of our current process on the right-hand side of that and our hoped-for process on the left. My metaphor for current law is a plate of spaghetti; my metaphor for what we hope to go to is a plate of ravioli. It at least has discernible packets and parts. If you are an out-of-state institution seeking approval to open a campus in Nebraska or to offer courses and programs, you have a hard time figuring out what you're supposed to do. The statutes are old; they were created in the sixties and seventies; they are outdated. They are unclear; they...the same questions keep coming up. What we're dealing with here is a charge that the Coordinating Commission has to approve either brand-new institutions that want to start in Nebraska or out-of-state institutions that want to operate here. Somebody has to do this work. It's basically a consumer-protection function that we carry out: we want to ensure that any institution that operates here offers programs that meet reasonable standards and that they have...that they're financially secure and stable. A number of things about our current statutes make us vulnerable. For example, current law has us...once we approve an institution to operate in Nebraska, they are approved forever, *secula seculorum*, amen. And there is no way to remove that approval, even if the institution tells us they do not wish to operate here and don't want to move forward. So that's a vulnerability. Right now we have a number of vulnerabilities that make us liable for diploma mills. We might think diploma mills are problems that happen elsewhere. Shortly after I came to Nebraska in 2005, we learned of the Open University of Lincoln. They were operating in a storage unit down near the State Fair. We have no direct authority ourselves to do anything about that. We, frankly, had difficulty getting the Attorney General's Office to do much about it, even though I thought it was a wonderful opportunity to ride the white horse for consumer protection. This is a very complex bill, because the issues are complex. We're attempting to do two things: one, providing updating to the various...the world of higher education, which has changed enormously since the seventies. We're trying to present a fair, level playing field. This is a good policy recommendation on our part. It's not a "it's time to beat up on the for profit sector" bill. But it does hold them to greater levels of reporting and greater transparency; it's the same as it does for new institutions that start. The second thing we are attempting to accomplish through this...or we would accomplish through this: the U.S. Department of Education has recently issued some new rules which require states to do certain things, and among those are to have a clearly specified complaint resolution process. And that's what this bill would do. [LB637]

SENATOR SULLIVAN: Thank you very much, Marshall. You've put a lot on our plate. [LB637]

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MARSHALL HILL: I have. [LB637]

SENATOR SULLIVAN: And I guess for purposes of maybe suggesting where we should start, at a minimum, because in your final comments, you just alluded to what the U.S. Department of Education has, to a certain extent, mandated. What's the minimum that we need to do to address the charge that, I guess, is before us? [LB637]

MARSHALL HILL: To address just that? We need... [LB637]

SENATOR SULLIVAN: Well, or over...everything that you've given us...what's the minimum that we need to look at? [LB637]

MARSHALL HILL: I'm unwilling to pare this down any more. What you have in front of you is our best judgment based upon at least the past ten years of dealing with these applications from out-of-state institutions. We have been vulnerable in many ways to what institutions have proposed to do. And, frankly, we have been able to act and become involved when we lacked some legal bounding to do so. We think that those are holes that need to be plugged. So there's not much in here that I'm willing to take off the table. [LB637]

SENATOR SULLIVAN: Okay. Thank you. Senator Haar. [LB637]

SENATOR HAAR: Well, I got my Ph.D. from that...is it still good or not? (Laughter) [LB637]

MARSHALL HILL: No, sir, and it never was. (Laughter) [LB637]

SENATOR HAAR: Okay. Well...no. Does this also apply to on-line universities and schools and so on? Or is that a different...? [LB637]

MARSHALL HILL: The current Nebraska law and current commission rules and regulations do not have us regulate on-line delivery from out of state to Nebraskans. [LB637]

SENATOR HAAR: Really? [LB637]

MARSHALL HILL: Correct. And that's actually what most states do. Most states trigger a state's oversight by what is called "physical presence," when an institution establishes some physical presence in a state in order to operate. They either define that physical presence as a campus or a set of classrooms or establishing a recruitment center and so forth. There are a half a dozen or so or perhaps as many as ten states in the Union that do attempt to regulate out-of-state delivery of on-line instruction to their citizens. None of them do it well, and none of them are terribly successful at it. [LB637]

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SENATOR HAAR: Um-hum. Well, isn't that going to be an ongoing challenge, because people do use their degrees for job applications and so on? [LB637]

MARSHALL HILL: On-line delivery has presented many challenges and many opportunities. It's that dichotomy: it's a wonderful tool for doing certain things, but it has also provided un reputable offerers a wonderful opportunity to recruit. What...this bill doesn't really focus on that. [LB637]

SENATOR HAAR: Okay. [LB637]

MARSHALL HILL: This bill focuses on the task that the Legislature has given us to approve new institutions that would start in Nebraska and institutions from out of the state that would seek to operate campuses in Nebraska. You might not realize how many of those there are. There are 14 institutions that are out of the state of Nebraska that currently offer academic programming here in the state, 14. They're not all for-profit. Many of them are public. Some of them are not-for-profit. We have new institutions start here: St. Gregory the Great Seminary became a degree-granting institution in the state; the health-related institution here in town, with Alegent Health, became a degree-granting entity. So not all colleges...colleges and universities start at some period of time. So this provides an opportunity for them to start, but with meaningful consumer protection until they have been in business a reasonable length of time and/or obtain accreditation by a reasonable accreditor. [LB637]

SENATOR SULLIVAN: As I understand it, in making some of these changes, obviously, to statute, we really take our lead from the commission. Can you review for us the process that the commission has gone through to arrive at these recommendations? [LB637]

MARSHALL HILL: Yes. I've been waiting to bring these forward for about three or four years. We have had...we have...we brought a draft bill together. We have shared it with members of the education community, not gotten much feedback from them. I think you will get some today. I believe there is some work we still have to do here on this bill, and I welcome any suggestions that others would have to make it better. I do feel some sense of urgency about this, though. We have been dealing with about three or so applications from out-of-state institutions seeking to operate in Nebraska per year for the last several years. I don't think that that's going to stop. I think we have got...we have identified the problems we think we need to fix in the process, and that's why we're trying to do that. [LB637]

SENATOR SULLIVAN: Okay. Thank you. Any more questions? Senator Avery. [LB637]

SENATOR AVERY: I notice this is the second handout that has the corners turned over



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but not stapled. Is your budget that lean? [LB637]

MARSHALL HILL: It is, Senator. (Laughter) But I'm pleased you noticed that. [LB637]

SENATOR AVERY: I would be happy to donate some staples. [LB637]

MARSHALL HILL: Thank you, sir. [LB637]

SENATOR SULLIVAN: Senator Schilz. [LB637]

SENATOR SCHILZ: Thank you, Senator Sullivan. Dr. Hill, thanks again for coming in today. As I go down through your page here...and excuse me if I'm seeming not so sure of myself, but you say here that "end-date on authorization for out-of-state institutions," and then it says can't "deauthorize an institution." And then you say, to address that, you're going to have a "reauthorization every five years"? [LB637]

MARSHALL HILL: Yes. [LB637]

SENATOR SCHILZ: What's included in that application for reauthorization? [LB637]

MARSHALL HILL: That is specified in further statute as well. [LB637]

SENATOR SCHILZ: Um-hum. [LB637]

MARSHALL HILL: The academic programs that the institution would seek to offer... [LB637]

SENATOR SCHILZ: Is it like applying for the first time all over again? Or is it...? [LB637]

MARSHALL HILL: We envision it as to be much streamlined. [LB637]

SENATOR SCHILZ: Okay. [LB637]

MARSHALL HILL: A much simpler process. [LB637]

SENATOR SCHILZ: Do you have that identified as of yet? [LB637]

MARSHALL HILL: No. [LB637]

SENATOR SCHILZ: Okay. And then the next question is, when do you...how soon...how long do you think it'll take for you to get that application process in place, to understand what it is, so we can understand what it is? [LB637]

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MARSHALL HILL: Oh, I think we would have that developed, you know, within just a week or so of the passage of this bill. [LB637]

SENATOR SCHILZ: Okay. [LB637]

MARSHALL HILL: And, frankly, it would be straightforward. It would largely be a subset of information that the institutions already provide other people, but we cannot in all cases get that information from other people. [LB637]

SENATOR SCHILZ: Okay. And then the example that you put here that says that there was an institution that came in, in 1987, and was permitted, and since 1990 they haven't offered any courses: Is that the majority of what you see? Or are there complaints or anything that goes on with that? How does that...I mean, are most of the problems what you see here, is that an institution came in and for whatever reason they're no longer offering course study and you need a way to take them off the books? [LB637]

MARSHALL HILL: That is one of the things we are attempting to address. I'm not...I'm hesitant to say this, because it will lessen my argument for the need to move forward: We don't have major problems with this process or with the institutions that are operating in Nebraska. In my view, we have been lucky, in some ways. And if problems do develop, the commission is not on the proper grounds to do about it what I think you would want us to do. There are 38 institutions that we, over the years, have authorized to operate in Nebraska; 14 currently are authorized to operate in Nebraska. If 1 of those 38, authorized in 1987, came back and said, we want to do what you authorized us to do in 1987, there's nothing we can do about it,... [LB637]

SENATOR SCHILZ: All right. [LB637]

MARSHALL HILL: ...even though circumstances may have changed completely, they may not at this point be as financially stable, they might not make the commitments that we currently hold out-of-state institutions or new institutions to make about the quality of faculty they would hire, so forth and so on. That's the kind of vulnerability. [LB637]

SENATOR SCHILZ: Okay. And then I guess my next question after that is that, if the majority of these institutions are doing a good job and those 15 or so, 20 or so, that haven't been able to keep up with what they're doing, why expose everyone to the recertification process, instead of saying, hey, if there's a complaint or if there's inactivity for a certain amount of time, then you have to reapply, rather than making everyone do it? Is that something that would be amenable? [LB637]

MARSHALL HILL: We will consider that. We had considered that, felt there were some valid reasons for going through a reauthorization process. It would provide an affirmative look at an institution rather than just a reactive look at an institution. We don't

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envision the process to be onerous in any way. But it mainly provides an opportunity for us to reexamine an institution to ensure that it's continuing to do what it said it was going to do when it first got approval to operate. [LB637]

SENATOR SCHILZ: Sure. Do you have any sort of a process that does the same thing for in-state institutions? [LB637]

MARSHALL HILL: No, you have not provided us the authority to do that. [LB637]

SENATOR SCHILZ: I see. Okay. So you're just acting upon the authority that you've been given. [LB637]

MARSHALL HILL: That's all we can do,... [LB637]

SENATOR SCHILZ: I understand. [LB637]

MARSHALL HILL: ...Senator. [LB637]

SENATOR SCHILZ: I understand. I'm just... [LB637]

MARSHALL HILL: There are many times I wish we could do things that you do not authorize us to do, but, unfortunately, we can't. [LB637]

SENATOR SCHILZ: Right. Does that smack of a little bit of, maybe, discrimination of those out-of-state schools? [LB637]

MARSHALL HILL: Well, I think... [LB637]

SENATOR SCHILZ: Or could it? [LB637]

MARSHALL HILL: ...that's not the word that I would use. There are a number of different ways to look at that. These are institutions, out-of-state institutions, which do not access Nebraska tax funds. I mean, you're not providing them money to operate and open up campuses. By and large, they are either working on private money or they are working on their state money if it's their state. So their states, if they're state institutions, have mechanisms for oversight of the institutions. What we're interested in is what they do when they're here in Nebraska. [LB637]

SENATOR SCHILZ: Right. [LB637]

MARSHALL HILL: And the only oversight of what they do here in Nebraska is, really, whatever the Coordinating Commission does in terms of its oversight and what I would characterize as quite minimal oversight of off-campus locations done by accrediting

bodies. [LB637]

SENATOR SCHILZ: Okay. Thank you. And then let me have just...the storage unit university, which, I just have to ask you: Had they been approved before? [LB637]

MARSHALL HILL: No. They were a classic... [LB637]

SENATOR SCHILZ: So they were outside of any process that was... [LB637]

MARSHALL HILL: They were a classic diploma mill. They called themselves the Open University of Lincoln. They operated in a storage unit right out by the fairgrounds. The University of Nebraska-Lincoln admissions office alerted us to them, asked if we knew anything about them. They were selling degrees. They were marketing them largely to foreign students, especially focusing on students from Ghana, and telling those students that if you paid \$2,000 to obtain this degree, it will enhance your ability to become a legal resident of the United States. [LB637]

SENATOR SCHILZ: Really. [LB637]

MARSHALL HILL: Really. We don't have much diploma mill activity here in Nebraska; we're too small a market for it. All of you know that I used to work in Texas, 11 years at the Texas Higher Education Coordinating Board. And Texas is a wonderful market for diploma mills. And we were, frankly, always being sued by that. That's this example of broader communications providing wonderful opportunities for study but also handing unfortunate tools to those who would misuse them. [LB637]

SENATOR SCHILZ: Thank you very much, Dr. Hill. [LB637]

MARSHALL HILL: You're very welcome. [LB637]

SENATOR SULLIVAN: Marshall, admittedly you had said earlier that you aren't having any problems right now, so you were a little bit reluctant to come forward with that remark. But by the same token, are we on a time line on any features that really need to be addressed? [LB637]

MARSHALL HILL: We are on a time line with the issue of establishing a complaint resolution process. And the federal law which triggers that comes into effect July 1 of this year. There is a one-year wiggle room for that. But, frankly, right now, through this bill Nebraska could be about the first state in the Union to get its ducks in a row in dealing with this. And if we have to take advantage of the exemption, we could become one of the last. Let me ask your indulgence to just amplify some of the vulnerabilities we've escaped. [LB637]

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SENATOR SULLIVAN: Okay. [LB637]

MARSHALL HILL: Okay? You've all heard of the unfortunate demise of Dana College. Dana College ran out of money, and they were a candidate for purchase by an out-of-state investment group. That out-of-state investment group assumed that we had some authority over whether that sale would go through, whether their institution would be approved if they purchased them, and so forth. Actually, current statutes, we had no authority whatsoever to get involved with that. And the statutes are silent on the purchase of an in-state institution by an out-of-state entity, even though it...a total change of ownership, a total change of sector. Now, we have been fortunate in that purchasers of institutions under those conditions have wanted to work with us. They have been smart enough to want to work with us. So we were involved with discussions with the investment group, with Dana College faculty and administration, with their regional accreditor...Higher Learning Commission. But that was at their good graces, not on the basis of any authority that we have. When Hamilton College campuses, which existed in Lincoln and Omaha, were purchased by Kaplan University, statutes are silent. What happens there? Did we have any approval authority? It was iffy. We asserted approval authority, and Kaplan saw no reason to fight us on that, cooperated through the entire process. Sooner or later we're going to get an institution coming forward that wants to play administrative right down the law on this, and we're going to lose. And I don't want that to happen. That's why we're bringing this forward. I am fully aware of its complexity. And I wish I could make it simpler, and I commit to working with anybody here who can help us make it simpler. But we have to find a way to do this, or sooner or later we're going to have a major problem. [LB637]

SENATOR SULLIVAN: Thank you. Any other questions? Thank you, Marshall. [LB637]

MARSHALL HILL: Thank you. [LB637]

SENATOR SULLIVAN: Any other proponents? [LB637]

TIP O'NEILL: Senator Sullivan. [LB637]

SENATOR SULLIVAN: Good afternoon. [LB637]

TIP O'NEILL: How are you? [LB637]

SENATOR SULLIVAN: I'm fine. [LB637]

TIP O'NEILL: I'm Tip O'Neill; that's T-i-p O-'-N-e-i-l-l. I'm the president of the Association of Independent Colleges and Universities of Nebraska, and I'm here in support of the purposes of LB637. However, by stating our support for the concept of this bill and the need to update the statutes relating to approvals of applications of institutions to do

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business in Nebraska, I'm not saying that I am in support of the current bill in its current form, because, I think, the devil is certainly in the details. The bill, I think, can be simplified, to a certain extent, and made to be better understood by people like me and others in higher education first of all. And there are some mistakes, certainly, in the drafting. For example, I believe, in terms of my reading of the bill, it takes away the sales tax exemption for independent colleges and universities in Nebraska. So that's something that obviously is a fairly sensitive issue for us. I know that, you know, that Dr. Hill wants to get this thing, you know, on the fast track. But I also know that, I think, we're planning on doing some study of higher education this summer, higher education governance and certainly issues involving the state grant program. Issues involving authorization of institutions are issues that could also be considered. If we decide to go forward and do this on a fast track, I would request that I be involved with your legal counsel and other interested parties, in terms of trying to draft amendments to make the bill workable, because I don't believe it's workable in its current form. I'd be happy to answer any questions you might have. [LB637]

SENATOR SULLIVAN: Any questions? Tip, do I take that to mean that you have not, up to this point, been involved in any of the features of this...? [LB637]

TIP O'NEILL: No, Marshall provided a draft of the bill to us, but we haven't had any separate meetings. The person who drafted the bill in Marshall's shop is actually out on maternity leave until, I think, March, Marshall said. So that's one of the difficulties. But, again, you know, it's a...I know it's a priority for the commission. It may not have been as high a priority for the rest of us in higher education at this point. I mean, we've been, all of us, dealing with budget issues; I know you, in the K-12 area and public higher education...and also that's an area we've been watching fairly closely. So it's probably something that we should have started looking at sooner. But it's one of those bills where, you know, you start the weekend before and all of a sudden you're in the third quarter of the Super Bowl and you haven't watched any of the game because you're trying to make sense of some of this stuff. [LB637]

SENATOR SULLIVAN: Okay. All right. Thank you. Any other questions? Senator Avery. [LB637]

SENATOR AVERY: Would you recommend, then, that we hold this until the interim study can be completed next summer? [LB637]

TIP O'NEILL: I would say that if your committee decides not to go forward with the bill this session, that it be included as part of your interim study. But I'm not going to make the recommendation that you not go forward, because I don't think that would be necessarily fair to the commission, in terms of what I have expressed to them. But that's a committee decision. [LB637]

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SENATOR AVERY: But if we do decide to go forward, do you want to be a part of the discussion? [LB637]

TIP O'NEILL: Yes. [LB637]

SENATOR AVERY: Okay. [LB637]

SENATOR SULLIVAN: Senator Haar. [LB637]

SENATOR HAAR: So are you testifying in favor or opponent to the bill? [LB637]

TIP O'NEILL: Yes, I'm in favor of the bill. [LB637]

SENATOR HAAR: Okay. Thank you. [LB637]

SENATOR SULLIVAN: Any other questions? Thank you, Tip. [LB637]

TIP O'NEILL: Thank you. [LB637]

SENATOR SULLIVAN: Any other proponents? Welcome. [LB637]

JASON PFAFF: (Exhibit 16) How are you? [LB637]

SENATOR SULLIVAN: Fine. [LB637]

JASON PFAFF: Mr. Chairman, members of the committee, my name is Jason Pfaff, spelled J-a-s-o-n P-f-a-f-f, currently vice president, University of Phoenix-Nebraska, testifying in support of LB637. First of all, I just wanted to thank you for allowing me this opportunity today. You know, at University of Phoenix, certainly during this critical time in higher education, which we're all very well aware of, we do understand and take very seriously our role as a leader in this sector. We are the nation's largest private university. Today I represent over a half million graduates, over 400,000 current students, and we're very proud to have over 25,000 accomplished faculty members who teach in our classrooms. We also embrace the leadership role we have due to our over 30-year track record with nontraditional students. And something I always like to remind the committee of is, as a group, nontraditional students now make up 73 percent of all students in all institutions of higher education. So regardless of the taxpaying status of the institution they attend, these students do have needs that must be addressed for Nebraska to continue to make progress on college attendance and graduation rates. And I'm happy to represent the interests of those nontraditional students as well. Most importantly, I just want to, really, offer our services as a resource as you work through and consider this bill and just remind each of you that we feel, at University of Phoenix, it's important that the entire higher education community continue to work together on

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behalf of the students. And, as I said, we stand ready as a resource for Nebraska on this discussion about how we all want to meet our statewide goals. You know, as we look to replace the baby boom generation with another generation of skilled workers, we should be doing all we can to increase access to higher education for those that are qualified. As educators at University of Phoenix, we do have high standards, and we want to see all institutions offer high-quality degree programs. And we know that these objectives, which I trust we all support, can be aided in their achievement by effective, fair regulation that's grounded in common sense. And that's why we support LB637. Now, when it comes to regulatory matters like this, we're often classified as a proprietary or for-profit institution. I firmly believe that, while not all for-profit institutions or proprietary institutions are the same, that accredited degree-granting schools that comply with regulation play a critical role in meeting the needs of nontraditional students, and they do so at a much lower cost to taxpayers. Well managed institutions provide strong academic quality and career outcomes for their students, providing nontraditional students with services and capabilities not found elsewhere. With this in mind, I would just like to offer our belief that effective regulation is critical to the postsecondary system for both traditional and proprietary institutions, and we always strive to be leaders in regulatory compliance. At University of Phoenix we comply with federal agency regulations, federal law, and multiple state bodies spanning the over 40 states we operate in. And just one thing in closing, I know my light is on, I'd like to offer is, you know, with a national perspective, this is...each state is different, and each state likes their input on their regulatory system, but this is absolutely in line with what we see in other states and what we comply with in other states. And we believe that what we see in LB637 is fair and definitely legislation we'd like to support moving forward. With that, I'd just thank you for your time, thank you for your service to our students, and I'm happy to answer any questions. [LB637]

SENATOR SULLIVAN: Thank you, Jason. Appreciate your testimony. And so as a predominantly on-line university, I mean, you're going to be subjected to some new standards under this proposed legislation, so I assume that you're in favor of that. [LB637]

JASON PFAFF: Absolutely. [LB637]

SENATOR SULLIVAN: Okay. Any other questions or comments? Thank you very much. [LB637]

JASON PFAFF: Thank you. [LB637]

SENATOR SULLIVAN: Additional proponents. Welcome back. [LB637]

BRIAN HALSTEAD: Senator Sullivan, members of the Education Committee, for the record, Brian, B-r-i-a-n, Halstead, H-a-l-s-t-e-a-d, here on behalf of the State Board of



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Education and the Department of Education. We are in support of LB637. Most people, when they think of the department, don't think we have anything to do with postsecondary education. But we have, for a number of decades, dealt with the private postsecondary career schools in Nebraska that range from truckdriver training schools, to massage training schools, to modeling schools at the department. We currently have 23 schools here in the state of Nebraska and some from outside, I think, 16 out-of-state institutions. And there is a set of statutes this Legislature enacted back in the seventies, updated, I believe, again in the late eighties, and then recodified in the 1990s, that has the Private Postsecondary Career School Act. We're part of that spaghetti at the moment, because some of our schools now want to offer degrees, for which they have to go to the Coordinating Commission to get approval on and do that. And we certainly want to try to streamline this process. If there are things the Coordinating Commission can do itself, we don't need to complicate it by having these schools go to two separate agencies to get approval. So with that, we're here in support, we're more than willing to work with the committee on the issue, and we'll try to answer any questions you might have. [LB637]

SENATOR SULLIVAN: Thank you, Brian. So just to clarify, how involved have you been, to this point thus far, in helping craft any of this? And how do you want to be involved going forward? [LB637]

BRIAN HALSTEAD: Well, I don't know if we've been involved in crafting. He clearly shared with our staff, Carol Grell, who's sitting over here, our private postsecondary career schools individual, their early drafts. We provided comments to them on what we saw. Some of what we're seeing in their proposed statutes for theirs mirrors some of the same concepts you've had for the private postsecondary career schools: to protect, consumer protection is a big part of this. Currently for the private postsecondary career schools, they have to get reauthorized every year from the department. They have to pay fees to us for that. And one of the changes this bill has in it is allowing the state board, instead of setting a flat fee for all of the schools, to set a fee based on the gross tuition that the private postsecondary career school has for the prior year. Because right now, if you are a large institution...I'm just going to...you have \$10 million worth in tuition receipts, you pay \$250. If you have \$10,000 in gross tuition, you pay \$250 for your renewal. That doesn't seem fair, because of the larger institutions have a greater demand. So in that regard, one little piece of this is to let the board set the fee based on the tuition, so that those who are generating the business are paying for the oversight and the consumer protection of it. So we'd certainly...if there are issues, we certainly would be more than happy to work with the Coordinating Commission, legal counsel here on those, in that regard. I think more of the issues are probably at the postsecondary level, not with us at the department. We just want to keep it clear so that the schools we do still have under the Postsecondary Career Schools Act are ours. And if there are others that are moving out, as the fiscal note indicates, there's two institution that appears under this act will fall from without our jurisdiction to the Coordinating

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Commission...has a fiscal impact on our program, because it's all cash-funded. But at the same time, we want to make sure that we're not duplicating efforts either. We're into saving money for the state of Nebraska too. [LB637]

SENATOR SULLIVAN: Based on what you just said, though, is it better to then try to separate out, rather than have all these pieces of spaghetti, who does what? Are we looking at trying to accomplish too much? [LB637]

BRIAN HALSTEAD: I don't know that you're trying to accomplish too much; it probably will take time to work through some of this. But at the same time, I think, there are some very clear things that the Coordinating Commission can do that we at the department don't need to be involved with anymore. If they're going to offer bachelor's degrees or graduate programs, that's outside of what we do, our scope. And if they're going to take over that part of it, they don't still need to come to us to get agent's permits or whatever. Leave that to the Coordinating Commission so we're not duplicating efforts, we're not duplicating things in that regard. [LB637]

SENATOR SULLIVAN: Okay. Thank you. Any further questions? Thank you. Any other proponents? Welcome. [LB637]

JEREMY BRUNSSSEN: Thank you. Good afternoon, Chairperson Howard...I'm sorry, Sullivan... [LB637]

SENATOR SULLIVAN: That's all right. [LB637]

JEREMY BRUNSSSEN: ...and members of the Education Committee. My name is Jeremy Brunssen, J-e-r-e-m-y B-r-u-n-s-s-e-n. And I am the campus president at the Kaplan University-Omaha campus, and I'm here representing Kaplan Higher Education in Nebraska as well. We appear in support of LB637. LB637 would replace, obviously, the current statutes that govern the Coordinating Commission's approval of new private institutions and out-of-state institutions offering courses in Nebraska and would also bring Nebraska into compliance with the new rules issued by the U.S. Department of Education. As you heard from Dr. Hill, current statutes date back to the 1960s and '70s. There have been significant changes to higher education, particularly in the for-profit sector with our growth. We agree that an update is necessary in order to carry out the original purposes of the statutes. It's not too often that you'll see an institution appearing before the legislative committee to agree that additional oversight is needed or that it's a good thing. And as you're aware, LB637 would provide more oversight of new private institutions and out-of-state institutions wishing to operate in Nebraska. Kaplan Higher Education in Nebraska supports these provisions. One suggestion in regard to LB637, basically, it's just further clarification, especially of the complaint investigation and resolution process. As noted by Dr. Hill, the bill would establish a more extensive complaint resolution process. It's our concern that, once a complaint is filed, the

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institution is notified and a hearing will occur before the commission within ten days, without any discretion given to the commission. While this kind of quick turnaround is appropriate for some kinds of complaints, we believe that the legislation should be clear on what level or the nature of the offense or complaint would trigger a hearing before the commission. In many occasions, obviously, complaints can be rectified by the institution by working with the student and would not require a full-blown hearing before the commission. Two, we believe that it would be reasonable to...for the commission to provide a copy of the complaint along with any supporting documentation or evidence to the institution, you know, only when evidence of a significant offense or inconclusive, inconsistent evidence should the commission call for a hearing. This bill would also allow the commission to place an end-date on authorization for out-of-state institutions. Currently they cannot reauthorize an institution, even if they make such a request. LB637 would require all institutions affected by the bill to reapply for authorization every five years. The bill would also require more extensive and more frequent reporting from new and out-of-state institutions granted approval to operate in Nebraska. And the commission would have the authority to revoke or suspend an institution's authorization when violations occur. And in conclusion, members of the committee, Kaplan Higher Education in Nebraska supports the concepts embodied in LB637 with some of the clarifying language we discussed here today. I'd be happy to answer any questions that you might have. Thank you. [LB637]

SENATOR SULLIVAN: Thank you very much. Are there questions? Seeing none, thank you for your testimony. [LB637]

JEREMY BRUNSEN: Thank you. [LB637]

SENATOR SULLIVAN: Any additional proponent testimony? We'll now move to opposing testimony. Anyone speaking in opposition? Anyone speaking in a neutral capacity? Good afternoon again. [LB637]

JIM CUNNINGHAM: Good afternoon. Senator Sullivan and members of the committee, good afternoon. My name is Jim Cunningham, J-i-m C-u-n-n-i-n-g-h-a-m. I'm appearing in my capacity as executive director of the Nebraska Catholic Conference, and I'm here more specifically to express the concerns of St. Gregory the Great Seminary college located in Seward, Nebraska. And let me address your question first and foremost, Senator Sullivan. I don't believe that the rector of St. Gregory the Great Seminary has had any contact at all in advance of this bill other than a conversation that probably took place this morning, which was prompted by my calling the rector last night at halftime of the Super Bowl. (Laughter) Honestly, in all my years, I don't think I've ever appeared...I could count on one hand the number of times I've appeared on a higher education bill; and today it's twice in one day, which is quite amazing. But our concern has to do with the fact that we really don't understand the nature and scope of this legislation as it would impact St. Gregory the Great college seminary in Seward, Nebraska. If you look

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at the definition, for purposes of the bill, of the term "postsecondary institution," it means "any private postsecondary institution or out-of-state public postsecondary institution exempt from the Private Postsecondary Career School Act." I understood Dr. Hill to say that the purpose of this is oversight of brand new or out-of-state campuses whether they're for-profit or not-for-profit. What if you're not brand new? And what if you're not an out-of-state institution? And I think that describes St. Gregory the Great Seminary. And then you might say: Well, Cunningham, you don't need to worry, because there's an exemption if you've been in existence for 20 years. And I would respond: But our seminary is only in its 13th year, and it has already gone through the approval process; and apparently, under this, it would be expected now to go through a reauthorization or a reapplication or a reapproval. And not only that, but then in five years, because we still would be short of the 20-year level, we would have to reapply and be reauthorized and reapproved once again. So twice in five years, six years. The other thing, the other concern I have is that on page 5, Section 8(a), it says: "Any private postsecondary institution that is regionally accredited and was originally authorized by the commission as an in-state institution prior to the operative date of this act shall apply no later than one year after the institution's last required annual report." What if the last required annual report was more than a year ago? You can't meet the deadline, so then what happens? And, of course, anytime we hear discussion about a streamlined process or a new process or a reauthorization process, we have to ask the question: What exactly does that mean? What exactly is going to be expected of an institution that's in its 13th year, applied, was approved, and is now regionally accredited by the North Central accreditation organization? So we have a lot of concerns and questions about how this is going to affect our institution that seems to fall within the cracks of everything that's trying to be regulated here. Thank you. [LB637]

SENATOR SULLIVAN: Thank you, Jim. In light of the concerns you've raised and in light of the complexity of this bill, how would you like St. Gregory's to be involved in this process of crafting these new statutes? [LB637]

JIM CUNNINGHAM: Well, I think, there should at least be a discussion so that we have a better understanding of how this is intended to affect the institution. And, you know, if it's a process where, after 13 years, now we're going to have to reapply and be reapproved twice in the next five years or the next six years, I think, we would, hopefully, be able, maybe, to find some way to avoid that type of situation. [LB637]

SENATOR SULLIVAN: Okay. Thank you. Any other questions? Thank you for your comments. [LB637]

JIM CUNNINGHAM: Thank you. [LB637]

SENATOR SULLIVAN: Any other neutral testimony? Senator Adams, for closing. [LB637]

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SENATOR ADAMS: Senator, I'm going to waive closing... [LB637]

SENATOR SULLIVAN: Okay. All right. [LB637]

SENATOR ADAMS: ...for purposes of time. And when you're ready, I'll proceed... [LB637]

SENATOR SULLIVAN: Okay. [LB637]

SENATOR ADAMS: ...on to the last bill. [LB637]

SENATOR SULLIVAN: Senator Adams waives closing. We'll just move right on to LB372. Senator Adams, you're ready for introduction. [LB637]

SENATOR ADAMS: Thank you, Senator Sullivan. This bill was brought by the University of Nebraska. And, as I understand it, currently in statute, within the role and mission statutes, we, in essence, say to the community college world that you can issue an associate degree and certificates that are...wherein the coursework is no greater than the associate degree. And the key word here is "certificates" in addition to the degree, the associate degree. There is...my understanding is there is a movement nationwide at the baccalaureate level for institutions to provide certificates along with the baccalaureate degree. And my understanding is that a certificate would be something less than a minor, a major and a minor, it would be something less than a minor. However, it would be a statement by the awarding institution that this student has done a course of study in addition to their major field which has given them some special expertise, not to the level of a minor but at a level the institution believes is...deserves some recognition and they would call that a certificate. But currently in statute we don't allow for institutions that are granting four-year degrees to give certificates. And what this language would do would simply say in effect that the four-year institutions, the baccalaureate degree granting institutions, could also grant certificates, but the coursework for those certificates would have to be above the associate degree level. So with that, I'll stop. [LB372]

SENATOR SULLIVAN: Thank you, Senator Adams. I don't know who's following you, but I'm going to need some specific examples. Will those be forthcoming? [LB372]

SENATOR ADAMS: I think they will. [LB372]

SENATOR SULLIVAN: Okay. Any other questions? Senator Avery. [LB372]

SENATOR AVERY: I'm tired, too, so I'll make this short. This would allow the certificates to accompany associate degrees, not just bachelor's degrees, right? [LB372]

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SENATOR ADAMS: Right now, community colleges can already offer certificates. [LB372]

SENATOR AVERY: Okay. [LB372]

SENATOR ADAMS: This would allow the four-year institutions... [LB372]

SENATOR AVERY: That is with the associate's degree. [LB372]

SENATOR ADAMS: Right, I believe, that's right... [LB372]

SENATOR AVERY: Okay. [LB372]

SENATOR ADAMS: ...or it's something else in addition to the associate degree. [LB372]

SENATOR AVERY: But it does not apply to graduate programs? [LB372]

SENATOR ADAMS: I don't believe so. But someone is here from the university or otherwise that could answer that. [LB372]

SENATOR SULLIVAN: Thank you, Senator Adams. We'll now hear proponent testimony. Had a full day, Marshall. [LB372]

MARSHALL HILL: (Exhibit 17) Yes, ma'am. Marshall Hill, executive director of the Coordinating Commission. Dr. Pratt and I have agreed in this particular case that the gentleman would go first here. We don't always agree with the university, as you know, but this is a wonderful case of us being in complete agreement. To clarify, if you go back 30 years or so the word "certificate" was used by community colleges. Community colleges offer certificates, nobody else did. Evolving national practice has universities, health-related institutions, all sorts of institutions issuing credentials that they call certificates. Nebraska law is peculiar. Existing Nebraska law says that the community colleges have sole authority over offering certificates in Nebraska with a couple of exceptions: certificates in agriculture, certificates in radiological technology and a couple of other very narrow fields offered by the Medical Center. Current statutes say the university can offer those certificates. Those certificates are mainly offered by the Curtis Institution, NCTA, and the Medical Center. What this bill would do would be expand the opportunity for the university, if they can make the case and have it approved by the Coordinating Commission, to offer a certificate in other than those fields so long as the coursework was predominantly comprised of upper division courses. This means comprised of courses that the community colleges, by definition, cannot offer. Now let me give you an example of what might happen. I think the first professional task I was assigned at the Coordinating Board in Texas was a request from the University of North

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Texas to offer a certificate in something we had not heard much about geographical information systems. It was brand new at the time, it was not a field. It was reasonable to create some little unit of a few courses in geographic information systems, and if students took those courses, to offer them some indication that they had done so. And so a certificate was approved. One of my last meetings at the Coordinating Board in Texas, 11 years later, saw the approval of a doctoral program in geographical information systems. So this is useful for evolving fields which are building expertise, building subject matter and so forth. And Dr. Pratt can provide you a couple of examples. We're bringing this forward because the university requested authority to offer a couple of certificates which we felt they were precluded from offering by current statutes. Your statutes that you have keep you from making any changes to institution role and mission statutes without a review and recommendation by the Coordinating Commission. You don't have to pay any attention to our review. You don't have to pay any attention to our recommendation, but you do have to ask for it and you do have to get it. We have provided it and we are strongly in support of this provision. [LB372]

SENATOR SULLIVAN: Thank you, Marshall. It does strike me that there is the potential for some confusion and need for clarification in terms of what a certificate actually means particularly in terms of the job market and trying to explain how an individual is trained to do whatever. [LB372]

MARSHALL HILL: I think you're absolutely right with that. But unfortunately the horse is long gone from the starting gate on that. The national practice uses the word "certificate" in all sorts of ways to mean all sorts of things. And I'm afraid it's too late for us to clarify that. And if we did through statute and law here, it would only have effect within the state of Nebraska and would be inconsistent with other national practice. [LB372]

SENATOR SULLIVAN: Interesting. Any other questions? Senator Avery. [LB372]

SENATOR AVERY: Just quickly, thank you, this current law does not apply to graduate programs, right? [LB372]

MARSHALL HILL: No, sir. [LB372]

SENATOR AVERY: Okay. They are permitted. They are awarded, believe me, I know. [LB372]

MARSHALL HILL: Yes, they are awarded and they are permitted, yes. [LB372]

SENATOR SULLIVAN: Any other questions? Thank you, Marshall. [LB372]

MARSHALL HILL: Um-hum. [LB372]

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SENATOR SULLIVAN: Welcome. [LB372]

LINDA PRATT: Thank you. It's good to be here. Thank you, Senator. My name is Linda Pratt, L-i-n-d-a P-r-a-t-t. I am the executive vice president and provost for the University of Nebraska system, and I'm here to testify in support of this bill, acting in partnership with the Coordinating Commission to change this wording to allow us to offer undergraduate certificate at the advanced undergraduate level. Undergraduate certificate programs are being offered, as you've heard, all across the country. We checked before we brought this forward to discussion with the Coordinating Commission. And the Coordinating Commission apparently did their own check. All of our...all of the institutions in our peer groups are offering undergraduate institutions. Right now we are unnecessarily limiting opportunities for our students in not being able to do so. Senator Sullivan, you asked for some examples that might help you get your...get this clear in your head. Undergraduate certificates typically offer students an additional area of education to support a primary field of their career study. They also often provide undergraduates access to study in an evolving field that is not yet a major or a degree but that could have some real importance to them. You heard Marshall Hill talk about the program that he had approved as a certificate and some years later it's a Ph.D. At the graduate level, we have had a number of programs that started as a certificate and then eventually became degrees. Right now, that process is shut out of access for the undergraduate students because we can't offer an undergraduate certificate. One example that we have had approved is a certificate in law for agriculture. Now not every rancher or farmer or owner of a large agricultural corporation needs to be a lawyer (laugh), I hope. But they all need some familiarity with legal issues in agriculture, environment, etcetera. Right now, under the current law, we couldn't offer a similar program to students in the business college or students going into higher ed administration because the agriculture was provided under the existing wording, but no other areas. So that would be an example of one where we have a certificate in law for agricultural students, but we can't do it for anybody else. Another area that might be illustrative, a new discipline is called information assurance. And it's about the security of large computer systems that handle a lot of data. You might want this for a career in banking, medical databases, the military or higher education, for example, a department of education that's facing huge data issues and longitudinal studies. Right now we can't offer that. These programs are usually 9 to 12 hours, whereas minors are more...minors have to be in an organized major. And those are not typically interdisciplinary either. Many of these certificate programs are going to be interdisciplinary and will offer the student a path to take some courses that we can...and we're already offering, but maybe are not clear how they would serve the student. But a certificate program says, here's the path for you to acquire this, if you take these courses it will be on your transcript as a certificate. That is a key thing, it goes on the transcript if it's an approved certificate. And we think that these are important ways to help the students with job skills that enhance their opportunities. And right now we're not being able to do this, and



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every other institution to which we are being compared regularly is doing it. [LB372]

SENATOR SULLIVAN: Okay, thank you very much. Appreciate that clarification. [LB372]

LINDA PRATT: I'd be happy to answer questions. [LB372]

SENATOR SULLIVAN: Good. Any other questions? Okay, Dr. Pratt, thank you very much. [LB372]

LINDA PRATT: Thank you. [LB372]

SENATOR SULLIVAN: Any other proponent testimony? Opponent testimony? Neutral testimony? I wouldn't forget about you. [LB372]

DENNIS BAACK: Thank you, Senator Sullivan, members of the Education Committee. For the record, my name is Dennis Baack, D-e-n-n-i-s B-a-a-c-k. I'm executive director of Nebraska Community College Association. We were involved in some of these discussions, too, with the university and with the Coordinating Commission. And our first take on it was to say, well, why don't you call them something else rather than certificates? But then I think we ran into what Marshall has said and what Dr. Pratt has said, all the other institutions across the country were calling them certificates. There was no reason to get out of line with that, with what the other institutions were doing and call them something different in Nebraska. So we...my president said, you know, we've looked at it, we've made our pitch for calling them something else. We're going to be...they're going to call them certificates. We're okay with that because we're talking about upper level kinds of things that they're going to be doing with these certificates. And I think it's going to help students. I mean, the bottom line is, is it going to help students? And I think it will; I think it will help them in being able to pinpoint some other things that they do in their education. So I think that's positive. We will be watching closely to make sure that they don't deviate from that and get into the certificate level that we do now. But...and I don't anticipate that happening, that's not their goal and that's not what they want to do. So we are certainly...we're going to watch it, but we're going to be in a neutral capacity on this bill. [LB372]

SENATOR SULLIVAN: Good. Any other questions or any questions, comments for Dennis? All right, thank you very much. [LB372]

DENNIS BAACK: Thank you. [LB372]

SENATOR SULLIVAN: Any other neutral testimony? Senator Adams, would you like to close? [LB372]

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SENATOR ADAMS: Nope. [LB372]

SENATOR SULLIVAN: He waives closing so this closes the hearing on LB372. Thank you very much. [LB372]