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Education Committee
January 28, 2013

[LB121 LB135 LB211 LB252]

The Committee on Education met at 1:30 p.m. on Monday, January 28, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB121, LB135, LB211, and LB252. Senators present: Kate Sullivan, Chairperson; Jim Scheer, Vice Chairperson; Bill Avery; Tanya Cook; Al Davis; Ken Haar; Rick Kolowski; and Les Seiler. Senators absent: None.

SENATOR SULLIVAN: Good afternoon. I'm sort of a stickler for starting on time, so it is 1:30 and I think we will begin. Welcome to the Education Committee. I'm Senator Kate Sullivan of District 41 and I'm from Cedar Rapids, and I'd like to introduce the members of the committee that are here. To my...let's see, you have to move over, Senator Haar. (Laugh)

SENATOR HAAR: What happened?

SENATOR SULLIVAN: I know change comes difficult to some people, but anyway.

SENATOR HAAR: You moved us.

SENATOR LAUTENBAUGH: As long as there's no button to push.

SENATOR HAAR: (Laugh) That's right.

SENATOR SULLIVAN: Okay. To my far left is Senator Ken Haar from Malcolm, representing District 21. To his immediate right is Senator Tanya Cook of Omaha, representing District 31. And to her right is Senator Les Seiler of District 33 of Hastings. To my immediate right is Senator Jim Scheer, who is the Vice Chair of the committee, and he's from Norfolk, representing District 33.

SENATOR SCHEER: 19.

SENATOR SULLIVAN: 19?

SENATOR SCHEER: Yes.

SENATOR SULLIVAN: Okay. Sorry.

SENATOR SCHEER: Don't want any false advertising.

SENATOR SULLIVAN: Okay. Senator Davis from Hyannis will be join...oh, he's just walking in, Senator Al Davis from Hyannis, representing District 43. And to his immediate right is Senator Rick Kolowski of Omaha, representing District 31. To my far

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right is Mandy Mizerski, the committee clerk, and so she'll be keeping track of everyone's comments today. And to my immediate left is Kris Valentin, the research analyst for the committee. Not here today is another staff member, Tammy Barry, who is the legal counsel. Kris and Tammy divide responsibilities, depending upon the subject of the different bills, and the bills that we have today pertain to Mr. Valentin's areas. A couple...oh, we have two pages to help us out today. Over here behind the chairs is Phoebe Gydesen from Lexington and she's a student at UNL, studying history and political science; and also Sean Miller, who's originally from New York City and he's a student at Doane, at the Lincoln campus, studying paralegal. Today we're going to be hearing four bills: LB121, LB135, LB211, and LB252. If you're planning to testify, I would ask that you pick up a green sign-in sheet that's on the table in the back of the room. If you do not wish to testify but would like your name entered into the official record as being present at the hearing, there is a form on the table to do that as well and for you to sign, and that will be part of the official record of this hearing. If you do intend to testify, I'd ask that you fill out the sign-in sheet, please print, and it's very important that you complete the form in its entirety. And when it's your turn to testify, please give the sign-in sheet to Mandy, the committee clerk, and this is going to help us keep an accurate public record. If you do not choose to testify, you may submit comments in writing and have them read into the official record. And if you have handouts, please have 12 copies available and the pages will hand out those pieces of paper. When you come up to testify, please speak clearly into the microphone, tell us your name and spell both your first and last names to ensure, again, that we get an accurate record. I'm going to continue the mode of operation in this committee by asking that you please turn off all cell phones and pagers and anything else that beeps. And in respect to the testifier and also the committee deliberation, I'd please ask that you keep your conversations to a minimum and, if necessary, take them out into the hallway. The introducers will make the initial statements and then we will follow that with proponent testimony, opponent testimony, and then neutral. Closing remarks are reserved for the introducing senator only. We are also going to be using the light system. You'll have five minutes. This doesn't apply to you, Senator, but you will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you need to wrap up your comments. And when the red light is on then it's time to end. I don't expect this to happen but just a cautionary note: Please, no displays of support or opposition to a bill, vocal or otherwise, and we want to keep these public hearings as respectful as we can. So...oh, and this is...just came in is Senator Bill Avery and I hope you found your appropriate seat, Senator.

SENATOR AVERY: Yeah.

SENATOR HAAR: Yeah, that's right.

SENATOR SULLIVAN: Okay. Without further ado then, we will open the hearing on LB121: to provide for a waiver of a Nebraska certificate to administer. Senator

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Lautenbaugh.

SENATOR LAUTENBAUGH: Thank you, Madam Chair and members of the committee. My name is Scott Lautenbaugh, L-a-u-t-e-n-b-a-u-g-h, Scott with two Ts. I represent District 18. When I first started down here there was a senator. He was a doctor, represented Kearney, and he had some peculiar views on the alleged evils of tobacco, but otherwise he was a great guy. And I remember he was describing to me, after coming out of a committee hearing, how he could almost hear his bill flying out over his head as the committee threw it out the door behind him, it was so poorly received. This isn't quite going to be like that. But this is a bill to address a concern that I had, and I'm hoping it spurs some discussion because the bill is kind of narrowly drawn, but there are some other issues beyond it that I did not try to address. It was not tailored in any way regarding any issues with the incoming superintendent in Omaha. It is a coincidence that he has some certifications or things that he needs to do, but this was on the drawing board last year, a couple superintendent candidates ago now. So this is not in any way directed at him or his circumstance, to help him, hinder him, anything like that. And I will represent to you, in the interest of full disclosure, that this is not going to be a priority of mine and I'm not even 100 percent convinced as I sit here that there's a need for this bill to pass in this form or any form. What it does, very simply put, is to hopefully provide a mechanism to loosen some of the restrictions and qualifications and credentialing standards for incoming superintendents, the thought being that maybe as sometimes the pool of possible superintendents gets tighter, some school districts would like the flexibility to bring in a superintendent who may not actually have all the credentials that we actually require. I believe, in talking with the Department of Education, they believe they have some flexibility now. So it's going to be up to you to decide, I guess, if that's adequate or I'm sure they will tell you whether or not it's adequate, but it's something for all of you to probably contemplate as well. A corollary to this that I did not make part of the bill is in some of the smaller school districts I've heard complaints from, you know, a retired--this is a hypothetical, this didn't happen--a retired NASA scientist from, you know, moved to live in Thedford or something and wants to teach at the local school but he doesn't have this particular certification. So while this is tailored towards possibly looking at whether or not we need to do anything to allow waivers by the State Board for some of the criteria for possible superintendents, it's possible you might want to discuss whether or not that can be done for teachers in an unusual case, especially for a smaller district that might not otherwise have a lot of options available when that one outstanding option does come along and is lacking in some credential. So I won't belabor the point. I won't take the five minutes, even though I have more. I'd be happy to answer any questions you might have. I will waive closing because I have to get to another committee, but I hope this does spur some discussion and I'm confident that all of you, being on the Education Committee, are more informed on this than I am, so you will know what, if anything, should be done. [LB121]

SENATOR SULLIVAN: Thank you, Senator. Are there questions for Senator

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Lautenbaugh? Yes, Senator Scheer. [LB121]

SENATOR SCHEER: Senator, you said that there weren't any problems that you are aware of that instigated the thought process or there was but it was previous? [LB121]

SENATOR LAUTENBAUGH: No, I'm not aware of...I think what brought it about--I'm going back to last session when I was contemplating this--is it was possible some of the search processes weren't yielding a huge number of candidates and there was some talk about how, well, wouldn't it be nice if someone from the local business community could step in, because the theory was that when you get to a district especially the size of OPS, perhaps the superintendent job is less analogous to a principal job and more analogous to a CEO job. That's what brought this about. But there was no individual person who I was contemplating in any way and no one said, well, I would do this but for the credentialing. That's it in a nutshell though. That's what brought it about. [LB121]

SENATOR SCHEER: And have you had discussions with the Department of Education, with the Commissioner or anyone there, in regards to the flexibility they currently have? [LB121]

SENATOR LAUTENBAUGH: Yes. I don't want to speak for them because I believe there is someone here to testify to that. But they believe they have some flexibility now, without adding more and putting more words in their mouth. [LB121]

SENATOR SCHEER: Okay. And from your conversation with them, that's still not suitable for your agreement or... [LB121]

SENATOR LAUTENBAUGH: Well, I don't know the answer to that yet. [LB121]

SENATOR SCHEER: Okay. [LB121]

SENATOR LAUTENBAUGH: I can't say for certain, and honestly I'm not going to sit here and say I know what it should be. But if all of you look at this and decide that maybe other states have more flexibility to do that than we do, then maybe it's worth looking at. But again, I don't come to you today with a fully hatched notion as to what should be or even a complete conviction that there's actually a problem we're addressing. But it at least raises this for discussion. [LB121]

SENATOR SCHEER: Okay. Thank you. [LB121]

SENATOR SULLIVAN: Senator Kolowski. [LB121]

SENATOR KOLOWSKI: Thank you, Madam Chair. Senator, I look at your bill with great interest because of the...not only my own personal background with certification from

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the teaching ranks all the way up to the superintendency that you're talking about. The case in point of the incoming OPS superintendent receiving a waiver until he gets his coursework completed provides some flexibility through our current situation through the State Department of Education, and I think that's a good thing that they have such flexibility because all the states don't have the same requirements. So depending where you're coming from, you're coming into a state or region that may have like things with different states around them but not like three states away or something of that nature, that they could be quite different. On a personal basis, I certainly understand the argument of a CEO with a large district and having his or her set of people underneath them that would run everything from human resources to finance and curriculum instruction and everything else in the district. But I still lean very heavily toward the preparation of a superintendency certificate and having, hopefully, some education background, some teaching, so there's an understanding of the range of things your staff would be going through on a daily basis and yearly basis with the cycle of expectations that we have, very high expectations today with the No Child Left Behind world that we live in and with more accountability coming to the forefront in the very, very near future with standards and common assessments and everything else that's being done. So I'm interested in what else you will find out and where that might go. But I would have...I struggle to support this the way it is because of my personal background but also what I think a person needs to have or know about a school district as a whole, not just coming in from a CEO aspect. Thank you. [LB121]

SENATOR SULLIVAN: Are there any other questions? Yes, Senator Davis. [LB121]

SENATOR DAVIS: Senator Lautenbaugh, I believe Senator Chambers has a bill that's somewhat similar to this. [LB121]

SENATOR LAUTENBAUGH: We work well together these days, so... [LB121]

SENATOR DAVIS: (Laugh) Have you guys...have you looked at his bill? [LB121]

SENATOR LAUTENBAUGH: I was not aware of it, to be honest. [LB121]

SENATOR DAVIS: It's downright different from this one. But the intent basically is to exempt the education requirement. Is that what your intent is here? [LB121]

SENATOR LAUTENBAUGH: Not wholesale but to a degree, and this really sounds like it's a cop-out but...and it probably is. If you don't think there's anything more that needs to be done then, you know, that may be the conclusion. But certainly providing a mechanism for flexibility, which the current evidence may be that there is enough flexibility, that's really, I guess, going to be for all of you to decide because this is not something I'm going to be pestering you about "execing" on and trying to get out to the floor and doing heaven knows what with, so. And I should add, by way of a

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nonresponse, I apologize that I look a little slovenly but I can't button my top button with this ridiculous thing on my thumb when I'm in a hurry. (Laughter) I was lucky to get the tie tied. So I apologize for my relaxed... [LB121]

SENATOR DAVIS: You look like a superintendent to me. (Laughter) [LB121]

SENATOR _____: Ooh... [LB121]

SENATOR LAUTENBAUGH: Ouch! [LB121]

SENATOR _____: That's mean. [LB121]

SENATOR DAVIS: Thank you. [LB121]

SENATOR LAUTENBAUGH: I'm not upset but I bet the superintendents are, I can tell you that. [LB121]

SENATOR SULLIVAN: Any other questions for Senator Lautenbaugh? Thank you for your testimony. [LB121]

SENATOR LAUTENBAUGH: Thank you all. [LB121]

SENATOR SULLIVAN: We will now go to proponent testimony on LB121. Are there any proponents? We will then move to opponent testimony. [LB121]

JOHN BONAIUTO: Thank you. Senator Sullivan, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o. I'm a registered lobbyist. I represent the Nebraska Council of School Administrators and the Nebraska Association of School Boards, and both of the groups I represent are in opposition to this bill and wanted me to make a few comments about LB121. The first comment that I would like to make is a positive one. This was really a short bill. I mean when you're reading hundreds of bills, this was a short one. And so from there, it kind of goes downhill. (Laugh) And, you know, I appreciate Senator Lautenbaugh having an idea that raises the question about how are we doing with our current process. You know it's something...oh. [LB121]

SENATOR SULLIVAN: Excuse me, John, this is...I'm sorry for this oversight but you've...I don't think you failed to...I think you failed to spell your name for... [LB121]

SENATOR _____: He did. [LB121]

SENATOR _____: He did. [LB121]

SENATOR HAAR: No, he did. [LB121]

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SENATOR SULLIVAN: Oh, did he? Okay. All right. I'm sorry. I'm sorry. [LB121]

JOHN BONAIUTO: I would be happy to do it again. [LB121]

SENATOR SULLIVAN: No. (Laughter) [LB121]

JOHN BONAIUTO: You know I'm so... [LB121]

SENATOR SULLIVAN: I'm sorry. [LB121]

JOHN BONAIUTO: I do it a lot, you know, and so... [LB121]

SENATOR SULLIVAN: She said, because I don't know how to spell it, you know? [LB121]

JOHN BONAIUTO: You know... [LB121]

SENATOR SULLIVAN: No, that's fine. [LB121]

JOHN BONAIUTO: ...and I appreciate that, as many times as I spell that in this committee hearing room, that it doesn't stick. [LB121]

SENATOR SULLIVAN: I apologize. I'm sorry. [LB121]

JOHN BONAIUTO: And that's fine. But Senator Lautenbaugh has raised an issue here that we have a process in K-12 public education that we work with. And so the question is, how...is it really working the way it's supposed to? I would present to you the fact that after talking to school boards and administrators that really the process that we're using is not broken, and if we needed to make adjustments, that school boards and school administrators would go to the Commissioner and the State Board and say, here's something that we need to take a look at, and do that without hesitation. If we were to look at a continuum and said we have LB121 on this side and we've got a very restrictive process and a certification process that eliminates candidates on that continuum, I would put Nebraska somewhere closer to the left of center in that, because of the relationship the field has with the department and the State Board. We have conversations, you know: Does this work? Do we need help? There are ways to get a person that may need to take classes a standard certificate and then a provisional superintendent's endorsement. So there are things that can be done. With a certified individual, Nebraska has created the Professional Practices Commission, and if there are problems with a person that is licensed, you can go to this commission and there's accountability. I don't know what happens when you have someone that is not licensed or has that kind of credential. I also believe that Senator Lautenbaugh has a sense that

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this LB121 provides some local control that we in the field need. I think under our current system, the board has the ability to make certain decisions within the framework of the current certification process. You know, when hiring a superintendent, if a board has to hire a new superintendent, that's I think without question the most important decision that board is going to make. And the board sits down and the first thing they say is we want a person that does meet the certification criteria of the state of Nebraska. Then the next thing that they'll talk about is do we want a person that has a doctorate, do we want a person that has a certain level of education, do we want a person that has certain experience. The board has flexibility in making a lot of different decisions within their hiring practice, and the certification piece is something you could count on. There's a certain level of expectation that you have there that this person, if they meet the licensure requirement, that they're going to have these basic skills or experiences that you can count on. Beyond that, the board can do a number of different things in their hiring process. With that, Senators, I would, on behalf of my clients, ask that you not forward this bill for broader discussion and that if at some point we need to have more flexibility then we would start this discussion with the Commissioner and the State Board and see if it needs to then come to this level. With that, I will conclude my testimony. [LB121]

SENATOR SULLIVAN: Thank you, Mr. Bonaiuto. Any questions for...Senator Haar. [LB121]

SENATOR HAAR: Yes, thank you. There was the suggestion that maybe this should be done for teachers as well. What do...just curious, what do you think about that? [LB121]

JOHN BONAIUTO: You know, I would have the same comments for teachers or other levels of school administrators. Having that licensure is critical. You know, this way the district, the board knows what it could count on. A lot of thought and effort has gone into this process at the Department of Education. They have a commission on certification. They have a certification area. So there are discussions that are happening on a regular basis and so I think we owe it to the students to make sure that the individuals that are in our classrooms and that are leading our school districts are of the highest caliber and do have the right education and the right kinds of experience. [LB121]

SENATOR SULLIVAN: Thank you. Senator Kolowski. [LB121]

SENATOR KOLOWSKI: Thank you, Madam Chair. John, another aspect of the whole thing with the teacher certification is the Coordinating Council of the state as far as the standards for entrance into the education world between the colleges, universities; and I think that's another source of commonality of standard that is extremely important for the entering teacher into the field. Many larger districts will also have, as Senator Haar has asked, they'll have a training program to indoctrinate someone into their particular district, and that could be a two- or three-year staff development program to, to use the

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term in Millard, to "Millardize" them into the style and form of education... [LB121]

JOHN BONAIUTO: Uh-huh. [LB121]

SENATOR KOLOWSKI: ...that we're used to and what we're trying to do as far as the standards in the Millard Public Schools, as one example. Any of the larger districts can do that very easily. It's more of a challenge in smaller districts, I understand that, but they will team up with experienced teachers and do some buddy system things in other places. So I thank you for your comments and it's a real challenge to maintain a level of expectation that you're getting from every graduate coming in to your schools to teach and also administer. Thank you. [LB121]

JOHN BONAIUTO: Thank you, Senator. [LB121]

SENATOR SULLIVAN: Thank you. Senator Scheer. [LB121]

SENATOR SCHEER: Thank you, Senator Sullivan. Just an aside, Senator Kolowski and Senator Haar, that the department, as far as I know, and it's been a while since I was there, they do have the option of providing provisional endorsements. [LB121]

SENATOR HAAR: Uh-huh. [LB121]

SENATOR SCHEER: So that especially those rural districts that have positions open and either little or no applicants for that, they're able to take a teacher that may not have the endorsement for that subject area and work with them over a period of time to get that endorsement, but at least they'll have someone teaching the class. So that would help. [LB121]

SENATOR SULLIVAN: Senator Haar. [LB121]

SENATOR HAAR: Well, yeah, thank you for that. I guess my reaction is always when my wife was in high school a long time ago in central Nebraska, they couldn't find a chemistry teacher, and so the superintendent's wife read from the chemistry textbook every day. And of course, I love chemistry and she doesn't and...(laughter)...but that's always a concern of mine that just to fill that spot, you know, I don't think we should be able to go to those kinds of lengths. [LB121]

JOHN BONAIUTO: I appreciate that, Senator, and I think that schools are working very hard, when they have a difficult time hiring a particular area, to partner with a neighbor, to look at distance learning, to look at various other options and avenues to make sure they have a highly qualified individual. Whether it's a teacher in the classroom or a building administrator or a superintendent, I think having highly qualified individuals is just critical to the process. And that's not to take anything away from a CEO, a retired

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general, or a retired or a former Governor. And as many of you know that a former governor of a neighboring state, former Governor Roy Romer, was superintendent of Los Angeles County schools for a time. There's no real body of research that would say that that's a good thing or a bad thing, so I can't come before you and tell you that it leans one way or the other. But I think having a highly qualified person is critical. [LB121]

SENATOR HAAR: Yeah. [LB121]

SENATOR SULLIVAN: Thank you. Any other questions? Senator Davis. [LB121]

SENATOR DAVIS: First of all, Mr. Bonaiuto, can you tell me who you represent? [LB121]

JOHN BONAIUTO: Nebraska Association of School Boards--NASB,... [LB121]

SENATOR DAVIS: NASB. [LB121]

JOHN BONAIUTO: ...Nebraska Council of School Administrators--NCSA. That is principals and superintendents, business officials, personnel directors, special ed directors. [LB121]

SENATOR DAVIS: You know, coming from a rural area, I guess I'll ask this question. And this maybe isn't something that you can answer, but what are the requirements now for someone to be an administrator? You have to have a teaching certificate and then... [LB121]

JOHN BONAIUTO: It would be different at different levels, but to get a general administrative certificate, having teaching experience, an advanced degree beyond the bachelor's degree, meeting the certification criteria that has been established, and we'd have to go back and look at the specific certification criteria or possibly Brian Halstead from the department would be able to fill in the blanks. But it's information that can be obtained very easily from the department. Higher education, the higher education training institutions gear their programs--anyway, in this state--to those requirements. If someone comes in from out of state, that's where the department has some flexibility in helping to provide the certificate with a waiver or a temporary, in a certain area, giving the individual time to get the necessary classes. But it definitely is experience, an advanced degree, and it's a process that builds on your education and your educational experience. [LB121]

SENATOR DAVIS: Okay. Thank you. [LB121]

SENATOR SULLIVAN: Any other questions? Thank you, Mr. Bonaiuto. [LB121]

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JOHN BONAIUTO: Thank you. [LB121]

BRIAN HALSTEAD: Good afternoon, Senator Sullivan,... [LB121]

SENATOR SULLIVAN: Good afternoon. [LB121]

BRIAN HALSTEAD: ...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 with the Nebraska Department of Education and today I'm here in opposition to LB121. This morning the State Board of Education held its legislative retreat and unanimously approved opposition to LB121. A little background information for you: Currently, there are approximately 1,400 individuals who hold a Nebraska administrative certificate endorsed as a superintendent. We don't have a supply problem of qualified people to be a superintendent in this state. In that regard, that would be a different issue if we only had 10 or 12. Every year we have maybe 20 vacancies that are filled in that regard. It is clear if you're coming from another state, that state may have set different requirements for you to be a superintendent in Kansas, Colorado, Missouri. There are usually common aspects but most states require something very specific to their state about how finance is done, how administration is done, how standards and assessment are done. So in that regard, most individuals who come to Nebraska who have been an administrator in another state are going to get a standard administrative certificate. That's the lowest level certificate we issue for administrators. They will all have, most likely, a principal's endorsement or some other administrative endorsement on that certificate, and very few will not meet the requirements for the superintendent endorsement, for which they can get a provisional superintendent's endorsement provided they've met 75 percent of the requirements for a superintendent's endorsement, which is not uncommon for somebody who's coming to Nebraska from Colorado or Kansas. They've met that state's requirements. We may have a little higher bar in the state of Nebraska for that. But they are all qualified when they get a certificate from us at the Department of Education. There is no waiver of a requirement. We have flexibility to say, if you need to take coursework, you can get the provisional endorsement, and they all complete it. With that, I'll stop and I'll answer any questions. There were a number that were asked before that I might be able to answer, but I'll see if you still have questions on that whole topic. [LB121]

SENATOR SULLIVAN: Thank you. First of all, when you were talking about the levels of certification, so it's sort of a ladder that they go up. And the most basic is one to do what, be a business manager or a principal, or can you explain that a little more? [LB121]

BRIAN HALSTEAD: Okay. In the administrative certificate, there are three types of certificates. There's the standard administrative certificate, which is the baseline. This is

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what all principals will start with. You might be a curriculum director, special ed director, or superintendent. You'll start at the standard administrative certificate. There's the professional administrative certificate for those persons who hold a doctorate degree in educational administration or in the specialty area of curriculum and instruction and/or in some other areas at the administrative level. The difference between the two certificates is, do you hold a Ph.D. or an Ed.D.? If you do, you're going to get the professional. If you have a master's degree plus I think it's 36 hours of educational administration, you're going to start at the standard administrative certificate. With every certificate there are then areas of specialty endorsements, which is a separate rule the department has that are placed on those certificates. Most people, if they're starting out in administration, are going to start at the principal level, whether that's elementary, middle, or high school principal. So beyond that is when you would take additional graduate course hours in educational administration to get to be a superintendent or to be a curriculum director. That's the hierarchy as you go. The third kind of certificate is a provisional administrative certificate, which means you haven't yet completed the 36 hours of graduate coursework in educational administration but you have completed 75 percent of the program, for which we would give you a provisional administrative certificate with an endorsement in the educational administration field that you're working on. Right now there's only one person in the state who has a provisional administrative certificate. Everybody else has a standard administrative certificate. The example that was listed by Senator Lautenbaugh, he will get a standard administrative certificate; he will have a provisional endorsement to be a superintendent but he will have all the other endorsements that he has in the state of Kansas that come to Nebraska. [LB121]

SENATOR SULLIVAN: This pool of people you talked about, 1,400 or what? [LB121]

BRIAN HALSTEAD: Correct. [LB121]

SENATOR SULLIVAN: That they have their...they all have administrative certification. [LB121]

BRIAN HALSTEAD: Right. They have an... [LB121]

SENATOR SULLIVAN: Okay. It could be at different levels. [LB121]

BRIAN HALSTEAD: They most likely have superintendent endorsements, they've got principal endorsements, and they have it at multiple levels. They may also have it in curriculum and instruction or assessment because of the hot topics these days with accountability and all of that. But they're all qualified to be a superintendent if they wanted to seek the job and wanted to take on that responsibility and that role. [LB121]

SENATOR SULLIVAN: And when you talk about the ability or the parameters that the

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department or State Board has, you said that they don't really have the ability to grant a waiver. Is that... [LB121]

BRIAN HALSTEAD: We don't waive any statutory requirement. [LB121]

SENATOR SULLIVAN: Okay. [LB121]

BRIAN HALSTEAD: There are ways in which you can meet the rule requirements and get a form of a certificate while you continue working on the remaining parts, but we don't waive the requirements. You have met the minimums for the provisional and then you agree to take the coursework and do the field experiences in order to obtain the full endorsement in an area. Some people call that a waiver. No, no, you're still qualified. You still meet the legal requirements. You're issued a certificate. You're subject to the same ethical standards as everybody else. There's no lower level. You've just got time to complete the program till you get the full endorsement. [LB121]

SENATOR SULLIVAN: When they're granted the provisional certificate, how...what's the amount of time they have to complete the necessary coursework? [LB121]

BRIAN HALSTEAD: If you're getting a provisional certificate, you've got one year. You can renew that two times, so you've got three total years on a provisional certificate. You get a provisional endorsement, you've got three years to complete the requirements for the endorsement. So in that regard, there's about a three-year window for people to get the academic requirements or the practicum done, the field, the real-world experience in order to get your full certificate and endorsement. [LB121]

SENATOR SULLIVAN: Thank you. Any other questions for...yes, Senator Haar. [LB121]

SENATOR HAAR: Thank you. Do these require any teaching experience? [LB121]

BRIAN HALSTEAD: Right now for an administrative certificate we do require that you have two years of teaching experience or...I know I printed it out so let me make sure I don't...you have to have two years of teaching experience... [LB121]

SENATOR HAAR: Okay. [LB121]

BRIAN HALSTEAD: ...or employment as an administrator, school counselor, or school psychologist in an approved or accredited or otherwise legally operating prekindergarten through 12th grade school. [LB121]

SENATOR HAAR: So you have to have dealt with kids. [LB121]

BRIAN HALSTEAD: Absolutely. [LB121]

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SENATOR HAAR: Yeah. [LB121]

BRIAN HALSTEAD: You had to come from the world in which you're going to now be administering, sure. [LB121]

SENATOR HAAR: Yeah. I like that. Thank you. [LB121]

SENATOR SULLIVAN: Senator Kolowski. [LB121]

SENATOR KOLOWSKI: Thank you, Madam Chair. Brian, also you touched on a very important point that we didn't stress well enough I guess--the whole idea of the practicum and the role of the practicum, as you're placed within your program into a practicum role, primarily in your building or the district you're coming from. To experience a number of the things that the administrators are going through on a daily basis, to understand the range of problems and challenges and opportunities one has in a day is extremely important before someone gets into that very rapidly changing world on a daily basis of dealing with a large number of kids in a particular building, whatever level it might be. [LB121]

BRIAN HALSTEAD: Yeah. [LB121]

SENATOR KOLOWSKI: So practicum is extremely important. Thank you. [LB121]

BRIAN HALSTEAD: Yeah. [LB121]

SENATOR SULLIVAN: Senator Davis. [LB121]

SENATOR DAVIS: Brian, of the 1,421, are some of those retirees? [LB121]

BRIAN HALSTEAD: I don't know their current employment status, because you can get a certificate whether you work in that area or not. I suppose we could probably...we could check with the fall personnel reports and tell you how many of them are currently employed and how the districts are indicating they're employed. There may be a number that are retired, sure, in that regard. Most, I would submit to you, are working in some capacity. As to the exact percentage, I'd have to go back and ask our datacenter to pull that to tell you exactly, but we could do that if you want to know. [LB121]

SENATOR DAVIS: I guess I'm just curious about that. And because it requires teaching experience, then really the undergraduate degree needs to be in education. Is that right? [LB121]

BRIAN HALSTEAD: That's the foundation upon the regulations for you to get a teaching

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certificate. The minimum is a bachelor's degree in education and then you need to have the endorsement areas, areas in which you've received the most, you know, in...whether that's elementary education, whether that's political science at the high school level. There's a whole number of endorsements that you would have in that regard. [LB121]

SENATOR DAVIS: And then how many...is there a minimum number of hours that a superintendent must put in, in any one school district? [LB121]

BRIAN HALSTEAD: Hours as in employment or... [LB121]

SENATOR DAVIS: Yes. [LB121]

BRIAN HALSTEAD: No. [LB121]

SENATOR DAVIS: I mean, you know, like there are halftime superintendents, there are one-day superintendents. [LB121]

BRIAN HALSTEAD: The department does not regulate. We do for accreditation purposes say that you have to have a superintendent of schools in a public school district. I don't believe we mandate that it's one FTE because we know a number of districts who share superintendents. But you are required to have an individual, who holds an administrative certificate endorsed as superintendent, as the head administrator of your public school district. [LB121]

SENATOR DAVIS: Well, just as...and I appreciate your time and I understand where you're coming from. You know, just to speak from someone in a very rural area, it is extremely hard to get really qualified applicants. It's very hard. [LB121]

BRIAN HALSTEAD: We hear that all the time and we're well aware of it, which is why there is...we've tried to be flexible in the rules that we have. At the same time, we also understand the ability or inability to find a large number of candidates who want to be in what most people consider the rural areas of our state, though I think if they visit them they'll see the beauty of what's out there as opposed to the nice urban problems we're dealing with on a daily basis in our urban setting. So there's some beauty to the rural areas of this state that I think sometimes we forget about. [LB121]

SENATOR DAVIS: Thank you. [LB121]

SENATOR SULLIVAN: Senator Seiler. [LB121]

SENATOR SEILER: Are you satisfied with the current law that your State Board has plenty of flexibility, both for administrative and for teachers, at this time? [LB121]

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BRIAN HALSTEAD: The State Board sees no need to change the law. We have plenty in that regard. So if you want to know more about the whole process, we can certainly come over and brief you on the wide spectrum of... [LB121]

SENATOR SEILER: I just wondered if you needed any change. [LB121]

BRIAN HALSTEAD: No, the State Board does not see any need... [LB121]

SENATOR SEILER: Okay. [LB121]

BRIAN HALSTEAD: ...to change the laws with respect to teachers and administrators at this time. [LB121]

SENATOR SEILER: Thank you. I have nothing further. [LB121]

SENATOR SULLIVAN: Senator Kolowski. [LB121]

SENATOR KOLOWSKI: Thank you, Madam Chairman. Brian, just to clarify an earlier statement you made, you don't have to just have a bachelor's in education. You could be a liberal arts graduate and also finish your certification, and could be a history major or a... [LB121]

BRIAN HALSTEAD: Right. [LB121]

SENATOR KOLOWSKI: ...poli-sci major or biology major and also get your certification. Correct? [LB121]

BRIAN HALSTEAD: Correct. [LB121]

SENATOR KOLOWSKI: Thank you. [LB121]

BRIAN HALSTEAD: There may be some coursework you need to do in the... [LB121]

SENATOR KOLOWSKI: Absolutely. [LB121]

BRIAN HALSTEAD: ...I call the pedagogy, how to teach and those types of things, so... [LB121]

SENATOR KOLOWSKI: Some of us have gone that route. [LB121]

BRIAN HALSTEAD: And the current rules do provide that if you've got...matter of fact, several of our teacher colleges, if you've got a bachelor's degree, in about a year you

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can get the rest of the hours... [LB121]

SENATOR KOLOWSKI: Correct. [LB121]

BRIAN HALSTEAD: ...in order to get your teaching certificate. So we've worked very well--UNK and UNO both have programs--to bring people from other fields into the teaching profession. My neighbor, who happens to be a retired military person, did the Troops to Teachers and taught for ten years here in the Lincoln Public Schools, so... [LB121]

SENATOR KOLOWSKI: That's great. Thank you. [LB121]

SENATOR SULLIVAN: Anyone else? Thank you for your testimony. [LB121]

BRIAN HALSTEAD: You bet. [LB121]

LARRY RAMAEKERS: Senator Sullivan, members of the Education Committee, my name is Larry Ramaekers, L-a-r-r-y, Ramaekers is R-a-m-a-e-k-e-r-s. I am a registered lobbyist and I'm here representing not only myself as a retired superintendent and to share some thoughts that I may have with you, as well as the Grand Island Northwest Public Schools, as well as the Adams Central Public Schools. As I said, I am a retired superintendent, have been such for about a year and a half. I was a superintendent for 30 years, a secondary principal for 4 years. I have held a professional certificate as superintendent for 29 of those 30 years, and actually the first year I was superintendent, coming from the principal ranks, I did have a provisional certificate as a superintendent. And after that one year I was able to acquire that because I went right for my master's to the Ph.D. and did not go into the specialist program. So therefore, it enabled me that year to then get that certificate and professional certificate. I guess as from the standpoint of a former superintendent, and I would look back on the 30 years that I was in that position, I think it would have been difficult for me to make many of the decisions that were in the benefit of the school district or school districts that I represented during that time and not had the education background that I did. Not only was it beneficial to that school district, the teachers, but especially the administrators that were in that district as well to come to me to ask questions related specifically to education. What immediately comes to mind is that the school district I was last at, which is Aurora, I presently live there, they just went and purchased literally thousands upon thousands of dollars of laptops for each and every one of the students--a huge investment for that school district. Now if that administrator or that superintendent who was there had no knowledge of the educational benefits for that investment in that school system, I feel that maybe it would have been either saying, no, we don't need that or whatever. But the educational benefits were seen by that individual who has that educational background and saying, yes, it is very good for us. Dr. Bonaiuto had mentioned also the importance of the accountability. I'm not going to go into that, as well as I feel the

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superintendent's job is more than just handling the budget, so many things with the curriculum, all aspects of what go on with the school. One thing I may mention to Senator Davis in regard to a question that you had asked about the availability of individuals to come for that position, I think of the interim superintendents, people like myself that...not saying that I'm looking for that job, by no means, please don't misunderstand me, but I know of a number of retired individuals that enjoy doing just that, to fill in until such time that you would be able to have an individual come to that particular school district. So that is an option that is out there. But again, anything that I would say from this point on would be redundant. It has been mentioned, not only by Mr. Halstead but as well as Dr. Bonaiuto. But I would be happy to answer any questions that you may have and my testimony is complete. [LB121]

SENATOR SULLIVAN: Thank you. Any questions? Yes, Senator Scheer. [LB121]

SENATOR SCHEER: Thank you, Senator Sullivan. Larry, just for clarification, you talked about getting the provisional for one year. Did you find it cumbersome or burdensome in any way to... [LB121]

LARRY RAMAEKERS: Not in the least. And the reason I say that is because I had taken all the coursework that was necessary at that point in time. All I really had to do was, in that particular case, was to complete the dissertation and then literally have that certificate saying that I have the professional. But I had done all the coursework. I do know of a number of individuals who have had the provisional certificate and that has come basically from them going from a principal to the superintendency. And in all fairness to those individuals, they have done their homework before they've gone into that position and that has not been a real burden for them. Now in some cases the burden has come from the standpoint of getting it done in one year, just because of the load, the workload, that is there. [LB121]

SENATOR SCHEER: Sure. Thank you. Thank you, Senator. [LB121]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. [LB121]

LARRY RAMAEKERS: Thank you. [LB121]

JAY SEARS: (Exhibit 1) Good afternoon, Madam Chair, members of the committee. For the record, my name is Jay Sears, J-a-y S-e-a-r-s, and I represent the 28,000 members of the Nebraska State Education Association; and NSEA is opposed to LB121. I'll probably skip a number of the paragraphs that you have in the written testimony because the gentlemen before have covered most of it and have provided the education about our process in Nebraska of how we obtain licensure or certification and the endorsement process and the flexibility that the State Board of Education does have. Just wanted to share with you that the NSEA has a longstanding resolution that governs

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how I come and testify before you about certification. All educators, according to our resolution, should have certification to work with the children of the state of Nebraska. I'll skip down just a little bit. I serve on a committee, along with about 54 other people, that's called the Nebraska Council on Teacher Education, and that group is an advisory body to the State Board of Education, as Senator Scheer knows. And we've talked with him quite often, as the endorsement Rule 24 comes before the State Board and the certification Rule 21 comes before. But in the past year, the superintendent endorsement has been reviewed and it's aligned with the standards and the knowledge and the skills that superintendents need to be able to do to be the educational leader of a school district. And we keep on top of those. We review those and make sure that the skills and knowledge and dispositions that everyone across the nation want their superintendents to have are the standards that we're dealing with in the state of Nebraska. The gentlemen before me also talked very eloquently about the progression through the endorsements, and Senator Kolowski has made all those progressions. He started as a social studies teacher, just like I did, but I quit at that when I became a lobbyist. What do you know, right, Rick? But we'll move to the bottom part and really is the essence of the testimony. School districts are about the business of educating children and preparing them for college in the world of work. The CEO of this business, education--that's the business we're talking about--needs to be an educator prepared to lead a school district in educating its children. The CEO of General Motors may know how to manage people and provide a profit for the company's stockholders, but I doubt and it's a fact we do not believe that the CEO would be an effective leader of a school district without the educational training and experience that we require of our school superintendents. Let me give you an example, and it was mentioned earlier. How successful has the Los Angeles School District been with its string of CEOs, generals, and people who are not in the education business? They may be very good at managing people, and that may be something that we need in many school districts, but you can hire a business manager without a certificate. I would just say we need to make sure that the superintendents are the educational leaders of our district and have that connection with what goes on in the classroom. Waiving the requirement of hiring a certificated superintendent will not solve any of the problems in our school districts. In fact, it may exacerbate some of the problems. CEOs from corporate America do not have the silver bullet. Hopefully, they have no bullets. Certificated educators are prepared to solve our education problems and that's who should be the chief CEO of our educational organizations. The NSEA requests that the Education Committee indefinitely postpone LB121. I thank you for the opportunity to testify. [LB121]

SENATOR SULLIVAN: Thank you, Mr. Sears. Are there any questions? Senator Avery. [LB121]

SENATOR AVERY: Thank you, Madam Chair. Mr. Sears, I have listened carefully to all the professionals tell me that we're doing it quite well, leave us alone. Why am I not impressed with this defense of the status quo? Why is it you haven't been able to tell me

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anything that would convince me that perhaps doing it a different way from the way you do it now wouldn't be helpful? [LB121]

JAY SEARS: I'd say, Senator Avery, that the issue is one of the relationships in a school district. And if I have someone that hasn't ever walked in my shoes, telling me how to do things, I know that the most important person that's in the classroom besides the kids are the teachers, in the education and the skills and knowledge that they have. We can have CEOs at the top of education, but the respect and the ability to make changes in the school district, you have to have that relationship. And I know I may not have convinced you but... [LB121]

SENATOR AVERY: Well, you know, it is possible that people who haven't had the background in educational administration training might come in with new ideas on how to manage and might actually do a better job. I'm not impressed with defending the status quo. [LB121]

JAY SEARS: I'm not defending the status quo. I'm just saying that every educator should be certified and have the... [LB121]

SENATOR AVERY: That's the status quo. [LB121]

JAY SEARS: That's not the status quo, but we can disagree. [LB121]

SENATOR AVERY: Do you know what status quo means? It means... [LB121]

JAY SEARS: Yes. [LB121]

SENATOR AVERY: ...it means now, doing it the same way. [LB121]

JAY SEARS: And I wouldn't see that as doing it the same way because we're preparing leaders in the programs that are different today. [LB121]

SENATOR AVERY: I think attitudes like that might be one of the reasons why we have problems in our schools, why the achievement gap is as bad as it is in some schools,... [LB121]

JAY SEARS: I... [LB121]

SENATOR AVERY: ...why the test scores aren't where we said they were when we were doing STARS. And now we've gone to a different kind of testing and, voila, guess what, you know, we don't have A-plus schools all over the state. [LB121]

JAY SEARS: I would suggest that you look very closely at the data and see the

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progress that many of those school districts are making that are on the bottom of the list. [LB121]

SENATOR AVERY: Oh, I do,... [LB121]

JAY SEARS: Uh-huh. [LB121]

SENATOR AVERY: ...and I think progress is important. [LB121]

JAY SEARS: Right. [LB121]

SENATOR AVERY: But under the old program of testing, we were told that we had it right and this was the best way to do it, let's not change it. [LB121]

JAY SEARS: And we did change it and we're doing better, aren't we? [LB121]

SENATOR AVERY: Yeah, but we dragged the school systems, kicking and screaming, into changing it too. I was there. [LB121]

JAY SEARS: Right. [LB121]

SENATOR SULLIVAN: Any other questions? Thank you, Mr. Sears. Oh, excuse me. [LB121]

SENATOR KOLOWSKI: Sorry. Madam Chair, thank you. I appreciate it very much. Senator Avery's comment is an excellent one because if your status quo is always to keep things the way it used to be, then I would also agree with Senator Avery that that's not what we want. If your definition also contains one of continuous improvement, then you're looking at growth to something that isn't there right now but you're trying to get better at what you're doing, improving the educational process in total for all your students as you're moving a system ahead. And it is a system and it's all the system's approach that has to be looked at in order to make those improvements. So I come with a definition of continuous improvement rather than status quo when I look at schools and getting into a position of decision making and then moving that system forward is a great joy when you're able to do that... [LB121]

JAY SEARS: Yes. [LB121]

SENATOR KOLOWSKI: ...and make a difference. My second point, Mr. Sears, you and I have sat at the table of working with teachers that were not meeting the standards of a district. [LB121]

JAY SEARS: Yes, that's... [LB121]

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SENATOR KOLOWSKI: And we have dismissed teachers, in my stead, while we did our homework to make sure that our students were getting the very best instructors, even with tenured teachers. And you and I have done that a number of times and that was the proper thing to do; and it helped that school, it helped those students, it helped those departments, and we moved ahead because of someone not doing their job in an adequate fashion. And you supported that also. [LB121]

JAY SEARS: Yes. [LB121]

SENATOR KOLOWSKI: And I thank you for that because we had a united front against bad teaching. Thank you. [LB121]

JAY SEARS: Yes. Thank you. [LB121]

SENATOR SULLIVAN: Any other questions? Thank you, Mr. Sears. [LB121]

JAY SEARS: Thank you. [LB121]

SENATOR SULLIVAN: (See also Exhibit 2.) Any other opponent testimony? Anyone speaking in a neutral capacity? Therefore, we will close the hearing on LB121. We will now hear LB135: change membership provisions relating to community college boards of governors. Senator Avery. [LB121]

SENATOR AVERY: Thank you, Madam Chair. My name is Bill Avery, B-i-l-l A-v-e-r-y, representing District 28 here in Lincoln. I am bringing to you LB135 to correct what I think has developed into a problem in the governance of Nebraska's community colleges. You will note that the green copy in your packet refers to changing the language in Section 85-1506. Since we drafted this bill, we conferred with the research analyst for this committee and we were persuaded to change or to propose to change the language, using the same language but put it in Section 85-1512. This is the section of law that outlines community college board of governors qualifications. This I would suggest as a committee amendment. It reflects the need for continuity in our statutes and is not materially different from the original bill. The bill would remove any actual or perceived conflict of interest or impropriety between a community college board of governors and its faculty by simply barring employees of a community college from serving on the board of governors at the same time. I am convinced that, given the nature of university governance or college governance, the decisions that are made by necessity at the board level are such that it creates potential conflicts of interest when employees of the community college system, or any other college system, for that matter, serves on both the faculty and the board of governors. For example, the board deals with contract reviews, programming, standards for research, teaching evaluations, financial and salary decisions. You can imagine all those areas have an impact on a

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faculty member's interests. And to have a person in that position also serve on the governing board seems to me to introduce disturbance in the lines of communication, the lines of authority and supervision that are so important in large institutions. The blurring of lines of supervision will put, for example, a board member in the position of being the boss of his or her own department head or dean, and that seems to me to create problems. The proposal that I am making is a very simple one. It's very straightforward. It does grow out of a situation that developed here in Southeast Community College when a faculty member ran for and was elected to the board and continues to serve in both capacities. And I cannot tell you that there has been a great problem yet, but I could see it happening. And I believe there will be people here who have direct experience with that situation that may be willing to speak on it. So with that, I would ask you to give serious consideration to advancing LB135 to General File. [LB135]

SENATOR SULLIVAN: Thank you, Senator Avery. I have a question for you. Does this limitation apply to other educational institutions currently? [LB135]

SENATOR AVERY: It would apply to, if you go to the section that's being amended, it is Section 85-1512, "Boards; establish election districts; nomination and election of members; qualifications," and it refers specifically to community college areas but does not...would not apply to the university or State College System. [LB135]

SENATOR SULLIVAN: Do you think the potential for conflicts could be present in these other educational institutions as well? [LB135]

SENATOR AVERY: I do. I do. [LB135]

SENATOR SULLIVAN: But you're not recommending that it be extended to these. [LB135]

SENATOR AVERY: I wouldn't oppose it. [LB135]

SENATOR SULLIVAN: I see. Okay. Thank you. [LB135]

SENATOR AVERY: The Nebraska Community College Association is in support of this and I suspect that Mr. Baack will be next up and would perhaps be someone that you should ask that question of as well. But I do know that the University of Nebraska, the Board of Regents has a policy that is pretty clear in its concern about faculty and other employees running for public office, and that you are required to consult with and to get approval from your immediate superiors if you do contemplate such an undertaking. When I ran in '06, I had serious conversations with my department chair, with the dean, and then on up the chain of command, if you will. And once I was elected, I resigned my position and did not return to the university. [LB135]

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SENATOR SULLIVAN: But there was no requirement that you had to do that. [LB135]

SENATOR AVERY: Well, there was a 1993 Supreme Court case that involved a member of this body who was also on the faculty at Wayne State College. He served one full term in this body and continued to teach at Wayne State. He was challenged in his reelection and his opponent filed suit, and the Supreme Court ruled that the faculty member at Wayne State College was a part of the executive branch of government. It's a stretch, I know, but that was the ruling. And the constitution bars anyone from serving in two branches of government at the same time. So he was...he did...turns out he was not reelected. Had he been reelected, he would have had to have selected to resign the Legislature and stay at Wayne State or to resign at Wayne State and stay in the Legislature. [LB135]

SENATOR SULLIVAN: Okay. Thank you. Any other questions for Senator Avery? Senator Scheer. [LB135]

SENATOR SCHEER: Thank you, Senator Sullivan. Senator Avery, you noted that there is one instance of the dual capacity at this point, and maybe I'm not reading the bill correctly. How does the bill address the person currently serving in that capacity? [LB135]

SENATOR AVERY: Well, the bill would set forth or would amend the qualifications for serving on the board, so the person would be given--I suspect, be given--a choice to continue to serve on the board, would have to resign his position on the faculty. [LB135]

SENATOR SCHEER: Okay. So it's not necessarily grandfathered in. He or she would have to make that determination if she wanted to serve in one capacity or the other. [LB135]

SENATOR AVERY: Well, once this became law, it would be binding on all. [LB135]

SENATOR SCHEER: Correct. Yes. [LB135]

SENATOR AVERY: Yeah. [LB135]

SENATOR SCHEER: Okay. Thank you. Thank you, Senator. [LB135]

SENATOR SULLIVAN: Senator Davis. [LB135]

SENATOR DAVIS: Senator Avery...thank you, Senator Sullivan. Senator Avery, the green copy that I have here is 85-1506, but there is a supplemental piece then that's 1512 and that's going to be a committee amendment if this goes forward? Is that right?

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[LB135]

SENATOR AVERY: I'm recommending that it be a committee amendment and I suspect that the committee research analyst will go along with that since it was his recommendation. [LB135]

SENATOR DAVIS: Okay. I just wondered, is this something that could be addressed in the employment contract with the staff people at the community colleges or all, I guess even at the local high school level even? [LB135]

SENATOR AVERY: You know, I guess it could, but then a lot of that would depend upon who's in the administrative positions, who's hiring and whether or not they think it's important. And I think you might have some variation in how people would view that particular restriction. This, if you put it in statute, it becomes a part of the qualifications for serving on the board and it's...that's over. [LB135]

SENATOR DAVIS: In 1506, you talk specifically about the word "to teach." [LB135]

SENATOR AVERY: Uh-huh. [LB135]

SENATOR DAVIS: So would that...any other employee of the community colleges would still be able to serve on the board if they were... [LB135]

SENATOR AVERY: No, the... [LB135]

SENATOR DAVIS: ...if they were a custodian or if they were, you know, had some other role at the college? [LB135]

SENATOR AVERY: Good question. The proposed amendment that would move it over to 1512 states, "No member of a Community College Board of Governors shall be under contract to teach pursuant to sections," etcetera. It does apply to teaching. I suppose you could change that to shall be under contract with the college, and then that would be a broader interpretation, a broader application. [LB135]

SENATOR DAVIS: I would think so too. [LB135]

SENATOR KOLOWSKI: Yeah. [LB135]

SENATOR DAVIS: Thank you, Senator Avery. [LB135]

SENATOR SULLIVAN: Senator Kolowski. [LB135]

SENATOR KOLOWSKI: Thank you, Madam Chair. Senator Avery, building off of the

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last question, full- versus part-time, is there a difference there? If you're a high school welding teacher and you're teaching one class at... [LB135]

SENATOR AVERY: Uh-huh. [LB135]

SENATOR KOLOWSKI: ...Southeast on welding and you desire to run for that Southeast board, would that eliminate you, since you have a contract only with one class, a full- or part-time discussion anywhere? [LB135]

SENATOR AVERY: I would think that you'd still have the potential for conflicts,... [LB135]

SENATOR KOLOWSKI: Okay. [LB135]

SENATOR AVERY: ...let's say compensation for teaching. If you're on the board and you're working every day with 10 other colleagues, I think there's 11-member boards, and, you know, the question is, you know, how much are we going to pay our...how much are we going to increase salaries this year for our employees, including part-time. That person sitting there with a contract has a conflict of interest. [LB135]

SENATOR KOLOWSKI: Sure. Understood. [LB135]

SENATOR AVERY: And can that person be objective? Can your colleagues be objective in how they deal with the issue, knowing that it would have an impact on you? [LB135]

SENATOR KOLOWSKI: Madam Chair, I think we had a discussion in the Omaha area about someone who was running for the Board of Regents and was employed by UNO at the time, and I thought that the conversation was that they--maybe counsel could help us on this--that they could not, if they were elected to the Board of Regents, could not continue with the university contract. And so I don't know if that exists. [LB135]

SENATOR AVERY: Oh, I'm sure that...now there are some boards of regents around the country that have an allotted spot for a representative on the faculty,... [LB135]

SENATOR KOLOWSKI: Gotcha. [LB135]

SENATOR AVERY: ...but I think that they are nonvoting positions, much like the student regents are today on the University Board of Regents. [LB135]

SENATOR KOLOWSKI: Correct. Thank you. [LB135]

SENATOR AVERY: But I think we have to be careful about how we handle conflicts of

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interest, and it is in the interests of good public policy that conflicts be reduced or eliminated where we find them. [LB135]

SENATOR KOLOWSKI: Just a simple example then: If I lived in Gretna and taught at Southeast Community College, but I could run for the Metro board of governors in the Omaha for their community college,... [LB135]

SENATOR AVERY: You could. [LB135]

SENATOR KOLOWSKI: ...that's not a problem because... [LB135]

SENATOR AVERY: Yeah, because we are talking here about... [LB135]

SENATOR KOLOWSKI: ...where you live... [LB135]

SENATOR _____: You like to complicate things. [LB135]

SENATOR KOLOWSKI: (Laugh) Just making sure. Yeah. [LB135]

SENATOR AVERY: ...the division into community college areas. [LB135]

SENATOR KOLOWSKI: Yes, sir. [LB135]

SENATOR AVERY: Yeah. [LB135]

SENATOR KOLOWSKI: Thank you. That helps. And I certainly support what you're going after and I wonder if there's extensions we need to look at to cover other venues. [LB135]

SENATOR AVERY: I think Senator Davis raised an important question. [LB135]

SENATOR KOLOWSKI: Thank you very much. [LB135]

SENATOR AVERY: It's not just teachers perhaps. [LB135]

SENATOR KOLOWSKI: Uh-huh. [LB135]

SENATOR SULLIVAN: Any other questions? [LB135]

SENATOR AVERY: But I'm sure that the counsel and the staff of this committee is fully capable of correcting that. [LB135]

SENATOR SULLIVAN: Yeah, I agree, agree. Any other questions? Thank you. We will

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now hear proponent testimony. [LB135]

DENNIS BAACK: Senator Sullivan and 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 the executive director of the Nebraska Community College Association here to support LB135. I really hadn't prepared any...I wasn't really going to testify, but after some of the questions that came up I thought maybe I should and talk to you a little bit about it. My board had a discussion about this last Friday and they talked about it, and one of the things that was a concern was that maybe it ought to apply to all employees of a community college and not just the faculty that's there, not just faculty but all employees of a community college. Because if you're talking about, as you started talking a little bit about only teaching one class for the college, those are adjunct faculty and they're not under contract with the community college. So they would not be covered by this because they're not under a specific contract to teach. So there was some discussion and there actually was some support for that. In fact, my board was very supportive of that concept of just saying employees of a college are not allowed to serve on the board. They're not. That's one of the qualifications you have to have, is you cannot be an employee of the college. So if the committee felt like we should go that far, we certainly would be in support of that. We were only kind of mirroring the K through 12 statutes with this language because in that, in their statutes, they talk about a contract to teach is not allowed to serve on the board. But...and I'm not sure in a K through 12, whether your other employees are not allowed to serve on their boards or not. I don't know. I don't know the answer to that. I do know that in, what, 1974 I was a bus driver for the school district and got elected to the board and they told me I could continue driving the bus but I said, no, that's not a good idea; that, you know, there could be conflicts. So I resigned as a bus driver and served on the school board. So...but I don't know that it was absolutely necessary that I do that. But I think you could include all employees. I think there's...when you get into negotiations and you get into reduction in force and you get into a whole lot of other things, there's a real conflict of interest there of someone who works for you serving on the board at the same time. I think there's some very difficult situations there. And I think that after me, Bob Feit, who is the chair of the Southeast board, will talk a little bit about some of the things that he's run into as the chair of the Southeast board now that they have a faculty member on the board and some of the conflicts that they've run into. So with that, I'd be happy to answer other questions, if you have them. [LB135]

SENATOR SULLIVAN: Okay. Any other questions of Mr. Baack? Senator Scheer. [LB135]

SENATOR SCHEER: Well, more of a comment and somewhat of a question. Thank you, Senator. Excuse me. To the extent that I think you'd agree that regardless how broad we put this as far as employment, you're still always going to have the availability of some conflict, either being a spouse or the next-door neighbor. I mean it's...and I'm

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not disagreeing with the broader approach here, but I think we have to be honest with ourselves that no matter how broad we make it, there will always be some potential of conflict there. [LB135]

DENNIS BAACK: That's absolutely true. [LB135]

SENATOR SCHEER: Uh-huh. [LB135]

DENNIS BAACK: And our board members now every year have to file a conflict of interest statement and stuff to talk about those things and they're also required to notify the board when a conflict does come up. They don't vote on those, you know. I mean they're very conscious of that. But those conflicts are always going to arise. Especially when you get out in some of the rural areas and stuff, it gets more and more difficult to find people to serve on those boards that have absolutely no conflicts with what's going on. So that does happen, absolutely. [LB135]

SENATOR SCHEER: Thank you, Senator. [LB135]

SENATOR SULLIVAN: Any other questions? Thank you, Mr. Baack. [LB135]

DENNIS BAACK: Thank you. [LB135]

ROBERT FEIT: Good afternoon. Robert Feit, Pickrell, Nebraska. As chair of the Southeast Community College Board,... [LB135]

SENATOR SULLIVAN: Could you please spell your name? [LB135]

ROBERT FEIT: ...having experience... [LB135]

SENATOR SULLIVAN: Excuse me, sir. Could you please spell your name? [LB135]

ROBERT FEIT: Spell it? [LB135]

SENATOR SULLIVAN: Could you please spell your name? [LB135]

ROBERT FEIT: F-e-i-t. [LB135]

SENATOR SULLIVAN: Thank you. [LB135]

ROBERT FEIT: As chair of the Southeast Community College Board, having experienced the first meeting with a member of the faculty on our board, I find it difficult to efficiently run a meeting in such circumstances. Even though the board faculty member is in no way trying to compromise the meeting, he and I find it time-consuming

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to agree if he should vote on a specific item in case it does in some way compromise him in a conflict of interest area. We have been working together to make certain that that does not happen, but it is a concern. Both he and I...I'm sorry, he and the board have run up attorney bills, trying to make certain that we are...everything from what his work schedule can be, and we just generated another question after the last meeting. So we will continue to do this. The problem stands that if someone with an agenda would get on a board, that person could make it very difficult to run a meeting without an attorney present all the time, would increase the cost to the school district, and certainly lengthen the meeting. We also have issues with time off for civic duties, as stated in the faculty association contract, that would preclude him from participating in local, state, and national meetings without taking time off without pay. This is secondary to the effect that it has on his students when he is out of the classroom continuing his education as a board member. Southeast Community College encourages its board members to participate in educational seminars wherever it is possible. We all like to be the best we can be, and education is certainly part of that. There is presently a statute in place which precludes faculty members from serving on K-12 boards, and regents may not be faculty members in a four-year school. We would hope that the Legislature would fill this gap in statute by passing this bill. Thank you. [LB135]

SENATOR SULLIVAN: Thank you. [LB135]

ROBERT FEIT: Questions? [LB135]

SENATOR SULLIVAN: Any questions? [LB135]

ROBERT FEIT: Thank you. [LB135]

SENATOR SULLIVAN: Seeing none, thank you for your testimony. Any other proponent testimony? We will now hear opponent testimony. Opponent testimony? Anyone wanting to speak in a neutral capacity? Seeing none, Senator Avery to close. [LB135]

SENATOR AVERY: I would just reiterate that we have capable staff that could answer the questions that were raised, and I think they were good ones and would make this actually a stronger bill than it is in its present form. So with that, I would urge you to advance it. [LB135]

SENATOR SULLIVAN: Thank you, Senator Avery. That closes the hearing on LB135. We will now start testimony on LB211 by Senator Adams: change and eliminate provisions relating to statewide coordination of community college boards. Senator Adams, welcome. [LB135]

SENATOR ADAMS: (Exhibit 1) Well, thank you. I don't mind telling you it seems a little strange walking in on this one (laughter), but this is... [LB135]

SENATOR SULLIVAN: Me too. [LB135]

SENATOR ADAMS: ...this is a good crew. I can see that. My name is Greg Adams, A-d-a-m-s, representing the 24th Legislative District, introducing LB211. As a matter of background, and I can go into more background if you like, it took us quite some time to resolve our community college funding issues. A year ago we did that and Senator Cook was part of that, as some of you were. What LB211 really does, in my opinion, is try to finalize some of the things that we didn't really get finalized last year. We put the bill together. We had settled the dispute right before Christmas. We put the bill together. There were some fundamental things in the bill that needed to be there and we, as we worked with this, we realized afterwards there were some things that we needed to also put away. And specifically what LB211 does is this. We took, in prior legislation, the requirement that all community colleges belonged to an association. We did away with that earlier on. That was one of the sources of conflict, so we eliminated that. But what happened was, in terms of additional legislation, we are at a point now where we need to further clarify in statute that any association of community colleges, maybe all six of them, maybe two of them, be voluntary. If they want to form an association today, that's their business, but it will not be mandatory in any way. The statute also clarifies that it is the Coordinating Commission that will have...not governing, that remains with each board, but coordinating authority, which by constitutionally that is their prerogative to do that. So in its simplest form what this language is saying is this: That look, if the community colleges want to get together and have an association, just like 249 school districts may belong to the state school boards association, they can do that. They can do that and it's voluntary. They can take...it also says in the language they can take a portion of their dollars to pay dues to that, just like the 249 school districts, K-12, today can take a portion of their dollars and pay to belong to the state school boards association. That's, in essence, all that this does. It clarifies the coordinating with the Coordinating Commission, it clarifies that they do not have to belong to an association, if they choose to it says that they can use some of their money to pay the dues to that. As a matter of fact, and I'm sure Executive Director Baack may want to testify to this, but this wouldn't be any different than if there's a national community college association now that a Metro or a Southeast or a Western chooses to belong to. They use some of their monies in order to pay their dues and that's the way it would work. I want to point out a couple of things. One, this would change language now about the Open Meetings Act, because prior to this, when there was a statutorily created association, they were required under the Open Meetings Act to file notice in the paper, etcetera. Now that we're saying there is no mandatory association membership, this language would end that open meetings requirement. I see it as being no different than state school boards association. When they hold a board meeting, we don't ask them to comply with open meetings laws. So it would, in essence, be the same thing. The other thing that the bill does, when we negotiated, myself and the six community colleges, negotiated our agreement a year ago, one of the things that we did was to reinstate an

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appropriations program called Program 99. And as part of the funding mechanism, what happens is before any new monies goes out to the colleges via the formula, there's a half a million dollars that is appropriated to Program 99. It is a grant program. It's a grant program. It's a competitive grant program. And it's existed before but it's not been funded. Now, under the formula last year being passed, it will be funded. The Program 99 money needed to have a committee of folks to look at the grant applications and award them. We put that all together. An oversight: We didn't put anybody in charge. Now by that I mean in its simplest form, just to say to the six community colleges and DED who...and the Department of Labor who's on there, hey, we're going to have a meeting on March 4, somebody needed to be the person that said, we're going to meet and here's where we're going to meet. In the past, Program 99, it kind of operated on its own. It didn't have one designated person. But it seemed to me, from some of the contacts that I was getting in the office, that maybe we needed to have that person to initiate the meeting of the committee, to sit and look over the grant program, so in which case Marshall Hill from the Coordinating Commission would be the person. He's going to be on, by statute, he's on the Program 99 committee anyway. So in essence, this language just simply says, Coordinating Commission representative, you're going to be the one that says we're meeting and here's where we're meeting at. There's an amendment that you have in your hands that was brought to me, and I think the amendment is appropriate, to try to clean up, in addition, how the monies are appropriated. It is, I believe, pretty technical in nature. Rather than having one government entity saying, yes, they get the money, and somebody else appropriating it, it would consolidate some of those kinds of services and clean up how this Program 99 would be run. I would take questions, if you have them. [LB211]

SENATOR SULLIVAN: Thank you, Senator Adams. So you indicated that the Program 99 funds will be...grant process will be overseen by the Coordinating Commission. [LB211]

SENATOR ADAMS: Not just. There is, under language we passed last year, there is a committee of folks... [LB211]

SENATOR SULLIVAN: Right. [LB211]

SENATOR ADAMS: ...and it's made up of the three sectors,... [LB211]

SENATOR SULLIVAN: Uh-huh. [LB211]

SENATOR ADAMS: ...three geographic sectors that we created, or size sectors of community colleges. There's a rep from each one of those directly from the community colleges. Kris Valentin can tell you better. I'm trying to remember back. But I know that Department of Labor...I think Cathy Lang from Department of Labor was there, and someone from the Coordinating Commission was also on that group. All this does is

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designate the representative from the Coordinating Commission as kind of the chair of that group. [LB211]

SENATOR SULLIVAN: Did I understand you also to say that the Coordinating Commission will have some coordinating authority? [LB211]

SENATOR ADAMS: They do now. [LB211]

SENATOR SULLIVAN: Oh, they do now. Okay. [LB211]

SENATOR ADAMS: Sure. [LB211]

SENATOR SULLIVAN: All right. [LB211]

SENATOR ADAMS: By constitution, they do now. [LB211]

SENATOR SULLIVAN: Okay. Okay. And then it does beg the question, what will the association do now? Maybe Mr. Baack will answer this. [LB211]

SENATOR ADAMS: He could better explain that, you know? As far as I'm concerned, we did away with it. (Laughter) Now, who they want to sit down and talk to is going to be their business and he could better explain that. [LB211]

SENATOR SULLIVAN: So...but we will...are you recommending we still leave in statute that there would be an association, it's just that membership will be voluntary? [LB211]

SENATOR ADAMS: Well, this is, in essence...it's not saying that there will be an association. It is, in effect, saying... [LB211]

SENATOR SULLIVAN: Allowing? [LB211]

SENATOR ADAMS: ...they can have an association,... [LB211]

SENATOR SULLIVAN: Okay. I see. [LB211]

SENATOR ADAMS: ...but it's not going to be... [LB211]

SENATOR SULLIVAN: Okay. [LB211]

SENATOR ADAMS: ...it's not going to be mandatory and the open meetings law would not apply. [LB211]

SENATOR SULLIVAN: And therefore, they are excluded from the open meetings law.

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[LB211]

SENATOR ADAMS: Right. [LB211]

SENATOR SULLIVAN: Okay. Thank you. Any questions for Senator? [LB211]

SENATOR HAAR: Yes. [LB211]

SENATOR SULLIVAN: Senator Haar. [LB211]

SENATOR HAAR: Thank you. I just have some. If public money is being spent and then we don't require open meetings, isn't it possible to look at this the other way around, that other boards or other groups that have these kinds of associations don't require open...that they should if public monies are spent? You used sort of the argument of saying, well, look at all the others, they don't have it. But we could also use the argument that maybe they ought to have open meetings laws, too, as long as they're expending public monies. [LB211]

SENATOR ADAMS: You know, you could certainly flip the coin and make that argument. I think it becomes a real enforcement stretch. I mean when you start belonging to a special ed coordinators association, the School Nurses Association, a school dieticians association, where does that begin and end? And I think it really creates some issues. But I think you make a fair case. [LB211]

SENATOR HAAR: Okay. Because you're using public monies. Yeah. Now, and this I don't think is...this is worth asking. Okay. If you...we're talking about such a small number of community colleges, and five or four, whatever, were going to form one and then so it's the odd one out, that...can one community college form an association and then spend money under this? [LB211]

SENATOR ADAMS: Well, I guess by definition of association, who would they be associating with? And what would they...they'd be giving money to themselves, in effect. But one community college could belong to a national organization... [LB211]

SENATOR HAAR: Uh-huh. [LB211]

SENATOR ADAMS: ...and pay into it, if I'm understanding you right. [LB211]

SENATOR HAAR: Well, associations can find other sources of money, as we've learned from some of those first state legislators. They can find other sources of money in terms of grants and things like that. So maybe one community college could form an organization to receive monies in another way. [LB211]

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SENATOR ADAMS: I suppose they could, yeah. [LB211]

SENATOR HAAR: I mean under your bill that's possible. [LB211]

SENATOR ADAMS: That certainly is not the intent here. [LB211]

SENATOR HAAR: Right. [LB211]

SENATOR SULLIVAN: Any other questions? Senator Davis. [LB211]

SENATOR DAVIS: Senator Adams, kind of reading between the lines in listening to the discussion, it seems like there's some history here that maybe I don't understand or know about. Can you just enlighten us a little bit with that? [LB211]

SENATOR ADAMS: How long did you want the hearing to go today, Senator? (Laughter) Well, I'll give you the short version and some of this has history before I was sitting here in the Education Committee. To make the long and short of it, the community colleges were disputing over the way that money from the state was being expended. We had put together, I don't remember if it was in 2007, a formula and all six community colleges then, in my opinion, seemed to be on board. Specifically, later on Metro said, no, this isn't working for us, and they were part of this association and there was questions being raised by Metro as to whether or not they were being appropriately or effectively, whatever term you want to use, represented by the association that they were part of. And basically, Senator, it was a five to one split. They had five community colleges, not exclusively but generally they were saying they were okay with the funding formula. Metro had issues, legitimate some of them, and Executive Director Baack of the association was representing five. The one wasn't happy. And hence, in the early stages of us trying to get this thing close to some kind of resolution, we said, all right, we're not going to make you belong to the association anymore, which by statute Metro was required to do and to pay into it. And, in effect, bottom line, they were saying, why should we pay dues to an organization that's not supporting us on the way we think the money ought to be distributed? And the other five were saying, we're okay with doing that because we think that's an okay way. We came up with yet a different way. Still didn't want to belong to the association. This furthers that. I don't know if that's... [LB211]

SENATOR DAVIS: And so then was the funding coming to the association and being disbursed from there? [LB211]

SENATOR ADAMS: No, the funding is going straight to the schools. [LB211]

SENATOR DAVIS: So what was the purpose of the association? [LB211]

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SENATOR ADAMS: Well, I think Executive Director Baack can better explain that. But, you know, at minimum it was a unified voice, but over funding was no longer unified, a unified voice on programming, legislation, a lot of different things I would expect. And they were required, under statute, to have that association. Now as far as governing, setting their levies, those kinds of things, that is done by their boards... [LB211]

SENATOR DAVIS: Separately. [LB211]

SENATOR ADAMS: ...and that's been made very clear. That's done by their boards. The association was more of a program coordination kind of effort. [LB211]

SENATOR DAVIS: Thank you. [LB211]

SENATOR SULLIVAN: Any other...Senator Avery. [LB211]

SENATOR AVERY: Thank you, Madam Chair. Senator Haar took my question about open meetings, but... [LB211]

SENATOR HAAR: Sorry. [LB211]

SENATOR ADAMS: You know, Senator Avery, I thought that if somebody at the table was going to ask me about that section it would be you, so I just decided to lay it out there. [LB211]

SENATOR AVERY: (Laugh) Well, I think one could add a sentence... [LB211]

SENATOR HAAR: Uh-huh. [LB211]

SENATOR AVERY: ...on page 2 there, section (2), where the board of governors of any community college may pay from college fees for memberships. And you might then add: If such funds are used then, it would be subject to the open meetings law. But this raises another question for me. That is, what about the public records act? Are these associations exempted from that too? [LB211]

SENATOR ADAMS: Again, I'm going to defer to Executive Director Baack. I wouldn't think they would be, but under this language I would think in effect. Now their college's records would not be. They're still covered by open meetings, their board meetings and their records; but this group of them meeting in Scottsbluff or Lincoln, wherever they might choose to meet, those particular records of that group would not be covered. [LB211]

SENATOR AVERY: So this, the NCCA, which is what it now is, would become a voluntary organization and, therefore, exempt from the Open Meetings Act and possibly

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also the public records act. [LB211]

SENATOR ADAMS: Uh-huh. [LB211]

SENATOR SULLIVAN: Any other questions? Thank you, Senator Adams. [LB211]

SENATOR ADAMS: I'm going to waive closing. I've got another thing that I have to deal with, all right? [LB211]

SENATOR SULLIVAN: And then you'll be back for the next? [LB211]

SENATOR ADAMS: I have my staff person here that's going to deal with the next bill for me,... [LB211]

SENATOR SULLIVAN: Okay. [LB211]

SENATOR ADAMS: ...but certainly if any of you have questions, why, you can. Be willing to answer. [LB211]

SENATOR SULLIVAN: Okay. Thank you. We'll now hear proponent testimony. [LB211]

DENNIS BAACK: Senator Sullivan and 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 the executive director of the Nebraska Community College Association. I figured I'd just as well get up here now because there's (laughter)...there will be some questions. I think Senator Adams has done an excellent job of kind of laying out the history of it. It's kind of interesting to sit back here today and listen to the first bill on alternative certification. I remember introducing a bill on alternative certification in I think 1987 and, whoa, did I get beat up on that. And then it's really interesting because now, with this, we're undoing another bill that, when I was Speaker, we did. We made the association a mandatory association for community colleges so that they would speak with one voice. So it kind of brings back some history to me. I think that Senator Adams has laid it out. What it says, what it basically says, and we got this from the statutes for the K through 12 schools. It says if you want to belong to an association, you can; if you want to expend funds, you can do that. And all of my...we talked about other associations, all of my, all the colleges, all six colleges belong to the national association for the American Community College of Trustees Association and also the college association for administrators. They all belong to those national associations already and this...and right now there are five of the community colleges that belong to the association that I run and one does not. And my job is to try to coordinate with those five to make sure when we talk about budgets and bring requests to the Legislature, we try to come with a unified voice among the five and we feel that we're much stronger that way if we come with a unified voice of five. And I think that's why they belong to the association is to have that unity amongst the

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community colleges. I have no authority over the boards. The boards set all their levies. I have nothing to do with their budgets. I don't help them set their budgets. I have nothing to do with that. The money that the state distributes goes directly to each college. No money passes through the association from the state. It all goes directly to the colleges. I don't have any of that that comes through the association. So I think that this is kind of the culmination of the battle between Metro and the other community colleges where we say, finally, if you want to belong to an association you can do that, and if you don't want to you don't have to. And that's where we find ourselves today. So I'd be happy to answer questions or be more specific if you want more information from me. [LB211]

SENATOR SULLIVAN: Thank you, Senator. In spite of the fact that then this might potentially be voluntary, do you foresee the remaining five to continue to belong to the association? [LB211]

DENNIS BAACK: Yes, I do. I think the remaining five are very committed to the association and I think they will stay there. [LB211]

SENATOR SULLIVAN: Okay. [LB211]

DENNIS BAACK: And hopefully at some point in time we'll be able to maybe get Metro back in the association. I don't know if that's going to happen. Hopefully, at some point in time it will. [LB211]

SENATOR SULLIVAN: Uh-huh. [LB211]

DENNIS BAACK: I think it would be great if they were all back in the association. I think we're stronger yet if we have all six voices... [LB211]

SENATOR SULLIVAN: Uh-huh. [LB211]

DENNIS BAACK: ...rather than five and one. [LB211]

SENATOR SULLIVAN: Uh-huh. [LB211]

DENNIS BAACK: And I would hope that that happens. [LB211]

SENATOR SULLIVAN: Thank you. Senator Haar. [LB211]

SENATOR HAAR: Would you accept taking out the open meetings? That concerns me. Public money, and you approached me today in the Rotunda and immediately that came to... [LB211]

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DENNIS BAACK: Uh-huh. Uh-huh. [LB211]

SENATOR HAAR: ...question came to my mind is you're using public money, but yet you want to get rid of the opening meetings law and then this thing of the public records law. And to me that's just the opposite of what we strive for. [LB211]

DENNIS BAACK: Well, but as a private, nonprofit 501(c)(4)... [LB211]

SENATOR HAAR: But they're using public money. [LB211]

DENNIS BAACK: Right, which...and if you look at the school board association and the administrators association and county association, they're all using public money also, but those associations do not have to comply with the open meetings law or the public records law. [LB211]

SENATOR HAAR: So you're looking at the parallel structure,... [LB211]

DENNIS BAACK: Right. [LB211]

SENATOR HAAR: ...but we could turn it on edge... [LB211]

DENNIS BAACK: You could. [LB211]

SENATOR HAAR: ...and say...well, first of all, we don't have to be totally consistent, I mean in everything, although that's often an argument. [LB211]

DENNIS BAACK: (Laugh) I would never ask the Legislature to be totally consistent. I know better than that, okay? [LB211]

SENATOR HAAR: (Laugh) Well, thank you very much. But you know, as I hear this and it brings up an issue of maybe we need to flip the coin and say that those other groups should also be, you know, responsible for open meetings laws and so on. [LB211]

DENNIS BAACK: And my answer to that would be if you do do that, then we would be subject to the same thing. If you make those other ones subject to that, then we would be subject to it also. But I'm, you know... [LB211]

SENATOR HAAR: Well, or we could just make this one subject. We don't have to do the others. [LB211]

DENNIS BAACK: You could. Uh-huh. [LB211]

SENATOR HAAR: Yeah. [LB211]

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DENNIS BAACK: And complying with the public meetings law is not a big problem for me, or the public records law. I've never had a problem with it. But it seems to me that we should treat associations that are alike the same way. But there's nothing in statute that says you have to. [LB211]

SENATOR HAAR: Okay. So this all doesn't come as one package, and if we go to voluntary that you'd just say forget it if you don't have the...get rid of the open meetings law. In other words, that is negotiable within your group of five. [LB211]

DENNIS BAACK: Well, my group of five, we'd just as soon that we didn't; but, you know, I mean that's our position now. But I mean we have to kind of...that's...we turned this over to you. When you get the bill, it's your bill from there on. [LB211]

SENATOR HAAR: Okay. [LB211]

DENNIS BAACK: And I don't...I can't say that my association would agree with that because, you know, when we voted on it the other day, it was unanimous that if it's a voluntary association, we shouldn't have to comply with the opening meetings law or the public records law, so... [LB211]

SENATOR HAAR: With the public records, okay. [LB211]

DENNIS BAACK: Okay? [LB211]

SENATOR SULLIVAN: Thank you. Senator Seiler. [LB211]

SENATOR SEILER: Yes, maybe I can help on this, Ken, a little bit. It appears to me that the open meetings law will still apply to the state funds when they're allocated to pay the association dues. [LB211]

DENNIS BAACK: Oh sure, they have to...I mean their... [LB211]

SENATOR SEILER: So the... [LB211]

DENNIS BAACK: ...their dues would go through their budgets and those would be subject to the open meetings, open records. [LB211]

SENATOR SEILER: Right, and those would be subject to open meeting, open records, and everything. [LB211]

DENNIS BAACK: Yep, absolutely. [LB211]

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SENATOR SEILER: The fact that it goes...you pay a bill to an association I'm not sure requires you at that point to have an open meetings law, because the discussion about what it's being spent for would be done at the community college board level. [LB211]

DENNIS BAACK: Right. [LB211]

SENATOR SEILER: Uh-huh. Okay. Thank you. [LB211]

DENNIS BAACK: Yeah. Yeah, because those are all open. Those are all open records and public meetings law, absolutely. You're absolutely correct, Senator Seiler. [LB211]

SENATOR SULLIVAN: Senator Avery. [LB211]

SENATOR AVERY: Thank you, Madam Chair. I'm not sure I'll support this bill without retaining the open meetings language and perhaps even adding public records. And I would correct you on one thing. You...I think you said you are a 501(c)(4)... [LB211]

DENNIS BAACK: (c)(4). Uh-huh. [LB211]

SENATOR AVERY: ...and, therefore, you are not subject to these laws because you are a private nonprofit. But you exist for a public purpose, much like the Nebraska School Activities Association that for more than 100 years hid behind that same legal status and claim: We don't have to open our records to anybody, we don't even have to open our board meetings to anybody or our association meeting to anybody. And they created a mess all across the state, until I got a bill through this committee that started prying open some of that; and suddenly they saw the light and now they have open meetings and they have public records, and it's not even in law that requires them to do it. So you can actually voluntarily comply with good government and openness and accountability, which is the important part of what we do with publicly constituted entities. You may be a nonprofit, but you exist for a public purpose and you receive public money, so in that sense doing the right thing doesn't have to be required by law. [LB211]

DENNIS BAACK: Uh-huh. [LB211]

SENATOR AVERY: So just want to put you on guard of this. [LB211]

DENNIS BAACK: I... [LB211]

SENATOR AVERY: You're going to be hearing from me on this. [LB211]

DENNIS BAACK: That's okay. I've had input from people before. [LB211]

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SENATOR AVERY: And I would be happy to read to you from the constitution or from statute. [LB211]

DENNIS BAACK: Uh-huh. [LB211]

SENATOR AVERY: The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public and provisions permitting closed meetings and sessions must be narrowly and strictly construed. That's in the public interest. [LB211]

DENNIS BAACK: Uh-huh. [LB211]

SENATOR AVERY So if you exist for a public purpose then you should also operate in a manner that's consistent with a public interest. And I'm only going to be here two more years, so (laughter) you won't have to listen to this much more. [LB211]

SENATOR SULLIVAN: Thank you, Senator. Any other questions? Senator Scheer. [LB211]

SENATOR SCHEER: I'm just trying to be able to comprehend part of this discussion because the more I listen, the more I'm getting lost. So I just want to try to clarify what we're really talking about. We are...it's my understanding we're talking about the association's meetings of its board, that we're talking about those transactions and... [LB211]

DENNIS BAACK: Correct. [LB211]

SENATOR SCHEER: ...the expenditures from that. What, as an association the funding goes to your individual community colleges, correct? [LB211]

DENNIS BAACK: Correct. [LB211]

SENATOR SCHEER: The individual community college pays a dues of \$1,000, whatever it might be, each to fund the organization for them and its... [LB211]

DENNIS BAACK: For the association, correct. [LB211]

SENATOR SCHEER: ...association. [LB211]

DENNIS BAACK: Uh-huh. [LB211]

SENATOR SCHEER: And that can be used as a benefit to each of the community colleges, either from trying to determine purchasing power by all five units or controlling

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costs other ways. But all of those expenditures that you will work to try to develop during those association meetings, any of the expenditures that are done by the community college still have to go through the community college...their board meeting and advertised. And anything that's paid, regardless if it was negotiated as an agreement as an association, when they functionally buy those materials or utilize the services, all those are done through the community college's own board meeting. Would that...is that a correct assessment? [LB211]

DENNIS BAACK: Sure. They would. Any of the expenditures that those colleges have, whether they be dues or things that we would...if we do some special event and bill it back and stuff to the community colleges, all of those expenses and stuff would have to be in their own meetings and stuff. They'd all have to take place as they pay their bills. [LB211]

SENATOR SCHEER: Okay. So the funding for the association is, I'm assuming, your position and clerical and office... [LB211]

DENNIS BAACK: Right. [LB211]

SENATOR SCHEER: ...facilities. [LB211]

DENNIS BAACK: Correct. [LB211]

SENATOR SCHEER: Anything else that it provides funding for? [LB211]

DENNIS BAACK: Well, you know, we do an annual meeting. We bring in seminars and those kind of things, but a lot of those are bill-back things, you know, that, you know, we'll bring in somebody and then we bill it back to the colleges. And of course when they pay it, it goes through their bills just like any other bill that they pay. [LB211]

SENATOR SCHEER: Those would be for educational purposes... [LB211]

DENNIS BAACK: Right. [LB211]

SENATOR SCHEER: ...to help inform... [LB211]

DENNIS BAACK: Right. Uh-huh. [LB211]

SENATOR SCHEER: ...and train their board members? [LB211]

DENNIS BAACK: We just completed one this year up in Norfolk where we did a student completion seminar where board members came in and for two days we worked with a couple of national groups on trying to promote the student success, the student

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completion project for the country. So, yeah, and we did that and those were just billed back to the colleges and then they pay us through their regular billing process. [LB211]

SENATOR SCHEER: And are your meetings open to the public? [LB211]

DENNIS BAACK: My meetings of my board are open to the public now, yes, they are. [LB211]

SENATOR SCHEER: Okay. And are minutes kept of those meetings? [LB211]

DENNIS BAACK: Yes. Oh, absolutely. [LB211]

SENATOR SCHEER: Okay. [LB211]

DENNIS BAACK: Uh-huh. [LB211]

SENATOR SCHEER: All right. Thank you. [LB211]

SENATOR SULLIVAN: Senator Haar. [LB211]

SENATOR HAAR: Okay, but right now those meetings are open. Would they be opened if this law is passed? Would your board meetings be open? [LB211]

DENNIS BAACK: Oh, I don't think we'd ever preclude the public from coming to our board meetings, no. I mean we've never set any guidelines on who can come to our board meetings. [LB211]

SENATOR HAAR: But that was before. This is after. And then the...and the public records or the open meetings law where you have to notify people,... [LB211]

DENNIS BAACK: Uh-huh. [LB211]

SENATOR HAAR: ...you wouldn't have to do that. [LB211]

DENNIS BAACK: No, we would not have to. We would not have to issue the open meetings notice. Now we do today. We do today. [LB211]

SENATOR HAAR: Uh-huh. And your board meetings wouldn't have to be open anymore. [LB211]

DENNIS BAACK: They would not have to be. [LB211]

SENATOR HAAR: Okay. [LB211]

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DENNIS BAACK: But we don't have any policies that would preclude anybody from attending any of our board meetings and I don't anticipate us doing that, but... [LB211]

SENATOR HAAR: If there are certain benefits beyond just speaking with one voice, such as the seminars that you put on, and let's just assume someday it goes to four to two or whatever, would...so the four belong to the association. Would the two be invited to those kinds of events? Or let's say if there was a purchasing agreement that the four made,... [LB211]

DENNIS BAACK: In many cases we still do invite them, I mean, and if you look at it, we have an insurance trust. Now that the association doesn't, we don't run or anything, we don't have anything to do with it, but all six community colleges belong to that insurance trust. And so there's still all six in that and I don't have anything to do with that, but that's...they are all six in that and we have...we have a couple of grants that we've gotten just in the last couple of years that the community colleges have all put together themselves and Metro has been part of several of those. So we're not...and they were invited to come to the national...when the meeting, when we brought the team in to talk about student completion and stuff. They were invited to attend. They chose not to, but they were invited to attend. [LB211]

SENATOR HAAR: It's not that I mistrust you. Ronald Reagan had a statement he used a lot as President: trust but verify. [LB211]

DENNIS BAACK: Uh-huh. [LB211]

SENATOR HAAR: And it just seems to me that if you're in that position and the current administrators and we can trust there will be open meetings and that people will be notified, but that's no guarantee. [LB211]

DENNIS BAACK: No. No, it would not be. [LB211]

SENATOR HAAR: And right now we do have that guarantee... [LB211]

DENNIS BAACK: Uh-huh. [LB211]

SENATOR HAAR: ...and under this new regimen we would not have that guarantee. [LB211]

DENNIS BAACK: Uh-huh. [LB211]

SENATOR HAAR: Okay. [LB211]

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SENATOR SULLIVAN: Any other questions? Thank you, Mr. Baack. [LB211]

DENNIS BAACK: Thank you. [LB211]

SENATOR SULLIVAN: Any other proponent testimony? Anyone speaking in opposition? Anyone speaking in a neutral capacity? Then the hearing on LB211 is closed. Thank you. And we will now move on to LB252, being introduced by Senator Adams: correct and change subdivision references and references to governmental entities related to postsecondary education. [LB211]

JANET ANDERSON: Thank you, Senator Sullivan and members of the Education Committee. My name is Janet Anderson, J-a-n-e-t A-n-d-e-r-s-o-n. I'm the legislative aide to Senator Adams. LB252 is much easier than the last bill. It simply is harmonizing language that we felt needed just to be corrected. I have talked to the research counsel and we may have an amendment that comes in and actually just takes out the language like "Army Corps of Engineers," the "National Park Service." One thing Bill Drafters doesn't like to do is put specific names of entities into statute because those can change over time, and that's what's happened in this case with LB252, to clean it up. So we just may say that on page 3, in subline (1) it says "any agency or bureau of the United states," strike the "including, but not limited to." Then it talks about agency or bureau of the state of Nebraska, including but not limited to, strike all of the references to specific agencies and just talk about any agency or bureau of the United States, any agency or bureau of the state of Nebraska, and so on. That way we never have to worry about a name change of any other entity. With that, I'll take questions. [LB252]

SENATOR SULLIVAN: Any questions for Janet? Getting off easy. [LB252]

JANET ANDERSON: Wonderful. Thank you. [LB252]

SENATOR SULLIVAN: Okay, any proponent testimony on LB252? [LB252]

SENATOR SEILER: Just tell Adams you did a better job than he did. (Laughter) [LB252]

SENATOR SULLIVAN: Any opposing testimony? Anyone in a neutral capacity? Well, then I close the hearing on LB...well, Janet, did you want to close? [LB252]

JANET ANDERSON: Oh, no. [LB252]

SENATOR SULLIVAN: Okay. She waives closing, so I close the hearing on LB252 and that concludes our hearings for today. Thank you very much for attending. [LB252]