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Education Committee
March 05, 2013

[LB466 LB467 LB546 LB651]

The Committee on Education met at 1:30 p.m. on Tuesday, March 5, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB651, LB467, LB466, and LB546. 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, everyone. We're starting a little bit late; hope you don't mind. The Retirement Committee was in here over the noonhour, and then we were lacking a few key senators who were also going to be introducing bills, so we're ready to begin now and I welcome you all to the Education Committee. I am Senator Kate Sullivan, Chair of the committee. I'd like to introduce you to the other members of the committee. To my far left is Senator Ken Haar of the Malcolm area, District 21; Senator Tanya Cook from the Omaha area; Senator Les Seiler from the Hastings area. To my immediate right is the Vice Chair of the committee, Senator Jim Scheer of the Norfolk area; and to his right is Senator Rick Kolowski. Also, one of the members is going to be our first introducer today, Senator Al Davis of the Hyannis area. To my far right is Mandy Mizerski, who is our committee clerk; and to my left is Kris Valentin, the research analyst. We also have two pages helping us today, Phoebe Gydesen from Lexington, a student at UNL; and Sean Miller, who's a student at the Doane Lincoln Campus. On our agenda today we have four bills that we're going to be hearing, LB651, LB467, LB466, and LB546. If you're planning to testify, I would ask that you pick up a green sign-in sheet that is at 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 for the hearing, there is a form on the table for that as well. I'd ask that you would fill out that green sheet before you testify. Please print, and it's important to complete the form in its entirety. When it is your turn to testify, please give the sign-in sheet to the committee clerk and this will make sure that we have 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, but please let us know if that's your intent. If you have handouts, we ask that you have 12 copies and give those to the pages for handing out to the committee. When you come up to testify, please speak clearly into the microphone and state and spell both your first and last names. I would also ask that you please turn off all your cell phones, pagers, and anything else that beeps. And if you must have a conversation other than testimony, please take it out into the hall so as not to distract the testifiers and the bill introducers. We'll be using the light system today for all testifiers. We'll have five minutes to make your initial comments. There will be a yellow light that comes on when you need to wrap up your comments. And the red light, when that comes on that indicates that you're done. Okay, with those details out of the way, I will...our first bill that we're hearing today is LB651, and the introducer is Senator Davis. Welcome.

SENATOR DAVIS: (Exhibit 1) Good afternoon, Chairman Sullivan and members of the

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Education Committee. I am Al Davis, A-I D-a-v-i-s, and I represent the 43rd Legislative District. I am here today to introduce LB651. This bill would repeal the property tax levying authority of the community colleges. The community colleges would be funded in the same manner as the University of Nebraska and the Nebraska state colleges. Nebraska's six community colleges fill an important niche in our state's overall education system. It is obvious that community colleges are great economic engines for host cities and satellite campus locations, but they provide far less obvious benefits to Nebraska citizens who live in remote and isolated areas of our state. Property tax is currently one of the primary sources for these colleges. Supporting community colleges in this manner places a huge burden on the backs of property owners throughout the state, but this burden is most troublesome to individuals who live hours away from the physical location of a community college campus and cannot easily access the college offerings. The handouts I provided report the 2011-2012 property taxes levied to support community colleges' area operating budgets. The per-student cost by county range from a low of about \$380 per year from Scotts Bluff County, which includes a campus site for Western Nebraska Community College, to a high of \$30,065 per student from Wheeler County for Northeast Community College. Travel time from Wheeler County to a campus of Northeast Community College would be about two hours. We all know the state carries the responsibility for all other higher education costs. Support for community colleges should not be borne by property taxpayers in Nebraska who now pay higher property tax bills than all surrounding states. Earlier this session, one of the arguments made in opposition to LB405 and LB406 was that they did not address property taxes. Now that LB613 has opened the door for a comprehensive review of our current tax codes, it would only make sense to include community college funding in the state budget instead of obtaining it from individual property taxpayers. The property tax discussion should start with the following example as a model from which to build a new taxing structure for community colleges. And what I've done here is take a particular parcel of random ground in Grant County, Nebraska, and I'm going to give you a little data on that. The property tax on one piece of land in Grant County is \$76.84 per year for Western Nebraska Community College. The state of Nebraska has their tax rebate program in which they rebate a certain percentage of tax to local entities to local taxpayers, which they call a property tax rebate. That piece of property tax rebate goes back to everybody in the state, whether you own...whether you live in the state or not. So in one instance, you can say that Ted Turner benefits from this property tax rebate just as I do or Senator Sullivan. So if we were to eliminate the tax credit and take that funding and put that towards the community college funding, in Grant County, on this particular piece of ground, that is \$56.46 per year. Now that is not reflected in the fiscal note that you look at. If you look at the fiscal note, it's an eye-popping figure. But you can see that by doing...by eliminating this property tax rebate and putting that money towards the community colleges, we'd be reducing the costs by about two-thirds. With LB651, I am proposing that the current property tax support for our Community College System be replaced, to support from state tax dollars. It has been suggested that the Education Committee participate in the work of

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the proposed Tax Modernization Commission. I believe this policy issue should be included in the overall evaluation of our education funding. Fairness is one of the stated objectives for the commission, and I believe greater fairness in Nebraska's tax structure would be achieved by moving funding for community colleges from individual property owners to the state, where it can reside with the rest of our higher education funding responsibilities. And I'd be happy to answer any questions. [LB651]

SENATOR SULLIVAN: Thank you, Senator Davis. Senator Scheer. [LB651]

SENATOR SCHEER: Thank you, Senator Sullivan. Senator Davis, is this a bill to start discussion in relationship to the overall look at the tax programs that are available to the state right now, or is this something that you introduce with the true intent of perhaps utilizing the property tax rebate portion of the budget and then assuming that general funding would pick up the remaining portion of it? [LB651]

SENATOR DAVIS: Well, that's kind of late to the game, Senator Scheer, but that's one of the things that I think would make a great deal of sense, would be to take that property tax rebate and put that funding into the community colleges. It still will be a savings for people that are remote from the college. And I will just use my own example. You know, we are in the Western Nebraska Community College System. I live 150 miles...basically, from Scottsbluff, 140; so, you know, there's very little opportunity for us to really get any benefit from the community college. But we are obligated to pay the property tax. This would...and property tax, of course, is the primary issue that people in rural Nebraska are concerned about. And the community college property tax is always at the top of the list in terms of what people feel they are paying which they're not getting a benefit from. So I think that this would go a long way towards solving that problem. [LB651]

SENATOR SCHEER: That would. But is the bill...is your intent to have discussion about this and more so with the Tax Revision Committee that will be brought forward, rather than something immediate from this bill? [LB651]

SENATOR DAVIS: Yes, that's correct. [LB651]

SENATOR SCHEER: Okay. Thank you. [LB651]

SENATOR SULLIVAN: I'd like to know a little bit more. You know, property tax relief is one thing, but you also expressed concern about the fact that perhaps in your area you don't get the full benefit of a community college. Tell me a little bit about where your young people go on to get their postsecondary education; do you have any idea? [LB651]

SENATOR DAVIS: I think most of our students end up at Chadron State College. And,

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you know, obviously there is some participation with the community colleges. [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

SENATOR DAVIS: We have students at UNL, we have students at Kearney State, we've got students at Doane; so several of the four-year schools. And I do have some students that have taken advantage of the Western Nebraska Community College operation in Alliance where they have a program that's designed for training for REA workers and that. [LB651]

SENATOR SULLIVAN: Uh-huh. Uh-huh. [LB651]

SENATOR DAVIS: You know, I mean it serves a good purpose. It's just that, it seems to me, more logical that the state could pick up the cost of it. [LB651]

SENATOR SULLIVAN: Uh-huh. Uh-huh. [LB651]

SENATOR DAVIS: You know, in the '60s, when Governor Tiemann was in office, you had the Governor put through new tax proposals to eliminate property tax. Well, you know, when the Community College System came along, that was the way it was funded. [LB651]

SENATOR SULLIVAN: Uh-huh. Okay. Any other questions? Thank you, Senator. [LB651]

SENATOR DAVIS: Thank you. [LB651]

SENATOR SULLIVAN: We will now hear proponent testimony on LB651. Okay. Opponent testimony. Welcome. [LB651]

MICHAEL CHIPPS: (Exhibit 2) Thank you. Good afternoon to the Education Committee, and to you as Chair. Ladies and gentlemen of the Education Committee, my name is Michael Chipps and I'm the president of Northeast Community College. My spelling is M-i-c-h-a-e-l C-h-i-p-p-s, and I've been with the Nebraska Community College System for well over 32 years, so I was asked to testify in opposition to this bill. I'm here to speak on behalf, Madam Chair, on behalf of the Nebraska Community College Association regarding LB651, a bill that eliminates property tax levying authority and provides state funding for Nebraska's community colleges. First of all, LB651 would give new meaning to what we call the word "community," which is a core word in Nebraska's community colleges. Second, this legislation would remove local support from community colleges, which annually contributes more than \$125 million to Nebraska's community colleges and accounts for approximately 42 percent of the community colleges' budget. Third, Nebraska would be seriously financially challenged by adding

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community colleges to its budget. Just imagine what it would take for the state to assume the cost of the numerous facilities and employees on all of the community college campuses across our great state. So even if the Legislature based this decision only on a fiscal note, the resulting financial impact to the state would be staggering. Fourth, and even of greater concern to me as a fellow born and bred Nebraskan, if LB651 was enacted it would migrate governance from local to state control, and greatly hinder the community colleges' ability to properly and promptly address local education and work force training needs. Today's community colleges stand ready, willing, and able to respond quickly, efficiently, and effectively to the needs of communities, to students, to businesses, and industries. I have personally witnessed replacing local governing boards with well-meaning, but weak, advisory councils resulting from such legislation. Local governing boards are not weak. They clearly understand the needs and the challenges that face each of the community college service areas. Enactment of such legislation would certainly erode affordable and accessible education, and place more of the financial burden on the back of students. It is almost certain that eventually the tuition of our community colleges would more than double; and as a long-term result, higher education would eventually lose its foothold as the great equalizer. This has transpired in states like neighboring Iowa, where now 5 percent of the total budget comes from local property taxes and as the community college tuition is one of the highest in the country and nearly two times as much as Nebraska. In addition, this bill would remove most if not all of the support used currently to provide quality career technical education. This would include programs in areas of high local need, such as machining, welding, construction, electrical, and the like. Long term, community colleges would revert to two-year junior colleges, which I've seen historically across the many states of America, offering mostly academic courses for transfer to senior institutions. Of course, this correspondingly greatly weakens the colleges' ability to impact local economic development activities and spur rural revitalization. Now in closing, Nebraska has one of the best community college funding formulas in the nation. Many states would love to replicate what Nebraska does for its citizens. Do not, I encourage you, do not advance LB651 if you believe that Nebraskans wish to keep a community college education affordable and accessible. By moving toward more state control of community colleges, students will suffer the most, as what has transpired with such plans in other states, since tuition and fees would need to be dramatically increased to support the lack of available funding to keep our doors open. I have copies of the testimony, which I've already distributed to you, and an abbreviated copy of our Northeast Community College 2012 graduate employment report to give you an idea of the impact that a community college has on its service area. Thank you for your time and consideration. [LB651]

SENATOR SULLIVAN: Thank you, Dr. Chipps. You probably have experience working with community colleges in other states. There are variations in how the Community College Systems are funded. And in some cases, is it just total state support in some states? [LB651]

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MICHAEL CHIPPS: Madam Chair, what's happened in the state of Colorado, actually, I'm not sure they finalized the process but they were looking at defunding the Community College System. With that, of course, their tuition increases have increased dramatically. If you look at Minnesota, since 1995 they went to a superboard system, which probably would more than likely happen to us if we went under state control, and eventually it went up to about \$150 a credit hour. Right now, at Northeast Community College, for tuition only we charge \$76 per credit hour. We still make it affordable and accessible for our students, and that's the most important part that I think our senators really need to grapple with. Are we going to broaden that gap between the haves and the have-nots? Nebraska community colleges continue to, and the Legislature helps us to do that. [LB651]

SENATOR SULLIVAN: How do you respond to the concern that in some of the very sparse, sparsely populated areas of our state where they aren't close to a community college campus, that they don't feel they're getting their bang for their buck, if you will? [LB651]

MICHAEL CHIPPS: I understand that very much, Madam Chair. What's happened is, and being in the business and at three community colleges in the state of Nebraska and worked kind of almost as missionary work, I believe this is what it really is. What community colleges do is the great missionary work of the state of Nebraska to help our students, especially those that can't afford to go to other types of institutions. The thing is, is what I've created as a president is extended campus opportunities. The Truman Commission in 1947 really wanted to place community colleges within 50 miles of all of its American residents. They ran out of money before being able to do that. They created 1,167 of us. And what I've created, like at Mid-Plains, for instance, were places in Broken Bow, Nebraska, in Imperial, Nebraska, in Ogallala and Valentine in order to address what Senator Davis is concerned about. Western has not been able to do that. They created a site in Sidney, which is about the best they could do. But the extended campus operation works very well. In Broken Bow, we've increased the student population and the interest. I think it's real important, Madam Chair, to understand that not only do we deliver a number of continuing ed courses at those extended campuses; really, we're designing curriculum and programs that work in those smaller communities. And not only in those communities but in those schools. If you look around a 19-mile radius around Broken Bow, we're attracting the likes of Callaway, Anselmo-Merna, and those...and Ansley, to be able to bring their high school students in to do technical training, like welding and working on combines and pickups and those types of things, to be able to develop those skills in the local community. If you look at our attachment that we have just for Northeast Community College and look at the placement rate, there 99 percent, first of all, was the response rate; about 87 percent, if I recall correctly, are students that either continue their education or go right into the work force and stay within the state of Nebraska. And so basically, that all works together for all

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Nebraskans. But that's how we delivered it in an extended campus format. And we delivered...I think we had about 40...35 sites at Mid-Plains and about 60 sites, I believe, at Northeast where we deliver evening classes as well. [LB651]

SENATOR SULLIVAN: Okay. Thank you. Any other questions for Dr. Chipps? Senator Scheer. [LB651]

SENATOR SCHEER: Dr. Chipps, thank you for coming down. In response to Senator Davis' concerns, as far as not having the available services and realizing that Northeast has done an outstanding job of providing those services in the outlying areas, is there some impediment in the area that Western just is not able to do the extension that some of the other campuses have been able to accomplish over the years, or why would that part of the state be so isolated? [LB651]

MICHAEL CHIPPS: That's a good question, Senator Scheer. The issue is that what we've ended up with is a situation where Western, because of the sparseness of population that Senator Davis talked about, makes it extremely difficult for them to deliver more permanent settings. But I don't know the actual figure for Western Nebraska Community College, but I believe that they're also delivering to multiple sites throughout that area. I don't know if Senator Davis has that information, but the issue is, is that they're able to do that similar to the way we did it at Mid-Plains. You just have to be able to establish those, like an octopus, establish those fingers out into those areas, and you can do so through a variety of means. Certainly the one you're well familiar with is the ability to deliver on-line instruction. However, again, when you look at rural Nebraska, you're dealing with a telecommunication issue of that last mile into those rural communities. So it is difficult, Senator. It's difficult for Western. It was very difficult for Mid-Plains when I was that far out with a geography of 2.2 people per square mile. But it can be done and usually it certainly centers around funding in the ability to provide those services. So I know that there are ways to do that. And what we've been able to do, even in Broken Bow, to add on to it, is to deliver up to a master's degree at Broken Bow at that extended campus, and I know that Western can do something similar, so we can keep those students in the local area, because frankly, with all due respect, people my age always felt that people...our kids wanted to move away. Today that sense is not there. That sense is I really would like to stay but I don't know how. And one way to do that is that effective arm of community college delivering in those rural communities, and that's what Broken Bow realized, with the Adams group and all of them, that we actually cannot only stabilize people...areas like Broken Bow, that they can become a regional hub, a regional force if the community college is in that area. [LB651]

SENATOR SCHEER: Okay. Thank you. [LB651]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. [LB651]

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MICHAEL CHIPPS: Thank you, Madam Chair and the Education Committee. [LB651]

SENATOR SULLIVAN: Uh-huh. Any other further opposition testimony? Welcome. [LB651]

JACK HUCK: (Exhibit 3) Thank you. Good afternoon, Senator Sullivan and members of the Education Committee. My name is Jack Huck, J-a-c-k H-u-c-k. I am president of Southeast Community College and joining you this afternoon in opposition to LB651. What we've shared with you this afternoon is a copy of our annual report, our most recent annual report to our residents. And Dr. Chipps has already covered a number of items with you which I am going to not repeat, but let me hit some highlights here and then get to a couple of points that I want to be sure to leave with you. At the top of the front of the annual report, you'll notice some information about the placement of our most recent graduating class, a class of 1,771 total graduates. And within our 15-county district, you see the map there of where those graduates were placed as they left us. You can see that by far most of them stay in the state of Nebraska, and within the state of Nebraska most of them stay in southeast Nebraska. So if you take our 15-county district, that's a one-year snapshot. Now take that times 40 years of our history, and I think you get a sense of what the community college means to the district that we serve. You can see some information on the middle of the page about our placement rates, and Dr. Chipps talked about some similar experiences, and that would be true pretty much across the state, the 90-plus percent placement rates that we experience. And in the very lower left-hand corner you see some information about cost of attendance. You can see that by comparison to the four-year public colleges and to the four-year private colleges, we are the best value in higher education in the state. And I would suggest to you that one of those reasons is because of the property tax investment that's made across each of our districts. It allows us to keep those tuition rates reasonable. And if access is important to you, I would suggest the continuation of that source of revenue then is also important. Leading from that to the backside, when you think about tuition and accessibility, if you would look at the pie chart, which is about two-thirds of the way down the page, dealing with our revenue sources, you'll notice that for us about a third of our money comes from state aid appropriated by the Legislature, typically with your support, which we appreciate very much; about a third of our income comes from tuition; and about a third of our income annually comes from property taxes. Obviously, if you remove that property tax source, that has a significant impact on our revenue flow and leaves only two other sources for possibly making that up, if you use the typical state university model now here in Nebraska, and that would be either tuition or state appropriations from the Legislature. We would suggest to you that this three-legged stool that currently exists is very insightful, works very well for your community colleges across the state, and we would encourage you to continue using that source. Down at the very bottom of the page, you also see a little history about our property tax levy at SCC. Our maximum levy now, as authorized by the Legislature, is slightly over 11

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cents, but you can see in the seven-year history that's depicted there for you, we've been in that 6-cent to 7-cent range across time. And again, our board, as all boards are across the state of community colleges, are very focused on only using that portion of the property tax levy that they need to make their college work. I would also share with you that each year I make it a point to visit with county commissioner groups in all of our 15-county district, and I've been doing that now for 19 years that I've been in this position. Across those 19 years, I have never had a county commissioner in 1 of our 15 counties who has suggested in any way that the property tax burden is such in their county that that's a problem for them; in fact, just the opposite. Practically every county commissioner I've ever interacted with in that regard has said to me, this is one of the best investments we make from the county that I represent, that they're representing, and that our property tax dollars are well spent. Now that doesn't change the fact that the property tax is the most hated tax in the world. I understand that. But I think it's also important that you understand that the county commissioner groups of the 15 counties of southeast Nebraska believe it's a wonderful investment that they're making through that small property tax levy. In closing, I would also share with you, I did have a chance to chat this morning with Randy Schmailzl, who's the president at Metropolitan Community College in Omaha. Randy was not able to be here today because of other commitments, but he did want me to say to you that if you look at our two largest community college districts in the state, being Metro and Southeast, he is in exactly the same place I am in terms of his support for the continuation of access to the property tax. Thank you for the opportunity to share those thoughts with you. [LB651]

SENATOR SULLIVAN: Thank you, Mr. Huck. Can you tell me a little bit more about the local property tax situation for Southeast Community College in that it went...quite dramatically dropped from 6.76 to 6? Any reason...explanation of that? I mean more efficiency in your programming or...? [LB651]

JACK HUCK: I would...well, and it's really related to those revenue sources that I mentioned to you earlier. In that time frame, we have continued to look at tuition and the share of the burden that it should carry. I will tell you that our tuition share at Southeast is a little higher than the other districts across the state. We get about a third of our money from tuition, as you can see. In the other districts across the state, for the most part the more rural districts, that's closer to 20 percent. So we get more money from tuition. That allows us to keep the property tax rate a little bit lower. And then the other very positive outcome there is in the state of Nebraska, as you know, we did not suffer as much in the downturn of the economy as some other states, and this committee and your predecessors and your peers in the Legislature during those years did continue the appropriate flow of state aid to the Community College System across the state. And of course, if you attend to those two sources, then that allows us to try and keep the property tax down. And that's just what we did. That's what happened in those years, really is we were moving to a little more reliance on tuition and state aid, a little less reliance on property tax. [LB651]

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SENATOR SULLIVAN: You indicated that of all the community colleges, all of them are below their maximum levy. Do you know what the average is? [LB651]

JACK HUCK: I'm sorry, I don't know what that average would be. [LB651]

SENATOR SULLIVAN: Okay. Okay. [LB651]

JACK HUCK: We range...we would be at the low end. The range is 6 up to 11,... [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

JACK HUCK: ...but I don't know the average. I'm sorry. [LB651]

SENATOR SULLIVAN: Okay. All right. Any other questions? Senator Seiler. [LB651]

SENATOR SEILER: Wouldn't that also reflect the increase in valuation? [LB651]

JACK HUCK: Absolutely. [LB651]

SENATOR SEILER: That you're adjusting downward the levy to adjust for the rise of the valuation. [LB651]

JACK HUCK: And that would be probably the largest property tax factor that's a part of that equation. And you're absolutely right, Senator Seiler. Over those same years, as you all know, there have been significant increases in valuation. And again, we...I think local boards, all local community college boards, you know, the people that we're taking property taxes from are their constituents, and they're very sensitive to not raising property tax dollars that we don't need. And we don't have the philosophy that we're going to put it in our pocket. We'd rather leave it in our constituents' pockets whenever possible, and valuations have been a part of that equation. [LB651]

SENATOR SEILER: Thank you. [LB651]

SENATOR SULLIVAN: Speaking of governing, can you tell us a little bit about the size of your board and their locations in terms of the 15-county area? [LB651]

JACK HUCK: Each community college has an 11-member board of governors. Ten of those members are elected by district in each community college area. So, in my case, we have five districts which are, populationwise, equalized districts from a population standpoint. So there's two members from each of five districts elected by the people in those districts. And then one member, in the case of each community college board, is

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elected at large from the entire college district, and that would be a similar pattern across the state. [LB651]

SENATOR SULLIVAN: Okay. Senator Kolowski. [LB651]

SENATOR KOLOWSKI: Thank you, Madam Chair. President Huck, the last couple of years, the funding issues between Metro and the other five community colleges of the state were an issue. Has that been worked out and where are we on that whole scenario compared to looking at this proposal today? [LB651]

JACK HUCK: It has been worked out. That issue really dealt...focused primarily on the issue of the division of state aid,... [LB651]

SENATOR KOLOWSKI: Uh-huh. [LB651]

JACK HUCK: ...so it wasn't on the property tax issue. [LB651]

SENATOR KOLOWSKI: Right. [LB651]

JACK HUCK: And as I mentioned to you all earlier, I talked to Randy Schmailzl at Metro this morning and he's in exactly the same place as I am in terms of wanting to continue our access to the property tax as an important part of our revenue stream. On the state aid portion, which is where the dispute was, you know, we're in the midst of a current agreement, again, that went through this committee and your predecessors, as that agreement was reached with the help of Senator Adams in the past and Senator Flood. You know that's...we're really right in midstream of that and I guess I would say to you, as one of the six presidents across the state, I'm certainly hopeful that that's not just a temporary phenomenon, but we're in the midst of a long-term agreement, if you will, in terms of the way we look at that ability to divide state aid. So it's peaceful now. It's certainly my hope that it's going to remain peaceful for years to come. [LB651]

SENATOR KOLOWSKI: Yet you also have the five outside of Metro in an association with one another, but Metro is not part of that. [LB651]

JACK HUCK: That is correct. Membership in the association is now voluntary and they have chosen not to be members. Obviously, we still talk. I told you I talked with Randy this morning. But they are not officially members of the association, that is true. [LB651]

SENATOR KOLOWSKI: Okay. Thank you. [LB651]

SENATOR SULLIVAN: Senator Haar. [LB651]

SENATOR HAAR: Thank you. Well, from a personal interest, I think you ought to raise

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your salaries, but you know what I'm talking (laughter)...since my son teaches there. Looking at your revenue pie chart, a third, a third, a third it's just about. So the question is always, where would the money come from? And the first, so you could double tuition. That would take care of it. [LB651]

JACK HUCK: That would solve it, yes. [LB651]

SENATOR HAAR: And that would bring you almost in line with...well, still not quite with the public four-year colleges. [LB651]

JACK HUCK: Correct. [LB651]

SENATOR HAAR: And it must be a little scary for community colleges to think of being in the fray for another \$135 million. Would you say that's accurate? I mean if it all had to come from the state, we're talking about another \$135 million out of the General Fund. [LB651]

JACK HUCK: You know, Senator Haar, I've heard...I've been in this position long enough now and I've worked with enough legislators and actually a number of Governors throughout that period. And one of the recurring themes that has been very well embedded in my memory banks is related exactly to your question. And that is, when you look at the needs for the future that the state of Nebraska has and consider the impacts of secondary education, of Medicaid, of Medicare, of other entitlement programs and so on, I think it's become very clear to me that the competition for funds for those of us in postsecondary education, with all of those other activities, is very, very keen. And when you talk about being in the fray for how would you raise that amount of money, I think you're right on target. I think that is somewhat of a frightening potential to think about all of the other needs that are out there. And trying to replace those property tax revenues with other state funds is indeed frightening. [LB651]

SENATOR HAAR: Yeah. Now in public school funding, K through 12, 49 percent comes from local property tax, and I guess I just think...I sort of think of Southeast and so on as being the midway between K through 12, between public K through 12 and the four-year. That doesn't quite put it there, 49 percent, 33 percent, and...anyway. Well, thank you very much. [LB651]

SENATOR SULLIVAN: Getting back to some of the things that Senator Davis said and the sparsity of where he lives and community colleges reaching out to community, and then you think, well, community maybe being our whole state, how much cooperation and collaboration discussion goes on among all of the community colleges in terms of reaching out to all parts of the state and sort of collaborating on some projects? [LB651]

JACK HUCK: There's a great deal of that, Senator Sullivan. Let me, if I can, give you a

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couple comments in that regard. Number one, I'm going to share my bias with you. When I went to work for Southeast Community College in 1975--frightening there too--my first job with the college was to extend our services to every 1 of our 15 counties throughout our district. So near and dear to my heart is the provision of our educational opportunities to people throughout our district and we've been serious about that throughout our entire heritage. And so we have counties that are sparse in population also, at least for the southeast corner of Nebraska. Now, granted, it's not like Cherry County. I understand that. But certainly Pawnee County, Johnson County, Thayer County, Richardson County, some of the counties along the southern border there for us are fairly sparse in population. We're very intentional about providing services to those counties in our district and paying great attention to what their needs are. Whether that's for individual students or whether that's for business and industry in their location, we pledge to work with all of those endeavors. But that's within our district, and your question kind of goes to, what about cooperation amongst districts also. Perhaps one of the best examples I can give you, and it's a distance education example, is I have the good fortune of having some folks at our institution in our health occupations programs who were some of the early adopters of distance education, and we have the only American Medical Association Certified Radiology Technology Program in the United States emanating from Southeast Community College. We deliver that program as far away, so far, as American Samoa. But that's not really our intention. Our real intention was what could we do for citizens of the state of Nebraska. And that, to me, is one of the finest examples of we have delivered our radiology technology, two-year associate degree rad tech program, to citizens across the state of Nebraska. And that is primarily because of the collaboration and the assistance we get with the other community colleges, so that when we deliver that program to a student in Rushville, Nebraska--and we've done that--when we deliver that to a student in Rushville, Nebraska, we're working, in that case, with Western Community College to set up the clinical experience for that student in the local hospital, because that's an important part of the program. They can get the classroom instruction from our distance learning effort, but they need the hands-on clinical piece locally. And we work with our fellow community colleges across the state to make sure that happens. And there are myriad examples like that where we are all committed collaboratively to taking those kinds of opportunities to citizens across the state of Nebraska. [LB651]

SENATOR SULLIVAN: Thank you. Any other questions? Senator Seiler. [LB651]

SENATOR SEILER: I was interested, do you have a foundation like Hastings? [LB651]

JACK HUCK: We do. [LB651]

SENATOR SEILER: Does that reflect any income? I don't see it broken down anywhere. Is that under miscellaneous? [LB651]

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JACK HUCK: No. Actually, in our case our foundation is in business primarily for the purpose of supporting scholarships. [LB651]

SENATOR SEILER: Okay. [LB651]

JACK HUCK: And so they provide scholarships to students. And the way you would see that show up here... [LB651]

SENATOR SEILER: Tuition? [LB651]

JACK HUCK: ...is in the tuition number, because those scholarships become tuition to us. [LB651]

SENATOR SEILER: That was going to be my second guess. [LB651]

JACK HUCK: Yep, that's how we get it. [LB651]

SENATOR SEILER: Thank you. [LB651]

SENATOR SULLIVAN: Senator Kolowski. [LB651]

SENATOR KOLOWSKI: Thank you, Madam Chair. President Huck, as President Chipps also mentioned the mission of your school and what you're aiming toward and how that might change if you went to a different funding source, as proposed by this bill, why do you think that would be such a derailment of your mission and vision of where you'd like your school to be, if the money is still flowing, coming into your school, but from a different source? Is it state control, those kind of things that would derail your efforts, or other things that you think would be in the way? [LB651]

JACK HUCK: You know, I think you're right on target, Senator Kolowski, and your first statement is correct. And this is Jerry Maguire, "show me the money." If the money is there, I think certainly the purposes, the goals, the objectives that you have could very much remain in place. I think probably the biggest significant change comes maybe with the source of the money, which you also mention, and that is, if those are entirely state sources, assuming that that leads then to some type of governance differential than what we're experiencing today, I would tell you that I believe one of the reasons your Community College System...our Community College System here in Nebraska is so successful is because of the local control and the governance factors that are in place. I mentioned to you earlier our county commissioners that I visit on an annual basis. I can tell you that those county commissioners know who their representative is, elected from their community college district. It is their friends and neighbors, and they feel no compunction whatsoever in interacting with those folks about needs that they have from us. Community colleges were created to be responsive and centered on the needs of

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the area that they serve. And I think certainly the governance structure that we have in place for local control is one of the primary factors that allows us to do that, and that's probably the biggest risk factor in the issues that you raise. [LB651]

SENATOR KOLOWSKI: But I still wonder about the aspect of completing your mission as it's currently described, no matter where the money would be coming from. And I certainly understand the history of the community college, from the technical community college birth in Nebraska at the late...those late dates in the '60s and the early '70s. I remember going around the state with Paul Kennedy from UNO, and we all had Udo Jansen's course maybe at Lincoln and those things in common as far as the community college foundings. But that changes. You've kept true to your mission over all that time and all those changes, but I just wondered how you...why that would change with your funding sources coming from different levels. And that is, you know, if that wouldn't change, because you need to do the things you're doing on economic growth and all the rest and now the great expansion into transferability of courses and coursework to the universities and colleges in the state, makes it like other community colleges across the country. Coming from Illinois, where the concept was born, I know it very well. So I just...I'm still trying to grapple with that. Why would it change that much since it's so intact and so much a part of your DNA as to how you operate? [LB651]

JACK HUCK: Right. And again, I think those are good comments. The fact, if you look at the way other states operate and there are a number of models, as you well know, there are a number of models around the nation, and to suggest that this is the only way it can work, absolutely not. [LB651]

SENATOR KOLOWSKI: Right. [LB651]

JACK HUCK: I mean there are state systems where community colleges function very effectively. So I'd be the last to say to you that this is the only way it can work. There are multiple models. [LB651]

SENATOR KOLOWSKI: I appreciate that. Thank you. [LB651]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. [LB651]

JACK HUCK: Thank you. [LB651]

SENATOR SULLIVAN: Welcome. [LB651]

DENNIS BAACK: (Exhibit 4) Thank you. 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. The two presidents have done an excellent job of laying out what we have in the system today

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and why we want to maintain that system as we have it today. And, Senator Kolowski, I'll try to answer your question a little bit. In watching and visiting with my colleagues across the country, as you see states go to...and Minnesota is a prime example of that. Minnesota at one time had a very, very strong junior college system and a technical college system at the same time. When they were put under a superboard, the technical colleges there have really suffered because that isn't where the money has gone, unfortunately. Unfortunately, it's gone to transfer education, those kinds of things. Technical programs are very expensive. They're very expensive, too, because in some of them there's not that many students and it costs a lot for the equipment and stuff to keep those programs up to date. Plus, I see, you know, if you look back in just the last few years of what's gone on in Nebraska and what you had in Nebraska, we had, you know, we've suffered some from the recession and the state of Nebraska was not able to increase their funding very much. I mean we increased it a little bit for us but held it fairly flat for the last five years. It would have been difficult for us to deal with the 6,000 new students that came into the community colleges during that time had we had to rely totally on state funding. And I think these separate sources helped us in getting past that. Plus, I think one of the things that's part of our mission is access, and we're supposed to be the most accessible. And if we get tuition too high, as you raise tuition, and my boards are very cognizant of raising tuition in community colleges as they are of raising property taxes, but if you get tuition too high you are cutting access for some students. And I think we want to be very, very cautious about doing that. So I think that's kind of why we feel very strongly that we need to have all three sources of funding, and I think those three sources help us meet those regional needs. And I will tell you that in Western Community College, they do work with their high schools in their area. They do, do courses at high schools. They do try to get out in the area. Plus, people need to remember that EMT training, we do all of the EMT training in the state. That's for the rural parts of the state. We also do an awful lot of training in the medical fields, and you will find that the people we train in the medical fields tend to stay in the rural parts of the state. If they leave that rural part of the state, many times they don't come back. They don't come back to that part of the state. I think for the rural communities, I think the community colleges could be one of the factors in keeping those rural communities stable, at least as far as population and stuff goes, so we don't lose those. Our placement rates within community colleges are very good. We're over 80 percent stay in the area where they're educated, and over 90 percent, right at 90 percent of all those students stay in Nebraska; so we don't contribute much to the brain drain. And we don't have a lot of out-of-state students. Of course, on the borders they do have. When you get into Metro, they're going to have some students from Iowa. Those things automatically happen. But we don't have a lot of nonresident students that do come to Nebraska for the community colleges. So with that, I'll just end my testimony and I'd be happy to answer any other questions, if there are any. [LB651]

SENATOR SULLIVAN: Again, getting back to Senator Davis' comment, and even Senator Scheer's, for that matter, regarding, you know--I don't think there's anyone here

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from Western--does that present a little different situation out there, particularly because of the real sparse areas and reaching out to some of those counties in terms of programming? [LB651]

DENNIS BAACK: Oh, it's more difficult because it is, the distances are much greater, if you look at Senator Davis' district... [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

DENNIS BAACK: ...and look how big that district has to be to bring in the same population that you have in some of the other districts. So you're going to have those great distances between. And I think it's incumbent upon the schools and I think Western does a pretty good job of trying to make sure that they get to all of those communities and try to serve those communities. [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

DENNIS BAACK: But it is very difficult when you get into the very rural areas of the state. It's a very difficult thing to do, but that isn't going to stop them from trying. [LB651]

SENATOR SULLIVAN: Sure. Do you know what the average property tax levy is among all six colleges? [LB651]

DENNIS BAACK: You know, I don't know an exact average, but there's one that is right up...right up towards the limit. They're not quite at the limit. And most of the rest of them run in the 8 cents to 9 cents range. [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

DENNIS BAACK: Metro and Southeast are both below that, but, you know, I don't know an exact. I've never actually averaged them together to see what it is. [LB651]

SENATOR SULLIVAN: Okay. All right. Any other questions for...Senator. [LB651]

SENATOR KOLOWSKI: Madam Chair, thank you. Mr. Baack, thank you. I look at the pending legislation that we have concerning academies as a tremendous opportunity for the community colleges across the state. The dual enrollment and articulation agreements that Millard has done with Metro and UNO have been tremendous. And I hope replication of that and growth of those across the state will tie some...bind some things together better than we ever had before and hopefully be a feeder system for you to receive students from the various school districts, as well as hopefully getting students to take some college credits early, which really helps them on costs and other impacts down the road. [LB651]

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DENNIS BAACK: Yeah. No, I think you're absolutely correct. And I...you know, and I think, you know, I was here for the career academies discussion and stuff that the committee had, and it does get to be more difficult when you get to the rural areas. But I don't think we should preclude the idea that they can be established out in those rural areas. With distance education and a lot of the things that we can do, I think we can make those work in some of the rural areas of the state too. And I think that that will certainly help us along the line, and I think those are a great thing to be coming. I think it's starting to...it will start to get more and more students interested in technical education and finding out about careers that technical education can provide for them. And they are good careers. [LB651]

SENATOR KOLOWSKI: Thank you. [LB651]

SENATOR SULLIVAN: Any other questions? Thank you, Mr. Baack. [LB651]

DENNIS BAACK: Just one last comment, if I might. [LB651]

SENATOR SULLIVAN: Okay. [LB651]

DENNIS BAACK: The Rural Electric Association did ask me to put on the record that they are also opposed to this bill. We do...we have linemen training programs at Northeast Community College and at Western Community College and at Metro Community College, which furnish them an awful lot of workers, so they wanted me to emphasize that. [LB651]

SENATOR SULLIVAN: Thank you very much. [LB651]

DENNIS BAACK: Uh-huh. [LB651]

SENATOR SULLIVAN: Any other testimony in opposition? [LB651]

MARSHALL HILL: (Exhibit 5) Good afternoon, Senator Sullivan, members of the committee. I'm Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l, executive director of the Nebraska Coordinating Commission for Postsecondary Education. Frankly, we agree with virtually everything you've heard in testimony up to this point about concerns related to this bill. Many of you will recall that you charged the Coordinating Commission a couple of years ago to do a comprehensive review of community college issues, and we provided that to you, subsequent to LB340. I'm going to confine the rest of my comments to responding to some questions and points that I've heard you raise. Senator Sullivan, you pointed out that states do this funding in different ways. In the material that we've just had distributed to you, you'll see a table which indicates how states do indeed fund their community colleges. I caution that this is data from several years ago. It doesn't exist in

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this comprehensive manner right now. At least two states are incorrect on this, Iowa being one of them. But the general flavor of how states do this work and how they fund their community colleges is true. Thirty-two states fund their community colleges by reliance on a combination of tuition and fees, local property taxes, and state appropriations. I would agree with Dr. Huck, you can't look at states that have local property tax and say they automatically have good Community College Systems or say that the lack of that makes them bad. There's no real match-up to this. Some states have very strong Community College Systems and do them in both ways. They've not decided on their funding sources solely on the basis of what might be the best, but on all sorts of political issues such as we've heard today. Senator Sullivan, you also asked a question about the degree to which the community colleges cooperate with one another in helping serve the state, perhaps even outside of their own districts. They do that all of the time. One of the routine reports that I make to our commissioners at every commission meeting is a report on our approval of request by a community college to service some entity outside their district. We run a process to ensure that there are no objections to that. Every one of our meetings, we report on having approved at least a half a dozen of those initiatives, consistent all the time. We hardly ever have difficulties that we have to arbitrate on that. On the issue of Western's difficulties in reaching out to the extent that the other community colleges do, you know, our community colleges cannot afford to do something at a loss. And clearly, to do something away from campus requires funds, and you have to be able to generate the funding for that, either from a sufficient number of students or from donations or other kinds of work. So it is inherently more difficult when you're in a sparsely populated area. On-line education is helping address that. It's not an easy answer. It is a challenge. I'd summarize by saying that our objections to this approach are twofold: first, the practical issue of replacing the loss of \$126 or so million in state support...in local property tax support, excuse me, for the community colleges. We believe the community colleges are extraordinarily important to Nebraska's future. They are the place where first-generation college students go. They are the place where many of our most needy students go. And they are the place where our students who want to major in technical fields go for training. It's very important that they remain open and accessible. So raising community college tuition in order to make up for a loss of local property taxes would be something that would really give us concern. The last issues are philosophical in large report. I personally do believe that there is an added connection with the community when that community is indeed providing direct property tax support to the community colleges. Can that be worked around? Yes. But is it an important demonstration of community and tie together? I believe it is. [LB651]

SENATOR SULLIVAN: Thank you, Dr. Hill. Any questions? Thank you very much. Any further opposition testimony? Anyone wishing to speak in a neutral capacity? Senator Davis for closing. [LB651]

SENATOR DAVIS: Thank you, Senator Sullivan. I've enjoyed listening to the discussion.

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I want to say, first of all and foremost, that I am a firm believer in the good the Community College System does. I think it's...I agree with everything that's been said in terms of that we need a place for students to go, we need technical training, it's something that's very important to the state. So I don't want to eliminate the community colleges. I just think it's important that you understand that from the beginning. Mr. Hill talked about how valuable it was for the community to support them. And, you know, perhaps this is an issue of sparsity and west versus east and population versus none, but it's very difficult for me to, when I hear that phrase, to say how am I involved with Western Community College. I am not a part of the community in Scotts Bluff County because of the distance. It's just the way it is. So I understand the point they're making, but in the rural areas, just as in the state of Nebraska, their seats are proportioned on population, in large part; so obviously, Scotts Bluff County is going to predominate. If you look at the data that I've provided, you'll see that in Scotts Bluff County and Lincoln County it's well over...in those two counties, which is Mid-Plains and Western, over...well over 50 percent of the use of the college comes from the county itself. We heard talk about economic development--and I think it is economic development. And in my particular cases, it would be economic development for North Platte and economic development for Scottsbluff, but at the expense of everyone else who lives within those regions. So it's just something to consider. The people that live in the grass counties, which are predominately ranching, are paying about between 12 percent and 20 percent of their gross income in property taxes. Now that's before you pay any salaries, any fuel, any equipment purchases or, you know, anything else. So it's a significant burden. We have a way to deal with almost 70 percent of this if we were to eliminate the property tax rebate from the state and apply that money towards the property...for the property tax hole in the Community College System. Last but not least, I want to say thank you to Mr. Huck and Mr. Baack for all the help that they gave us in this data, and to my LA Sherrie Geier, who did a lot of the work for it. So I appreciate your time. Hope that you'll at least take this and consider it, and maybe when you are on the commission to study taxes you might consider it. Thank you. [LB651]

SENATOR SULLIVAN: Thank you, Senator Davis. Do you know, this probably hasn't been the first time that this issue has been brought up. [LB651]

SENATOR DAVIS: I think Dennis told me it's ten times in the last 25 years. (Laughter) [LB651]

SENATOR SULLIVAN: Okay. Do you think it's been exacerbated by the increase in land values and the fact that property taxes have risen significantly? [LB651]

SENATOR DAVIS: Well, I'm not sure that's the case. But you heard testimony that when times got tough for the state, they stopped putting in revenue. [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

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SENATOR DAVIS: We still have the costs are still increasing. [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

SENATOR DAVIS: And so, as it always is the case, you end up going back to the land... [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

SENATOR DAVIS: ...to pay for it. [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

SENATOR DAVIS: And that's what's happened in the state. [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

SENATOR DAVIS: You know, we've gone back to the property tax because there's not sufficient revenue at the state level to pick up the costs anymore. [LB651]

SENATOR SULLIVAN: When you first started talking, I wrote down two things on either side of the paper, and one was tax policy and on the other side was educational needs. And I'm wondering, in these grass counties, if there has been enough done on the part of any educational institution to reach out to what might either be some unmet current needs of people in the grass counties; or when you look at economic development and rural revitalization, do these institutions need to play an even greater role in that? [LB651]

SENATOR DAVIS: I think they could be helpful. I will say this. When we had not had any service really in Hyannis from Western,... [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

SENATOR DAVIS: ...so a year ago I contacted our representative. And, you know, she contacted the college and they were very receptive and they came in. And maybe it was the first time anybody had asked for it. So, I mean, I think they're certainly willing to do it. But as Mr. Hill I think said, it's impossible for them to do things at a loss. [LB651]

SENATOR SULLIVAN: Uh-huh. [LB651]

SENATOR DAVIS: So does that answer your question? [LB651]

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SENATOR SULLIVAN: Yes. Yeah, uh-huh. [LB651]

SENATOR DAVIS: Yeah. Okay. [LB651]

SENATOR SULLIVAN: Just opens more questions actually, but it's a conversation for another time. (Laugh) [LB651]

SENATOR DAVIS: Yes. Thank you. [LB651]

SENATOR SULLIVAN: Any other questions of the senator? Thank you, Senator Davis. [LB651]

SENATOR DAVIS: Thank you. [LB651]

SENATOR SULLIVAN: Okay. That closes the hearing on LB651. We'll now move on to LB467 being introduced by Senator Avery, who I failed to introduce earlier because he was introducing a bill in another committee. So welcome, Senator. [LB467]

SENATOR AVERY: (Exhibit 1) Thank you, Madam Chair. I hope I didn't delay you. [LB467]

SENATOR SULLIVAN: No, not at all. [LB467]

SENATOR AVERY: Good afternoon, committee. My name is Bill Avery, B-i-l-l A-v-e-r-y. I represent District 28 here in south-central Lincoln. LB467 amends current law 85-2405 of the Postsecondary Institution Act. It does it in the following manner. It allows the commission to enter into and administer interstate reciprocity agreements for postsecondary distance education. As you know, of course, distance learning is a vital tool for modern education. It allows students nontraditional opportunities to get degrees, even advanced degrees. The rapid advancement of technology and the Internet have allowed the availability of on-line classes to flourish and, with that, the number of student participants. The Midwestern Higher Education Compact, of which you are a member, I believe, Madam Chair,... [LB467]

SENATOR SULLIVAN: Uh-huh. [LB467]

SENATOR AVERY: ...defines, as one of its ongoing goals, the state authorization initiative. This aims to ease the process for colleges and universities that want to offer distance education programs and courses to students living in other states through the development of reciprocity or reciprocal agreements among the states that are members of this compact. LB467 allows the Coordinating Commission to approve or reject applications from Nebraska postsecondary institutions and approve or reject authorizations granted by other states pursuant to such agreements, and sets fees for

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review and evaluation of these applications. I have here an amendment that I want to have distributed, if the pages would come forward. I am not going to go into this amendment in great detail, but I'm sure that there are others who will follow me who may want to. This amendment for your review reflects the agreement made between the commission and the University of Nebraska with regard to expansion of oversight in distance education activities and the need to foster regional higher education compacts. The agreement was worked out between the Postsecondary Commission and the university. Marshall Hill is here to discuss this compromise language. I believe this bill is needed to enable the Postsecondary Commission to participate in reciprocity agreements and to promote distance learning in the state, and I urge you to give it favorable consideration. Thank you. [LB467]

SENATOR SULLIVAN: Thank you, Senator Avery. Would you rather all our questions be directed to other testifiers, or would you want to field a few questions? [LB467]

SENATOR AVERY: I think you would prefer that. [LB467]

SENATOR SULLIVAN: (Laughter) All right, I'll...thank you for putting words in my mouth. [LB467]

MARSHALL HILL: (Exhibit 2) Good afternoon again, Senator Sullivan and members of the Education Committee. I'm Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l, executive director of the Nebraska Coordinating Commission for Postsecondary Education. My oh my, where to start on this issue? We could very quickly get very far afield and very deep into the weeds, and I'm going to try to keep us from doing that but I want to be responsive to any questions you have. As you know, on-line education is growing about 10 percent a year in American higher education. Millions and millions of students take on-line courses and they do so through a nonsystem which is becoming increasingly dysfunctional. Right now, there is no alternative to an institution like Bellevue University or the University of Nebraska or any Nebraska institution who enrolls students in other states, to go through the process of contacting each of those states to determine what kind of approvals and what kind of fees are necessary in order for them to enroll students there. Multiply that by at least 2,000 American higher ed institutions that are doing that and the 50 states that they need to contact, and you can quickly see how irrational this is. To put some numbers around that, you'll hear in some testimony, but the University of Minnesota recently budgeted \$500,000 to pursue this project per year. A nonprofit New York institution was recently told by the state of Arkansas that the fee for them to apply to offer courses and programs there was \$130,000. Nebraska is rational and reasonable in how we do this work, but many states are not. So is there a better way? We believe there is. For the past two years or more, three large groups have been working to develop a model reciprocity agreement. And the way that agreement would work would be if Nebraska were a part of that agreement and other states were a part of that agreement, we would approve our institutions to participate and they would approve

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their institutions to participate. Nebraska institutions could, therefore, offer courses and programs in any of those other reciprocity states without having to go through any process of approval there. How effective will this be? It depends on how many states that we have join. I have been personally deeply involved in this for the past almost two years now. The first group was Presidents' Forum and the Council of State Governments. Many of you are probably familiar with the Council of State Governments. A group brought together a drafting team to develop a model state reciprocity agreement. Next we were joined by the regional higher education compacts. Midwestern Higher Education Compact is our compact for Nebraska. The regional compacts will administer this national agreement. And then lastly, started early last summer, the national Commission on Regulation of Postsecondary Distance Education was established, sponsored by the Association of Public and Land-Grant Universities and the state higher education executive officers. I've been personally active in all three of those groups. Those groups have come together around an approach which has states approve institutions. States take the role of resolving complaints about activities of their institutions and working through all that process. In April there is going to be a national unveiling of this approach. Every state has been invited to send a team to participate in implementation talks. We've identified the team for Nebraska. It's going to be myself, Dr. Susan Fritz from the University of Nebraska, and Dr. Mary Hawkins from Bellevue University. You'll hear from both of them today. The proposed bill simply allows the Coordinating Commission to join such an agreement on behalf of the state, to administer the agreement within the state, to approve or disapprove institutions for participation in the agreement, and then the last point, if need be, for us to charge institutions fees for reviewing their applications that would not exceed the amounts of the additional work for that. That prompts the natural question: How much would we charge institutions? I'm committing that we would charge no more than \$300 per institution per year, and we would reevaluate that in two years to determine whether that's too much, too little, or what have you. I'm going to stop there and respond to any questions you have about this. [LB467]

SENATOR SULLIVAN: This is a little confusing. [LB467]

MARSHALL HILL: It is. [LB467]

SENATOR SULLIVAN: In April there's going to be this, quote unquote, unveiling. So are we getting ahead of ourselves with this? [LB467]

MARSHALL HILL: That's a very good question. I don't think so. There are a number of states that are going to be able to join the reciprocity agreement fairly quickly. I would like Nebraska institutions to be able to benefit, to the extent they can, as quickly as possible. We know what the regional agreements are going to look like. They're going to be consistent with the national discussion. This bill would allow the Coordinating Commission to determine whether or not we should or should not join. I have seen

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nothing in the work that has gone on thus far that would lead me to recommend that the state not join. If we do not join, our institutions would not be able to avail themselves of any of the benefits until at least a year from now. [LB467]

SENATOR SULLIVAN: Okay. Senator Haar. [LB467]

SENATOR HAAR: Thank you. So just clarify for me because I'm a little confused on this one. This would mean that, for example, if I'm a UNL student, me taking a distance course from Alabama or something like that and vice versa. Is that the kind of situation we're talking about? [LB467]

MARSHALL HILL: Let's turn it around, Senator, and you'll hear that. You'll hear some more specifics from the people who will testify. If the University of Nebraska right now puts a course on-line, a program on-line, and a student from Alabama... [LB467]

SENATOR HAAR: Okay. [LB467]

MARSHALL HILL: ...signs on to take that course... [LB467]

SENATOR HAAR: I'm now in Alabama. Okay. [LB467]

MARSHALL HILL: You're now an Alabama student. The university is obligated to determine whether or not the state of Alabama has a requirement for them to register and be approved in Alabama in order to do that. And they have to contact every single state in the nation. Some states are entirely unreasonable about this. Let me give you an example. If the university, let's take Bellevue, if Bellevue were to hire an adjunct faculty member to teach an on-line course for them, and they hired a person who lived in the state of Missouri, and that's all that person did for Bellevue, the state of Missouri takes the position that that act alone is equivalent to Bellevue wanting to set up a campus in Jefferson City, and it triggers all of the requirements for them going through the review process and paying the fees and so forth. That just is ludicrous to me. [LB467]

SENATOR HAAR: Yeah. [LB467]

MARSHALL HILL: Similarly, some states say that if your institution owns or rents a computer server in the state, that that constitutes the requirement for you to get full approval. Some states are seeing this as a revenue-generating opportunity and they are elevating fees. I mentioned Arkansas. Tennessee is terrible about this. Massachusetts is terrible about this. New York is terrible about this. Some states will not join. But I am convinced that over time the institutions within those states will convince their states to join. Why? Because if you are in a state not party to the agreement, you are at a competitive disadvantage. You have no alternative but to contact every state and

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territory in the Union or risk the possibility of being sued by that state's Attorney General. And I think we all know that Attorneys General are often ambitious and I think sooner or later we're going to see a very public lawsuit on these issues. I'm optimistic about this. I think this can work. There has to be some trust. There has to be some trust about this and that's been evolving. This is about the third time there has been a national attempt to solve this problem and this one is the only one that's going to have a possibility of success because it's totally voluntary. States can choose to participate in this or not. Institutions can choose to participate in this or not. If states join and choose to drop out, they can do that. If institutions join and choose to drop out, they can do that. There will be no fees to states. There will be fees to institutions to support this activity. But for any institution that has remotely expanded across the country for on-line offerings, this will be a far less-expensive process for them than the current crazy system. [LB467]

SENATOR HAAR: Okay. So again, I'm in Alabama at the University of Alabama or whatever it is, and you guys have a course I want to take here in Nebraska. Do I pay that tuition amount to the school, to my school in Alabama or to UNL? [LB467]

MARSHALL HILL: No. No, no. This does nothing to change the flow of dollars from student to institution. [LB467]

SENATOR HAAR: Okay. [LB467]

MARSHALL HILL: So if you're an Alabama resident taking a course from Metropolitan Community College here in Lincoln or taking...or enrolled in Dr. Huck's program that he mentioned, you would pay tuition to the Nebraska institution. It doesn't do anything about that. The one thing it does change is the responsibility for dealing with problems that arise. Right now, if I became aware that students in Nebraska felt that they were being mistreated by an institution in another state, there is no formal mechanism to help resolve that issue. The informal mechanism would be for me to call my counterparts in other states--thankfully, all of whom I know--and say, you know, you've got a problem, I want to rely on you to fix this. They would have no obligation to do that. [LB467]

SENATOR HAAR: Uh-huh. [LB467]

MARSHALL HILL: If Nebraska and those other states were part of a reciprocity agreement, they would have an obligation to do that in the same way that if one of Nebraska institutions happen to generate complaints around the country. It would be our obligation to work with the Nebraska institution to get to the bottom of that and get a resolution. [LB467]

SENATOR HAAR: Thank you. [LB467]

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SENATOR SULLIVAN: So who signs the agreement? Do we sign it as a state or each individual institution within Nebraska agree to reciprocate and sign an agreement? [LB467]

MARSHALL HILL: Well, if you advance this bill, as I hope that you do, the Coordinating Commission would, on behalf of the state of Nebraska, join a reciprocity agreement that is going to be administered for us through the Midwestern Higher Education Compact. [LB467]

SENATOR SULLIVAN: So then any sort of relationship that an institution within Nebraska has with a student in another state would have to go through the commission. [LB467]

MARSHALL HILL: No, not at all. [LB467]

SENATOR SULLIVAN: Oh. [LB467]

MARSHALL HILL: Actually, there's almost nothing that would change about how that would happen. We're not going to have any greater oversight really of the normal workings and operations of the on-line offerings of the institutions at all. We're going to check a few things. And frankly, all Nebraska institutions would meet the initial requirements for participation, which are two principal ones. The agreement is open to institutions that are accredited by an accrediting body recognized--"recognized" is a technical term--recognized by the U.S. Secretary of Education. All Nebraska degree-granting institutions are so accredited. The second requirement is that the institutions be able to demonstrate financial viability. One of the reasons institutions have students that experience difficulties is because they get into financial trouble. So the national agreement calls for institutions...our public institutions are deemed financially responsible because they enjoy the financial backing of their states. Nonprofit and for-profit institutions have a measure of their financial viability. It's called financial viability index score, composite score, developed by the United States Department of Education, and there is a requirement for institutions to perform at or above a 1.5 score for that. There will be mechanisms to hear appeals for institutions that momentarily drop beneath that, but institutions that are financially weak won't be allowed to avail themselves of the efficiencies of the agreement to expand throughout the states. [LB467]

SENATOR SULLIVAN: Thank you. Any other questions? [LB467]

MARSHALL HILL: I will tell you that I've worked in higher education all my life. This is a plate of spaghetti. All of this is enormously complex and complicated, but I believe for the first time ever it's workable. Much of it is built on Nebraska law right now. The bones of the national reciprocity agreement, they're coming together around what are

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reasonable things for a state to regulate; frankly, are based on the good work that we all did two years ago with reviewing all of our legislation on that. [LB467]

SENATOR SULLIVAN: Yes, Senator. [LB467]

SENATOR HAAR: I take it if we have any further questions, we just ask Senator Avery. Is that right? [LB467]

MARSHALL HILL: Yes, sir. (Laughter) [LB467]

SENATOR SULLIVAN: Senator Kolowski. [LB467]

SENATOR KOLOWSKI: And I have an Amazon question. If there are any taxes to be paid, where are they paid? Which state? I don't think there are any taxes on fees but... [LB467]

MARSHALL HILL: I don't think there are any tax implications to this bill, Senator. [LB467]

SENATOR KOLOWSKI: (Laugh) Thank you. [LB467]

SENATOR SULLIVAN: Thank you, Dr. Hill. [LB467]

MARSHALL HILL: Thank you. [LB467]

SENATOR SULLIVAN: Welcome. [LB467]

SUSAN FRITZ: Thank you. Good afternoon, Senator Sullivan and members of the Education Committee. I am Susan Fritz. I am Susan Fritz, S-u-s-a-n F-r-i-t-z, interim executive vice president and provost for the University of Nebraska System. I'm here to testify for the university in support of LB467. The university supports LB467 with Senator Avery's amendment. If the amended LB467 passes, this law would streamline the postsecondary institution process for obtaining authorization to offer courses and programs in states beyond Nebraska. At the present time, the University of Nebraska is similar to the other postsecondary institutions that offer distance-delivered courses and programs beyond the state's borders, must seek state authorization on a state-by-state basis. State processes and fees vary widely, as you heard from Dr. Hill, which makes obtaining authorization time-consuming and expensive. We estimate that fees and staff time have cost the University of Nebraska \$35,000 for approval to offer courses and programs in 39 states. And I would add that these are the states that have the lower fees and the authorization process was somewhat streamlined. We have several more complicated authorization proposals under review at this time. When we complete the state authorization process, we estimate that our total costs, that would be state fees

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and staff time, will be in the neighborhood of \$140,000. We also anticipate that authorization will not include authorization in all 50 states, primarily because of costs and complications with the authorization process. This bill would establish a process for interstate reciprocity based on voluntary participation by Nebraska postsecondary institutions. Once a Nebraska postsecondary institution is approved to enter into interstate reciprocity agreements through Nebraska's Coordinating Commission for Postsecondary Education, the CCPE would be responsible for regulating and overseeing the institution's national work. Passing this amended bill places Nebraska in the lead as one of the first states to establish a state-level process which reflects the core aims of efficiently ensuring quality programs and consumer protection in a rapidly changing education environment. Additionally, passing LB467 should substantially reduce the regulatory burden and cost for the University of Nebraska and other Nebraska institutions that participate in the national reciprocity system. I am happy to answer any of your questions. [LB467]

SENATOR SULLIVAN: Thank you, Dr. Fritz. Do you know how many other states have signed this? [LB467]

SUSAN FRITZ: No, I do not. [LB467]

SENATOR SULLIVAN: Okay. And it will ultimately be voluntarily, so there's no guarantee that other states would sign it. [LB467]

SUSAN FRITZ: That's true. The hope is that other like-minded states...when I mentioned authorization and fees in some states easier to accommodate Nebraska's interests, I would say that there is a great lot of our states that have reasonable approaches to providing state authorization. I would hope that they would want to participate in one of the four regional groups across the United States so that we would have access to their state's students through these reciprocity agreements. [LB467]

SENATOR SULLIVAN: Okay. Thank you. Senator Haar. [LB467]

SENATOR HAAR: Just out of curiosity, does a totally on-line university, like the University of Phoenix, have to have these agreements in each state then or are they somehow different? [LB467]

SUSAN FRITZ: Senator Haar, I do not have the background to answer that question. That's probably one for Dr. Hill. [LB467]

SENATOR HAAR: Dr. Hill is shaking his head this way. [LB467]

SUSAN FRITZ: Okay. [LB467]

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SENATOR HAAR: Okay. [LB467]

SUSAN FRITZ: Very good. [LB467]

SENATOR SULLIVAN: Any other questions of Dr. Fritz? Thank you. [LB467]

SUSAN FRITZ: Thank you. [LB467]

SENATOR SULLIVAN: Welcome. [LB467]

MARY HAWKINS: Thank you. Good afternoon. I'm Mary Hawkins, M-a-r-y H-a-w-k-i-n-s. I'm president of Bellevue University in Bellevue, Nebraska, and I'm here to basically be the poster child for some of the problems that we're very hopeful and optimistic that this proposed system would solve. And I want to commend Dr. Hill and the people who have worked on this. This is a tremendous effort and will take all of us in higher education in the United States a long way forward if we can garner it. I also think it's important for Nebraska to be one of the first states, one of the first states into this process for several reasons. One is that it was Dr. Hill's leadership on the committee that came up with such a rational and pragmatic and consensus-building approach. That was no small feat. I know you all know that on the national basis. And two, I think the fact that it was based in large part on Nebraska law, I think it sends an important message nationally that we're willing to put the stake in the sand and to move forward on this effort that will improve opportunities for students across the country. The other thing that I will tell you is somewhat anecdotal--there's no way to put it into any kind of a chart--but the anecdotal experience that Bellevue University has had. We do operate in all 50 states. It's been talked about states also having to seek approval in the territories of the United States: Guam, Puerto Rico, the U.S. Virgin Islands, and others, D.C., District of Columbia. So we're up to 54 different states, different agencies or entities that we have to seek approval. There is no similarity from state to state or entity to entity. There's no similarity in the department. Sometimes it's an organization under the Secretary of State, sometimes it's a department of higher education, sometimes it's association of postsecondary institutions, and sometimes it lies somewhere else. So the first challenge for an institution is figuring out where do you turn to find out what regulations, what requirements, what laws cover the operations of distance learning in that entity, and it's tremendously difficult. One of the things that has happened on this effort in Nebraska is that we have shared intelligence on the contact people, the offices, the processes and all. Our institution had Koley Jessen, who are our legal counsel, do an analysis. We paid \$36,000 for the analysis of the different states on where the legalities were and who to go with. We're actively sharing that out. There are LISTSERVs that help people find out who you contact in different states, but it's time-consuming, it's confusing, it's difficult. It isn't even such that there's a single entity in a given state. In one state we're in, we're working with two agencies who operate under different rules and the rules are in conflict. So we're having some real difficulty

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even establishing how to move forward in those states. So not only trying to figure out in each organization or entity what you have to do, but then to figure out what is the trigger for presence, because what's happened is that these laws in each state grew out of, as Dr. Hill described, the laws and regulations around establishing a viable campus in a given state. So what they're trying to do is take a different set of requirements/regulations in a different time and apply them into distance learning. And I will tell you that some of the things that we're confronted with, besides the multiple agencies, are the fact that as we've grown I've had to hire faculty and staff in different states. Time? [LB467]

SENATOR SULLIVAN: No, you...keep going. [LB467]

MARY HAWKINS: Okay. [LB467]

SENATOR SULLIVAN: Uh-huh. [LB467]

MARY HAWKINS: I've had to hire different faculty and staff in different states. I have one state where if the faculty member is teaching in the state, I do not have to enter a full application process unless by chance some on-line student who also lives in that state enrolls in that specific class. So I actually have to go to the level of looking at rosters to see where we are. I have states where Dr. Hill described a server in the state. We've actually, in one of the states, it's not just our server. We use a platform for our learning management system called Blackboard. If Blackboard has a server in this state and our students are accessing that server, then I have to go through full application. So it's not simply what I do; it's what our vendors and partners do. We've got states where we've worked very hard with them and very easily are sending in--one, we weighed it, 17 pounds--of annual reports to this state to show our compliance. And what I will tell you about these various things is that they're not focused on quality of education and they're not necessarily focused on how effective our learning processes are. They're focused on checking boxes that vary from state to state on requirements that are generally inputs, not outputs. They do not come near the quality of oversight that the Higher Learning Commission, our accrediting body, has where they really look at how are you teaching, what are you teaching, what are the resources you have for teaching, what are the processes that you have for faculty development, faculty training, faculty qualifications. These various state requirements bear none of those kinds or fragmented pieces of it. It's not consistent across. So what you have is an institution like Bellevue University or any of the other state institutions looking at a confusing array of regulatory issues, fees that are excessive, sometimes on a per-program basis, sometimes on a staff basis, sometimes on a university total basis, and it is all across the map. You've got to hire staff. You've got to hire attorneys. You've got to really be prepared to go for a long time on it. [LB467]

SENATOR SULLIVAN: Okay. All right. [LB467]

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MARY HAWKINS: It's extremely confusing. [LB467]

SENATOR SULLIVAN: Thank you very much. Just one question in that regard though. In all of this, this situation would still be voluntary. So it wouldn't necessarily eliminate any of this, depending upon the institution that you have a relationship with. Is that correct? [LB467]

MARY HAWKINS: You mean with the other states? [LB467]

SENATOR SULLIVAN: Yes. [LB467]

MARY HAWKINS: It's going to take time. [LB467]

SENATOR SULLIVAN: Okay. [LB467]

MARY HAWKINS: But I think this is the one opportunity that we have towards trying to move towards a rational solution. [LB467]

SENATOR SULLIVAN: Okay. All right. Senator Haar. [LB467]

SENATOR HAAR: And then this is a benefit that basically Nebraska would provide to private and public institutions. Is that correct? [LB467]

MARY HAWKINS: Within the state? [LB467]

SENATOR HAAR: Yeah, within the state. [LB467]

MARY HAWKINS: And then partners within the Higher Education Compact and the relationships? Yes. [LB467]

SENATOR HAAR: Okay. Thank you. [LB467]

SENATOR SULLIVAN: Senator Kolowski. [LB467]

SENATOR KOLOWSKI: Thank you, Madam Chair. Dr. Hawkins, thank you for your comments and outlining what you did. I really appreciated your comments on inputs and outputs. We don't spend enough time talking about that as far as the quality. And that led me to think about two things that are going on that I think will be probably discussed in here in the future of this committee. But last week at a dinner I sat next to the Med Center chancellor in Omaha, Hal Maurer, at a meeting here in Lincoln, at a dinner meeting, and he was talking about and excited about a meeting they're going to have concerning the Khan Academy on the national level, the courses that are all aligned and

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what this person has done with some of the best teachers in the country that he has filmed on a full course, and making those kind of courses available. And the Med Center is saying we can only hold 3,000 students at one time; what else could we do with highly trained and highly trained teachers on-line adding more students to our total in the future for the jobs that are out there. And at the other end of the spectrum, way beyond that graduate level of medical university, I'm excited about what might happen with our national discussion on the Common Core Standards, which we're all also going to decide about in this state in a very short time as that expands across the country. What will the base of the student body look like in the next decade--it's a decade question, not a one-year question--as the Common Core Standards get worked out and hopefully, potentially there might be a rising tide of quality students taking whatever method they want to move through the academic hurdles of their life? [LB467]

MARY HAWKINS: Yes. I think what you're talking about is increased access... [LB467]

SENATOR KOLOWSKI: Yes. [LB467]

MARY HAWKINS: ...to different learning modalities and different content,... [LB467]

SENATOR KOLOWSKI: Absolutely. [LB467]

MARY HAWKINS: ...and that's a very optimistic view of what distance learning can bring. [LB467]

SENATOR KOLOWSKI: Absolutely. Thank you. [LB467]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. [LB467]

MARY HAWKINS: You're welcome. [LB467]

SENATOR SULLIVAN: Welcome. [LB467]

TIP O'NEILL: Senator Sullivan, members of the Education Committee, I'm Tip O'Neill, that's T-i-p O-'-N-e-i-l-l. I'm the president of the Association of Independent Colleges and Universities of Nebraska. I won't be here as long today as I was yesterday, Senators, so. We have a lot of other institutions other than Bellevue that are also participating in distance education. You know, we give up some of our independence, obviously, when we participate in this sort of a venture, because we're saying to the Coordinating Commission, you get to regulate us, you get to regulate us in this. And they don't have the constitutional authority to regulate us in our Nebraska offerings, but they would in this situation. And they need to, and they need to be able to regulate public institutions who participate in this voluntary endeavor, too, because that's the only way that other states will be able to trust Nebraska colleges and universities that

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provide offerings in these other states. So we give up a little bit of our independence, but we also get a lot by participating because then we don't have to go through an approval process in other states that also participate in this consortium. And that's why it's going to be important to us. And we sure would like to see Nebraska be among the first states that get authorization to participate because it is our LB637 that passed two years ago that is really used as the model, the national model, for what constitutes physical presence and some of the other things that we were able to pass in the Legislature two years ago, because it was a commonsense sort of approach and they're actually using a commonsense approach to approach this from a national standpoint. So I'd be happy to answer any questions you might have. [LB467]

SENATOR SULLIVAN: If I understood Dr. Hill earlier, he said something about, well, wasn't sure on the amount to be charged but he said something about \$300. So I'm taking that to mean that he made...and maybe it wasn't an arbitrary decision on his part, but you would be bound by that in terms of all the... [LB467]

TIP O'NEILL: There would be a charge charged by Nebraska, but there also would be a charge charged by the national group or the regional group too. So it would not be just the charge that the Coordinating Commission would get. There would also be a charge that the institution would have to pay to participate with either the regional and national group. So there would be a couple charges, I think. [LB467]

SENATOR SULLIVAN: Okay. Okay. [LB467]

TIP O'NEILL: And Dr. Hill might be able to answer that, you know, off the record to you, so. [LB467]

SENATOR SULLIVAN: Okay. All right, very good. Any other questions? Thank you, Tip. [LB467]

TIP O'NEILL: Thank you. [LB467]

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 speak in support of LB467. As you've already heard, it's kind of a regulatory nightmare out there right now that the institutions are having to deal with. And as you heard from Dr. Huck earlier, he has a program that is the only one on-line for the whole United States, and it goes as far as American Samoa. He could have to deal with each of these states and some of the territories in order for his program to be out there. This allows us a method to get through a lot of that regulation. I know it will only apply to the states who join, but I got to think in the long run a lot of states are going to join this because they're going to have the same nightmare our institutions have in complying with this. And I think if they see

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this working for the other institutions, they're also going to be part of it. So with that, I would answer any questions. [LB467]

SENATOR SULLIVAN: Okay. Okay. Thank you. [LB467]

DENNIS BAACK: Thank you. [LB467]

STAN CARPENTER: Good afternoon, Chair Sullivan, members of the Education Committee. My name is Stan Carpenter, S-t-a-n C-a-r-p-e-n-t-e-r, and I'm the chancellor of the Nebraska State College System, and I'm here in support of this bill today. And I want to thank Marshall for his hard work over the last several years on this bill. I think it does bring order out of chaos. As you know, the Nebraska state colleges have been extensively involved in on-line education for quite some time. Peru State College was the leader in Nebraska in that arena back in the late 1990s and early 2000s. And, in fact, what we've done is basically throw our hands up with the issues that have arisen surrounding the kind of registration and acknowledgement of other states. And I think Marshall and his groups have done a great deal of good work to help us with this because it is very important for us to continue our on-line offerings. And we go around the nation as well for all of our institutions. We have hundreds and hundreds of courses and complete programs on-line that are beamed everywhere in the United States, and so this makes perfect sense to us. And as Dennis just said, I think that the other states will come to this conclusion as well because it only makes sense. It's rational. It's logical. And their institutions will bring pressure to bear on their legislatures as well to see fit to do this. So I won't take any more of your time, but I'd be happy to answer any questions you might have. [LB467]

SENATOR SULLIVAN: Thank you. Senator Haar. [LB467]

SENATOR HAAR: To flip the coin, it's totally up to you to decide, if I'm a student at your institution, to decide how many on-line courses I can take. Is that correct? [LB467]

STAN CARPENTER: That is correct, sure; but for the most part, we don't regulate that unless there are some other reasons to do so. Generally, we let students make that kind of decision on their own. We have students who attend our institutions who sit in a dorm room and take courses on-line. We have a lot of students from out of state who take our courses and, you know, frankly, we don't pay much attention to where they are and what state they're in. We have a single on-line rate for all of our on-line courses. But there is no regulation in that sense, Senator. [LB467]

SENATOR HAAR: Uh-huh. And then this gets you out of trouble with the state itself. But are there certain on-line courses that you will and won't accept right now? I mean do have to make a judgment over the courses that your students are taking in the on-line courses? [LB467]

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STAN CARPENTER: You mean from another institution? [LB467]

SENATOR HAAR: Yes. Yes, correct. [LB467]

STAN CARPENTER: Well, sure, we look at that. And obviously, if the institution is accredited, that goes a long way in our acceptance of that course, just like any other course that is transferred from another institution. [LB467]

SENATOR HAAR: Okay. [LB467]

SENATOR SULLIVAN: Any other questions? [LB467]

STAN CARPENTER: Thank you. [LB467]

SENATOR SULLIVAN: Thank you, Dr. Carpenter. [LB467]

STAN CARPENTER: Thank you. [LB467]

SENATOR SULLIVAN: Any other proponent testimony? Anyone wishing to speak in opposition to LB467? Anyone wishing to speak in a neutral capacity? Welcome. [LB467]

JEFF POLEY: Good afternoon. My name is Jeff Poley and that's P-o-l-e-y. I'm retired and...but I came to testify, because during the past 50 years when I was employed, much of that time was spent either drafting legislation or working for organizations that kept elected officials and appointed boards out of trouble. And so I...also, I've been involved in the technical aspects or the engineering aspects of delivering distance education for the last 20 years. That's before retirement. I spent quite a bit of time in the state office of planning and programming, and in that role I was involved in preparing legislation. And I worked for the state of Maryland in St. Mary's County advising elected bodies and their appointed commissions on a number of issues regarding legislation. In listening to the testimony, it's pretty obvious that there's a need for some kind of rationalization in the delivery of distance education across state lines, and my expertise is not in the content. I am aware that there are a number of organizations that have been working on this issue. Marshall Hill has been deeply involved in a number of those organizations and could certainly be considered an expert in this area. But the Commission on Regulation of Postsecondary Distance Education, of which Marshall sits on, by the way, and the Association of Public Land-Grant Universities has been dealing with this issue since May of last year and they're still meeting on this issue. They have yet to come to any specific conclusions. And they're going to probably be coming forth with recommendations in April or May, but we're not sure exactly what's going to come out of that, whether that's going to be resolved or not. With regards to State Authorization Reciprocity Agreements, the Council of State Governments' National

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Center for Interstate Compacts, on their Web site, considers this issue to be one of their five top issues that they're considering this year. And they're estimating that...says...on their Web site it says compact drafting has become...has begun, and language should be ready for consideration by the states beginning in 2014. So I have two issues: One is I have trouble with the way the bill is written, and I think there are internal inconsistencies in the bill that make it flawed to the point where this could be an attorney's welfare act. Statute 85-2405, which is what this bill amends, provides for entering into the regulation of distance education. That, I believe, is in conflict with 85-2403(4)(b)(iv), which basically says that on-line education is exempted from the provisions of the act, the act being the Postsecondary Institution Act. If that's the case, then I think we have trouble with the bill. The act specifically provides...now you're aware that the Postsecondary Institution Act deals with physical presence. Okay? The act specifically says, "Physical presence does not include: Courses offered online or through the United States mail or similar delivery service which do not require the physical meeting of a student with institutional staff." So you have a bill that's internally inconsistent. Now I think you either want to change the wording, which means you got to go back through and change this from a bill that deals with authorization, the Postsecondary Commission, from dealing with physical presence to dealing also with distance education. Also, I have a difficulty with the timeliness of this and I think most of the organizations which are working on this thing, including organizations that are working on SARA, S-A-R-A, which you can look up on the Web to find out what that is, don't see this thing being resolved this year. So my suggestion is that you create an interim study committee, study this issue over the interim, and deal with this bill again next year when you have a chance to see what a reciprocal agreement looks like. You know, my experience in Nebraska is you don't buy a horse until you look it in the mouth, you know? I don't think we do...I've never seen anybody in this state buy a horse sight unseen. [LB467]

SENATOR SULLIVAN: Thank you, Mr. Poley. [LB467]

JEFF POLEY: Okay. Thank you. [LB467]

SENATOR SULLIVAN: You mentioned the two commissions... [LB467]

JEFF POLEY: Yeah. [LB467]

SENATOR SULLIVAN: ...that are going to be issuing some recommendations... [LB467]

JEFF POLEY: Uh-huh. [LB467]

SENATOR SULLIVAN: ...in April or May. Does that relate to this unveiling that Dr. Hill was talking about earlier? [LB467]

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JEFF POLEY: Well, I think the big...the most active evaluation, I mean there are just a number of things. There's the whole SARA thing, which is State Authorization Reciprocity Agreement, that's what SARA stands for, and there are a number of committees that have been dealing with that since 2006. Okay? And they have adopted a recommendation for reciprocity agreements between the four regional compact areas. Okay? And I don't know, there's probably 15 pages in that agreement. That's a little more complex than what we've been talking about here I think, but you're familiar with the SARA process which has been going on since... [LB467]

SENATOR SULLIVAN: Jeff,... [LB467]

JEFF POLEY: Oh, excuse me, which has been going on for a long time. [LB467]

SENATOR SULLIVAN: Okay. [LB467]

JEFF POLEY: Okay, that's one approach towards it. The commission that I mentioned is basically APLU, the...oh, jeez, dealing with...it's like the government. You've got to deal with all these acronyms here. It's the Association of Public and Land-Grant Universities is working with the state higher education executive officers, which Marshall is by the...the head of that organization. He's the executive...he's the chair of that organization, so he truly is, in this room, the expert when it comes to what's going on in this area. I don't have any problem with the content of what they're working on. My concern is with, one, I believe it's a flawed bill and, two, I think the timeliness, we're just doing this too early. We don't have...we haven't seen the horse yet. [LB467]

SENATOR SULLIVAN: Okay. All right. [LB467]

JEFF POLEY: Those are my two points. That's why I'm neutral. [LB467]

SENATOR SULLIVAN: Okay. [LB467]

JEFF POLEY: Because I agree with Marshall, I think we need to do something and we need to do it pretty fast, but I just think we're just a little bit too early on this. [LB467]

SENATOR SULLIVAN: Okay. Thank you. Any other questions for Mr. Poley? Thanks. [LB467]

JEFF POLEY: Thank you. [LB467]

SENATOR SULLIVAN: Uh-huh. Anyone else wishing to speak in a neutral capacity? Senator Avery for closing. [LB467]

SENATOR AVERY: Thank you, Madam Chair. I didn't think it would take this long. Let

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me start by pointing out the last testifier was not neutral, not even close. This bill is pretty simple. It does not endorse any particular agreement. No matter how complex they may be, this does not endorse any agreement. It simply authorizes the Postsecondary Commission to engage in agreements, nothing more than that. Now if there is language elsewhere in our statutes that are not referenced in this bill or in the amendment that address whether or not the commission can get into the area of on-line endorsements or on-line distance education, then Tammy is quite capable of handling that with a committee amendment. That is not sufficient grounds to oppose this bill. So I would urge you to look at the bill for what it does, not what somebody might think it could have done but doesn't do. And let's move forward with it. That amendment is a pretty straightforward amendment. It simply adds flexibility so that the institutions are not compelled to participate if they choose not to, and that if they choose later to withdraw, they have that ability. That's all we're doing. [LB467]

SENATOR SULLIVAN: Thank you. Any other questions for...Senator Scheer. [LB467]

SENATOR SCHEER: Thank you, Senator. Senator, I'm assuming your intent with this, with the commission for them to be able to charge fees, that this would be at least a break-even proposition. We're not necessarily looking at a larger funding commitment to them based on this activity. And maybe I made the wrong assumption, but that the fees would then be offsetting any additional expenses to them. [LB467]

SENATOR AVERY: That...I think you're not wrong in your assumption. That would be my assumption. But the bill itself does not address the fees. That, again, is a related issue but not central to the actual bill. [LB467]

SENATOR SCHEER: Correct. [LB467]

SENATOR AVERY: Yeah. [LB467]

SENATOR SCHEER: I'm just looking at the long term. [LB467]

SENATOR AVERY: But I would think that if you're...I think Marshall Hill said he's looking at perhaps a \$300 fee. That would probably cover just the costs of administering it. [LB467]

SENATOR SCHEER: Sure. Okay. Thank you very much. Thank you, Senator Sullivan. [LB467]

SENATOR SULLIVAN: Any other questions? Senator... [LB467]

SENATOR HAAR: That was my question. [LB467]

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SENATOR SULLIVAN: Oh, okay. All right. [LB467]

SENATOR HAAR: Yeah. [LB467]

SENATOR SULLIVAN: Anything else? Thank you, Senator. That closes the... [LB467]

SENATOR AVERY: May I stay here? [LB467]

SENATOR SULLIVAN: Yes, you can (laugh) because we're going right into LB466, which is also going to be introduced by Senator Avery. [LB467]

SENATOR AVERY: (Exhibit 1) Thank you, Madam Chair. This is also a simple bill. That last one was simpler than it appeared, but it was really quite simple. This one, LB466...by the way, my name is Bill Avery, B-i-l-l A-v-e-r-y, representing District 28. This amends Section 85-2403. This is also the Postsecondary Institution Act, and it will allow the Coordinating Commission for Postsecondary Education to authorize institutions to operate on a continuing basis indefinitely. Once such authorization is issued, it becomes indefinite unless otherwise revoked, suspended, or terminated by the commission. This proposed technical legislation clarifies that institutions that have a physical presence in our state and out-of-state institutions that have been operating a four-year undergraduate program in Nebraska for at least 20 academic years, as well as authorizations that are deemed to be effective as of May 5, 2011, shall be, quote, authorized to operate on a continuing basis. Apparently this is something that Dr. Hill discovered, I think last year, that we had kind of a fuzzy area here that needed to be clarified. Again there is an amendment, if the page will come and gather the material. There is an amendment that I want you to consider that removes the words "by the commission." It is itself technical, but as is the case with all technical amendments, it usually has some substantive implications. Removal of authorization may be made by another entity, that's all that we're saying. It doesn't have to be the commission. And Marshall may have some rationale for that, that I'm not aware of. With that, I would urge you to advance this to General File. [LB466]

SENATOR SULLIVAN: Thank you, Senator Avery. Are there questions for the senator? Thank you. [LB466]

SENATOR AVERY: Thank you. [LB466]

SENATOR SULLIVAN: We'll now hear proponent testimony. [LB466]

MARSHALL HILL: (Exhibit 2) Senator Sullivan, members of the committee, Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l, executive director of the Coordinating Commission for Postsecondary Education. First, I want to thank Senator Avery for carrying these two bills for us. They are important, and the first one is complicated and this one is arcane,

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but they're both important. When we went through our initiative of LB637 two years ago to revise all of our laws about this, we omitted a section which the Attorney General's Office believes is important to maintain. Basically, we want to only get data and reports from institutions to the extent that we need them, so we set aside a class of institutions that, because they had been authorized to operate in the state for 20 years and had not caused any problems, we didn't want to pay any attention to them and have them submit data and reports to us. So we established that class of institutions. And in the revisions of last session, that inadvertently was removed; so this just puts it back in. There's no substantive change at all. It just makes it clear that there is that class of institutions which would be comprised of institutions like Doane, Nebraska Wesleyan, and so forth and so on, that are deemed...they are called authorized to operate on a continuing basis. That means they don't have to come back to the Coordinating Commission every five years for reauthorization. If you'll allow me the opportunity to just say, the prior comments, I have answers to all of those questions and would be pleased to respond to any of them that you like, and any questions you have about this. This is minor. Oh, and the question about authority removed by the commission, the commission, by statute, does not have the authority to remove the authorization of one of these institutions. The only entity in the state that would be, would be the Attorney General. If Doane or Nebraska Wesleyan or a similar institution were to behave so badly... [LB466]

SENATOR SULLIVAN: Uh-huh. [LB466]

MARSHALL HILL: ...in treating Nebraska institutions, there could be the possibility of the State Attorney General moving to remove their authorization to operate. That is clearly not going to happen and the commission would not want to be involved in anything that serious. We'd pass that on to the Attorney General. [LB466]

SENATOR SULLIVAN: Okay. Thank you, Marshall. Any other questions? Thank you. Welcome back. [LB466]

TIP O'NEILL: Thank you, Senator Sullivan, members of the Education Committee. I'm Tip O'Neill, president of the Association of Independent...that's T-i-p O-'-N-e-i-l-l, president of the Association of Independent Colleges and Universities of Nebraska. Just wanted to say that we support LB466 as amended by the proposed committee amendment. [LB466]

SENATOR SULLIVAN: Very good. [LB466]

TIP O'NEILL: And other than that, Dr. Hill and Senator Avery explained the bill very well and we have nothing really further to add, so. [LB466]

SENATOR SULLIVAN: Very good. Any questions for Mr. O'Neill? Thank you. [LB466]

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TIP O'NEILL: Thank you. [LB466]

SENATOR SULLIVAN: Any other proponent testimony? Anyone wishing to speak in opposition to LB466? Anyone wishing to speak in the neutral capacity? And Senator Avery waives closing, so that concludes the hearing on LB466. We'll now move on to our final bill for the day, LB546. The introducer is Senator Kolowski. [LB546]

SENATOR KOLOWSKI: Good afternoon, Chairwoman Sullivan and members of the Education Committee. My name is Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, and I represent District 31. I am here today to encourage you to join me in supporting LB546, legislation that streamlines a business practice for postsecondary education. Statute 85-403 allows the University of Nebraska and Nebraska State College System to issue revenue bonds to construct and maintain housing, recreation facilities, student unions, health centers, and parking structures. These bonds are, and I quote from the statute, "not an obligation of the State of Nebraska and no tax shall ever be levied to raise funds for the payment thereof or interest thereon." Currently, review and approval of revenue bond projects requires three steps: first, Board of Regents approval; secondly, Coordinating Commission for Postsecondary Education recommendation, and that's the CCPE; and thirdly, legislative approval. These steps may seem uncomplicated at first glance, but the infrequency and disconnected timing of meetings creates long lead times and has resulted in near delays of projects and extra time spent by the university, CCPE, and legislative staff. Two recent projects, UNL's 18th and Vine parking garage and UNK's Centennial Tower East renovation, serve as examples. UNL's parking structure was approved by the Board of Regents, June 8, 2012, and recommended by the CCPE, September 19, 2012. Had the Executive Board not held a special meeting on January 8, 2013, this project would likely have been postponed to the next appropriations bill, delaying construction by a year. UNL would have opened a new 1,004-bed dormitory in August of 2014 without the 1,270 adjacent parking spaces. Similarly, UNK's residential tower was approved by the Regents, September 14, 2012, and recommended by the CCPE, December 6, 2012. Again, this was too late to make the September 2012 Legislative Executive Board agenda. Had the Executive Board not held the January 8, 2013, special meeting, the needed and required fire sprinkler work at UNK would not have been completed until 2015. LB546 seeks to streamline this process by eliminating Coordinating Commission recommendation and legislative approval, allowing revenue bond projects to proceed in a timely manner following the Board of Regent approval. As you will hear in subsequent testimony, the oversight and protections envisioned in the original statutes are and will continue to be accomplished through a number of controls, including approval by the respective boards, reviews by external bond counsel and underwriters, bond covenants restrictions, and internal coverage requirements. I ask for your favorable consideration of the proposed legislation, as it allows the university and state colleges to take greater advantage of rates, schedules, and public-private opportunities, and this legislation provides business

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efficiencies for the university and colleges, CCPE, and legislative staff. I have met with Dr. Marshall Hill from the CCPE and Senator Wightman to hear their perspectives on this legislation. Dr. Hill will be testifying, hopefully, in neutral on this legislation, as we have talked about it previously. Senator Wightman is neutral, if not supportive, on this bill and thinks it is a discussion that needs to happen. Given that, I urge you to advance LB546 and would be happy to answer any questions. Thank you. [LB546]

SENATOR SULLIVAN: Thank you, Senator Kolowski. You mentioned the three-step process. When it's the university, it goes through the Board of Regents. If it's a state college structure, it goes through the State College Board of Trustees, I presume. [LB546]

SENATOR KOLOWSKI: Their College Board, yes, ma'am. [LB546]

SENATOR SULLIVAN: Okay. [LB546]

SENATOR KOLOWSKI: Yes, it is. [LB546]

SENATOR SULLIVAN: Has there ever been a time, to your knowledge, that any of those requests have...I mean certainly in terms of timing they maybe have been slowed down, but has the Coordinating Commission and/or the Legislature ever denied one of those requests? [LB546]

SENATOR KOLOWSKI: My understanding is that out of I think it was 81 proposals, only 1 over all that time was held up by the CCPE, and then that was overruled by the Legislative Council and it moved ahead. It was something at the UNL project, one of the UNL projects. [LB546]

SENATOR SULLIVAN: Okay. All right. [LB546]

SENATOR KOLOWSKI: Again, this is only brick-and-mortar issues,... [LB546]

SENATOR SULLIVAN: Uh-huh. [LB546]

SENATOR KOLOWSKI: ...has nothing to do with programmatic design. It's not like Chadron would say, I want to have a business college on campus... [LB546]

SENATOR SULLIVAN: Uh-huh. [LB546]

SENATOR KOLOWSKI: ...and we're going to do it no matter what. It's nothing to do with that. It's all about brick and mortar, and these bonds are only for that purpose. [LB546]

SENATOR SULLIVAN: Okay. Thank you. Any other questions for the senator? Senator

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Scheer. [LB546]

SENATOR SCHEER: Share with me again where the additional protection for the state or the Legislature is if we remove the Coordinating Commission and the legislative. [LB546]

SENATOR KOLOWSKI: Primarily, Senator Scheer, in the process you go through with the oversights and protections by the reviews from the external bond counsel, underwriters, bond covenant restrictions, and in internal coverage requirements by the university working with those bonding authorities. Those are very strict, very rigid processes you must go through. And having seen those, both of NRD projects as well as with school district projects over multiple decades, they're very complete, very sufficient, and, in a sense, another safeguard and almost redundant, but another safeguard to guarantee the process is tight. [LB546]

SENATOR SCHEER: Yes, perhaps. [LB546]

SENATOR KOLOWSKI: Uh-huh. [LB546]

SENATOR SCHEER: But there's also a no involved there. The limitations or the restrictions you're talking about have to do with funding and the repayment thereof. [LB546]

SENATOR KOLOWSKI: Yes. [LB546]

SENATOR SCHEER: I think part of the other process was set up to make sure that what was being built, one, was needed, appropriate in stature as far as what we were trying to accomplish. And so what you've just explained to me is indeed restrictive from the bonding standpoint. [LB546]

SENATOR KOLOWSKI: Uh-huh. [LB546]

SENATOR SCHEER: If whatever college or subdivision it would be that wanted to build something, your bond company will say you have to have this much in liquid assets and the loan agreements are going to show this specification and you can't get below X amount of dollars as far as your reserves; if not, you'll be in default of the loan. [LB546]

SENATOR KOLOWSKI: Sure. [LB546]

SENATOR SCHEER: Nowhere in there will you find, but we think your building is about a third larger than you really need to. They don't address that. They're looking just at the financial portion of it. And I truly believe part of the oversight that we're looking at, and indeed, one of your comments was that a UNO project was denied, later overridden,

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and I think that's appropriate use of a three-step process. [LB546]

SENATOR KOLOWSKI: Uh-huh. [LB546]

SENATOR SCHEER: But evidently, at some point in time, there was a concern of whatever was going to be built, I have no idea what it was, but somebody took a second guess and said, whoa, this might not be correct, or it might be overload, it might not be enough, it might not be whatever the case might be, none of which would be caught by the bond restrictions or covenants within your bonding agreement. So I understand that things get slowed down sometimes by a process, but I'm not sure, from the perspective...at least from my perspective, that having those oversights is all bad, just from a continuity standpoint to making sure that when something is proposed by a university or a state college, that what they are proposing to do is indeed a needed proposal, be it brick and mortar. I understand we're not telling them that they can hire more staff and so forth. [LB546]

SENATOR KOLOWSKI: You bet. [LB546]

SENATOR SCHEER: But it's still brick and mortar; and I don't care if it happens to be an arena or a classroom facility or a dormitory or a parking facility, all those are needed in higher education. I understand that. But I think there still needs to be some additional oversight to make sure that what we're doing is appropriate for any one of those institutions. [LB546]

SENATOR KOLOWSKI: And I don't disagree with you at all, Senator Scheer, and I had the same set of questions as I went into this topic, and we examined it and I'll flesh this out a little bit for you. The one item that was turned down, as I was told, by the Coordinating Commission was a project that was requested for the student union area or student health center on the UNL campus, not UNO campus. [LB546]

SENATOR SCHEER: Okay. [LB546]

SENATOR KOLOWSKI: And the students, by their own request, had put in asking for a climbing wall at the rec center, and that was looked at by the commission, I understand, as something that current students would be using but putting indebtedness on future students who would be attending who had no voice in that, as it would be built and future students would be helping to pay for that over time with their fees for the rec center. And that's the only...out of 80-some projects, that's the only one that was ever held up because the university, with its long-range planning, all of its internal controls, with their own decision making through their administrative process, and the Board of Regents for the final sign-off, is more than sufficient, in my mind, as I looked at that, because that climbing wall was then overruled by the legislative body and that was permitted to go ahead. [LB546]

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SENATOR SCHEER: I guess that I'm not disputing anything you've said, Senator Kolowski,... [LB546]

SENATOR KOLOWSKI: Sure. [LB546]

SENATOR SCHEER: ...but I also look at a rather large amount of financial support that the state, i.e., the Legislature, provides the university. And with any type of bonded indebtedness, they're also looking at the funding sources for a state or a university system. Some of that is tuition; some of that is ongoing state support. And so by the Legislature relinquishing their ability to look at those, and we're not talking about the small "let's repair or remodel a couple classrooms," we're talking about facilities, so we're talking about large-scope construction projects. [LB546]

SENATOR KOLOWSKI: Uh-huh. Absolutely. [LB546]

SENATOR SCHEER: So there is indebtedness that will affect the university and it could potentially affect the state from a state-support basis if they were to get behind, because, let's face it, we're not going to let a parking garage or an office building or a building of classrooms fall into default and have somebody from a private individual or entity buy that and rent it back or start their own facility or charge facility on one of our campuses. You couldn't allow that to happen. So although by the covenants it says it wouldn't happen, from practicality there is no such assurance. [LB546]

SENATOR KOLOWSKI: Absolutely. Correct. The internal part of that would be building a dormitory with 1,004 beds, knowing that your enrollment is going up, and charging room and board in that particular facility. You have an index, of course, on when you'll be able to pay that off, no different than a parking garage where your fees for every vehicle with a sticker is assigned and/or the use of a rec center where students have to have their pass or their card or whatever else they have, by a fee, to use that rec center. So the university handles that internally by knowing their numbers, knowing the space and the usability, and have not had a problem with this. The only...again, back in history...I was doing the same thing you're asking, Senator Scheer. In the early '90s, Peru State had some difficulties and there were some issues at that particular time that put some of these controls at the forefront. And then the state did help Peru State out of that situation. But that happened almost 20 years ago and we're in a different situation and the controls internally are that much better as far as the university and the colleges' situations, and it's a much larger dollar sign with the university system compared with the college system, of course, because the projects are that much larger. [LB546]

SENATOR SCHEER: Thank you, Senator. Thank you, Senator Sullivan. [LB546]

SENATOR KOLOWSKI: Thank you. [LB546]

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SENATOR SULLIVAN: Any other questions? [LB546]

SENATOR HAAR: Yes. [LB546]

SENATOR SULLIVAN: Senator. [LB546]

SENATOR HAAR: Just hang on. I was trying to recall from two or three years ago, at one point where the question came up about the Coordinating Commission looking at projects. And I seem to remember them saying that they had not said up or down to a project but they had saved money by looking at that project. So it wasn't a matter of holding it up or not, but modifying the project and saving some money in the process. So the bill you're talking about, would that totally take them out of looking at that? [LB546]

SENATOR KOLOWSKI: Yes, at this point in time they'd only have to go through...not only,... [LB546]

SENATOR HAAR: Yeah. [LB546]

SENATOR KOLOWSKI: ...their main gatekeeper would be the Board of Regents with the university, yes, sir. [LB546]

SENATOR HAAR: Okay. Well, in the news, in the Journal Star in the last few days, and I admit I didn't read the article but I read the headline about students may not like the staircase in the student union or something like that. So if the university went ahead and said, no, we need to fix the union, at this point again, with your bill, the Coordinating Commission would not look at it,... [LB546]

SENATOR KOLOWSKI: Yes, sir, that's correct. [LB546]

SENATOR HAAR: ...just the Regents. Okay. [LB546]

SENATOR KOLOWSKI: The Regents and the officials within the hierarchy of the university. [LB546]

SENATOR HAAR: Okay. Thanks for that clarification. [LB546]

SENATOR KOLOWSKI: Yes. [LB546]

SENATOR SULLIVAN: Any other questions? Thank you, Senator. [LB546]

SENATOR KOLOWSKI: Thank you. [LB546]

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SENATOR DAVIS: I guess I do have a question. [LB546]

SENATOR KOLOWSKI: Oh, I'm sorry. [LB546]

SENATOR SULLIVAN: Oh, excuse me, Senator. [LB546]

SENATOR KOLOWSKI: Senator Davis. [LB546]

SENATOR SULLIVAN: I'm sorry, Senator Davis. [LB546]

SENATOR DAVIS: I know what you're trying to get at, Senator. Having the Regents look at it, in some respects, is just not a very detached entity. That concerns me a little bit, you know? Just to mention that... [LB546]

SENATOR KOLOWSKI: Uh-huh. [LB546]

SENATOR DAVIS: ...I think it's something to think about. Maybe you need a detached entity that has new eyes to look at something. [LB546]

SENATOR KOLOWSKI: I appreciate that. And having watched boards for decades, there's new blood on that board at the current time and I think they're very vigilant about those kind of things with their own personal philosophies towards spending and an eye for detail on those things. And there's also a trust with projects the size of the university. I don't think a lot of people want to get into how's the ramp on the parking garage or, oh, how many windows you have in a dormitory or something like that, but they are. They are given the information and have a chance to analyze that. And I know with their process, knowing some of those board members very well, that everything is given to them ahead of time so they can read it, analyze it, and get the questions answered through the university system that works on those things. [LB546]

SENATOR DAVIS: Thanks. [LB546]

SENATOR SULLIVAN: Any other questions? Thank you. [LB546]

SENATOR KOLOWSKI: Thank you. I'll be here. [LB546]

SENATOR SULLIVAN: Okay. We'll now hear proponent testimony. Welcome. [LB546]

DAVID LECHNER: (Exhibit 1) Thank you, Chairwoman Sullivan, members of the Education Committee. Good afternoon. My name is David Lechner, spelled D-a-v-i-d L-e-c-h-n-e-r, senior vice president/CFO at the University of Nebraska. I'm here to speak in favor of LB546. First of all, my sincere thanks to Senator Kolowski for

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sponsoring LB546. This bill, if passed, will increase efficiency in the university and state government while still providing a host of prudent, proven safeguards to the Legislature, the state, and its citizens. The bill, as the senator stated, will greatly streamline the revenue bond issuing process. Now I want to stop and help with Senator Scheer's question, from my prepared remarks here. This does not take away any of the oversight of any of you over anything but revenue bond processes. If it is a tax-supported project, we will still go through the CCPE with this change. That's very important. If we come back with another deferred maintenance project or if the union project that was referred to is supported by state appropriation or by tuition, it comes to you folks. So it's a very important distinction. This is just revenue bonds. My goal today is to share some of the safeguards and checks and balances in place to protect the interests of the bondholders and the state, which greatly mitigate and decrease risks presented by additional layers of review by the Coordinating Commission and the Legislature. The most important among these safeguards is in state statutes. The aforementioned 85-403 bears repeating from the senator's remarks. The bonds are not obligations of the state and no tax shall ever be levied in payment thereof. No one can come back against the state relating to the university bonds. One of the first hurdles facing a project requiring revenue bond financing is approval by our elected Board of Regents. The Regents provide at least two levels of review on each project. First, the Business Affairs Committee of the board reviews the project. If it meets the muster of the committee, the project and related financing move to the full board. Our board looks very hard at projects with an eye toward keeping costs down, avoiding duplication, and making sure the project carries its own weight. And I would tell you from being in those meetings, folks, we've got some pretty rigorous board members that ask a lot of very hard questions, so it's more than a cursory review. When I say revenue bonds must carry their own weight, this is my simple way of stating something again in state law, 85-403, which says these bonds are not obligations of the Board of Regents but must be payable only from the revenues and fees of the facilities. Again, that distinction--anything that is tax revenue or tuition supported has to come back to this group. That oversight will still be there. In other words, if you're going to issue revenue bonds, the revenues of that facility must pay for the bonds. This dials into another safeguard: debt coverage ratios. Legal language contained in the revenue bond covenants state that we must maintain ratios of at least 1.15. This means that operating margins from the enterprise must generate \$1.15 for every \$1.00 of bond payments in a certain year. That 15 cents represents a cushion to the bondholders. Now we go above and beyond that. The university and the Board of Regents say we must have an internal coverage of 1.4. Coverage at 1.4 or 140 percent of what's required to pay those bond obligations offer another safeguard, savings that are then locked up to maintain those facilities and position the bondholders with additional collateral. In the bond covenants, it's mandated that any net cash beyond the bond requirements must be remitted to a separate bond trustee and can only, only be used for the bonded projects, and then only, only upon the explicit approval of the Board of Regents. In other words, it locks up any of the margins behind fences. This feature has worked very well, as the university

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has kept its bonded facilities well-maintained using only internally generated funds. Matter of fact, as I go to Big Ten meetings, I would match our facilities against any of our peers', and it's because of some of these covenants that we've got. These surplus funds are also an additional but important layer of collateral for our bondholders. Another important oversight that we enjoy is the counsel and wisdom of two of the finest individuals and firms operating in the municipal security market--Mr. Scott Keene of Ameritas, Mr. Lauren Wismer of Gilmore Bell. Both have advised the university and the state colleges for many years. Messrs. Keene and Wismer are going to testify on the bill. These gentlemen are too modest to say the following, so I will. Ameritas is far and away the leader in Nebraska public finance. Gilmore Bell is the leading national firm in public finance and solely specializes in public finance. Both these individuals offer great strengths, individuals of high integrity who are deeply involved in the field, steeped and knowledgeable about Nebraska law, and, importantly, unafraid to tell clients when they're wrong. The rating agencies also perform an external review that provides safeguards on our deals. They examine and question us on each offering and issue a rating. The university's revenue bonds hold a rating of Aa1 with Moody's, the second highest rating behind Aaa. Out of 229 public universities, only 8, 8 are Aaa. There's 14 of us that are Aa1. This puts us in the top 10 percent. If I were more of a braggadocio Nebraskan, I'd say we're tied for 9th in the entire country. [LB546]

SENATOR SULLIVAN: (Laugh) And to that end, could you brag a little bit less? [LB546]

DAVID LECHNER: Oh, okay. Okay, I am sorry. [LB546]

SENATOR SULLIVAN: No, that's all right. [LB546]

DAVID LECHNER: I'm going to leave my comment about the market on to another person. So I hope you get a sense there are many safeguards and checks and balances present to protect all involved in these transactions. In fact, these are not state obligations. Two levels of regental approval, strong debt coverage ratios, covenants putting fences around the funds for the benefit of the bonded facilities and bondholders, excellent counsel, ratings reviews on each issue, and the ultimate test--the market. In closing, this is not only about the strengths of the revenue bond operations but about creating more efficiency in public organizations and keeping costs down. I firmly believe that passage of LB546 will decrease the workload at the university, the CCPE, and free up legislative calendars. It will offer us greater flexibility in putting good projects forward to the bond markets on a timely basis to take advantage of low rates and keep the cost of college down. I would welcome any and all questions. [LB546]

SENATOR SULLIVAN: Thank you, Mr. Lechner. Senator Scheer. [LB546]

SENATOR SCHEER: Thank you. A couple things, first the easiest question: What is instigating the legislation? What has happened that has adversely affected either the

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university or one of the state colleges adversely under the present system? [LB546]

DAVID LECHNER: Senator, it relates to trying to get the timing of three varied groups of people coordinated to get projects reviewed and into the market on a timely basis. Especially in today's market, where I'm seeing very low interest rates, the ability to move quickly to lock in those rates which begets lower cost is very important and all the more important. So it's market dynamics and trying to move efficiently and not duplicate, if we can. [LB546]

SENATOR SCHEER: But if that were the case, then you're asking us to change policy or law simply because we have unusually low interest rates at this point in time, that if we're going to look on an historical basis, by the time this bill could be signed and in effect, for whatever reason, interest rates could have gone the other direction. And so the fact that we have historically low rates right now would be somewhat of a moot point, would it not? [LB546]

DAVID LECHNER: Senator, very good point. I just chose one example. Timing relates to a number of things and I did select one example to give to you. If we don't get timing in place, for example,... [LB546]

SENATOR SCHEER: Uh-huh. [LB546]

DAVID LECHNER: ...we won't get the College of Nursing in Norfolk open on time. So it's not just interest rates. It's building schedules and so on, in terms of getting projects to market, especially when you have donors out there that are increasingly giving a significant amount of our building money to us, getting those projects up and running to meet donor requests. So there's a number of examples, Senator. I just chose the interest one. [LB546]

SENATOR SCHEER: Okay. Fair enough. A second point: There's no state obligation based on statute. However, utilizing one of the examples, we're building a new bed tower dormitory, 1,000 beds. For whatever reason--lack of scheduling, didn't get opened on time--first year, you're only at 50 percent occupancy. You still have the same debt obligations. You have no resources as far as reserves to take care of that indebtedness. Where are those funds coming from? [LB546]

DAVID LECHNER: Typically, when you have a project that's going to open further down the calendar, you will capitalize interest until that facility can be reasonably opened. [LB546]

SENATOR SCHEER: Understood. But the fact of the matter is you would not have the funds to pay those payments, correct, because all...what you have just told me is that you are going to accrue the interest and pay that later. You're just not going to have any

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payments because we don't have any cash at this point in time. And having said that, my point, which we're both sort of going around, is simply that you don't have the reserves to make the payments. And so then it becomes either an obligation... [LB546]

DAVID LECHNER: Uh-huh. [LB546]

SENATOR SCHEER: ...of the university to take care of those or, if not, then the project would go in default. And again my same comments to the earlier presenter, we have a facility that now could be sold to somebody other than the university. [LB546]

DAVID LECHNER: Uh-huh. [LB546]

SENATOR SCHEER: And my concern is that as we look at the construction projects, I'm not trying to imply that you have overbuilt something, underbuilt something, you're wanting to build something that you don't need or that you drastically do need. I'm just looking at the set of items put before, one, to ensure that those are needed facilities, that they are... [LB546]

DAVID LECHNER: Uh-huh. [LB546]

SENATOR SCHEER: ...appropriate in size and stature and scope, and that it will flush all the way through all the different levels that ultimately may have some responsibility. And I think, by any stretch, we have to perceive that at some point in time either the university or the university and the Legislature would have to provide some additional funds to take care of those obligations if, and again, the atomic bomb hit, all the worst-case scenarios hit, the possibility. We cannot say the...we're not talking about probabilities. We're talking about possibilities... [LB546]

DAVID LECHNER: Uh-huh. [LB546]

SENATOR SCHEER: ...and they do exist. And so from that vantage point, I guess I feel a whole lot more comfortable having those regimens of review and pushing down. And if it does mean an additional 15 or 30 days in a building construction, right now that 30 days, I agree with you, would be a huge deal because the rates and market are extremely low. And we keep saying we're never going to see them that low again and for the last three or four years,... [LB546]

DAVID LECHNER: I agree. [LB546]

SENATOR SCHEER: ...because I've looked at bonding, I've done bonding, it continues to fall down. And so...but when you're at about zero, there's not a lot farther to drop down. [LB546]

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DAVID LECHNER: Uh-huh. [LB546]

SENATOR SCHEER: But I just would feel more comfortable having those safeguards in place, knowing that those possibilities do exist. And I'm sorry, I apologize to the rest. I'm not trying to... [LB546]

DAVID LECHNER: No. [LB546]

SENATOR SCHEER: ...belittle a point. But it is not as cut and dried as you'll never be responsible. There does exist the possibility and, you know, 25 percent, 5 percent, 95 percent. I'm not into the probabilities, but the possibility exists that both the university or the Legislature would have to fund some of those projects if something dramatically took place that would impede those. [LB546]

DAVID LECHNER: Senator, I think I understand the question. For us to get to any position where we would have a massive fail such that a project couldn't make its payments, we would have had to fail on virtually every mark in terms of our safeguards. The feasibilities that support the projects, in other words all the pro formas, all the discussions with the rating agencies, all that, both...you know, all the discussions with our board would have had to miss something very cardinal in the arguments. Nothing...it is remote, in my estimation, that we would ever get to project fail for something because we aren't by nature risktakers. You're right, we don't have the ability to plug numbers and dollars from here and there into revenue bond projects, so we would have had to fail on the seven or eight safeguards that I threw in front of you today in order for anything to get to that state. So I'm thinking it's remote. [LB546]

SENATOR SCHEER: And fair enough, but please bear in mind that this bill is not exclusive to the university system. So everything that you've talked about it may be a benefit and a positive of the size and structure that you're providing us, but all the entities that are involved in this legislation do not have the capacity that you might have. [LB546]

DAVID LECHNER: Understood, Senator. I appreciate your questions, I do, because it does get to some of the safeguards we're trying to put in place and we believe we have in place. Thank you very much. [LB546]

SENATOR SULLIVAN: Thank you very much. Senator Haar. [LB546]

SENATOR HAAR: I'm not so much worried about the safeguards as this issue of has, for example, having the Coordinating Commission in there. Have they just held up...have there been any times when a project has been improved or the cost of a project...in terms of either design or the cost of a project improved by having the Coordinating Commission involved? Because we had heard, again, there was one

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point... [LB546]

DAVID LECHNER: Uh-huh. [LB546]

SENATOR HAAR: ...and I, again, two or three years ago we were talking about the role of the Coordinating Commission and we had heard that they actually have improved some projects in terms of design and also perhaps saving money on the project. [LB546]

DAVID LECHNER: Senator, whether it's the board, whether it's student input on a project, I think any project input that you get has some value. I would prefer not to revisit history in terms of deducts and so on. I don't think that's beneficial. I'm not here to besmirch anybody. I'm just saying that we believe the value-add versus the effort put into the processes is out of balance. [LB546]

SENATOR HAAR: Uh-huh. And I'm not asking you to criticize anybody. I'm just asking you... [LB546]

DAVID LECHNER: No, sir. [LB546]

SENATOR HAAR: ...if there were projects, bonded projects, that were actually improved by the participation, that you're aware of, improved by the participation of the Coordinating Commission. [LB546]

DAVID LECHNER: And I'm trying to respond that I believe listening to input from lots of constituents has value. You just have to measure the cost benefit in those, and I believe the cost benefit probably is not met. We could free up the staff of the university, the CCPE, and the Legislature, and still get you plenty of safeguards. [LB546]

SENATOR HAAR: Do you have any idea, just on a specific project, how much these extra steps might add to your time line? [LB546]

DAVID LECHNER: It could add 30, 60, 90 days to a project. It could cause us to lose a year if we're not able to connect. The example the senator gave you was very critical. We had very decent timing on turnaround from CCPE, but connecting with Legislative Exec and those was very problematic, would have cost us to miss a whole school year, and would have cost us to miss out on a whole class of students in certain disciplines. So little 20-, 30-day things can mean a whole school year. If you don't get a College of Nursing open in the fall, for example, you miss that whole cohort. You come back the next year and open up because you get faculty and so on and hire them for the academic year. So little things can add a whole lot, Senator Haar. [LB546]

SENATOR HAAR: Okay. Thank you. [LB546]

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DAVID LECHNER: Thank you. [LB546]

SENATOR SULLIVAN: Any other questions? Senator Avery. [LB546]

SENATOR AVERY: Thank you, Madam Chair. I am curious. Can you think of an example where the Board of Regents overrode or declined to approve a significant recommendation of the University of Nebraska major components--UNL, UNO, Kearney? [LB546]

DAVID LECHNER: I can tell you in informal discussions, we have significantly restructured projects before they came to the public meeting of the board. By the time they come to the board, we have got the projects where they are in line with strategic goals of the board, the economics work, they are supported by feasibilities and move forward in a properly funded manner that will not push cost on to students. [LB546]

SENATOR AVERY: I'm still wondering if you've ever had an example where the Board of Regents said no. I mean I, from the outside looking in,... [LB546]

DAVID LECHNER: Uh-huh. [LB546]

SENATOR AVERY: ...I cannot remember a time when the Board of Regents didn't say yes to everything the administration put on the agenda, especially capital projects. [LB546]

DAVID LECHNER: Uh-huh. You'll have to recall that most of our capital projects, Senator Avery, are funded by gifts, and so...as of recent time, LB605 being a difference in that. But by the time they're assured those gifts are in place and so on, that's why you see most of them as a go for brick-and-mortar deals as of late. [LB546]

SENATOR AVERY: They have a life of their own because they're usually...but we're talking about the issuance of revenue bonds. [LB546]

DAVID LECHNER: Yes, indeed. [LB546]

SENATOR AVERY: Things like the expansion of the rec center at UNL,... [LB546]

DAVID LECHNER: Uh-huh. [LB546]

SENATOR AVERY: ...they're going to build a whole separate facility for the climbing community. [LB546]

DAVID LECHNER: Yes, sir. [LB546]

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SENATOR AVERY: And they're going to completely renovate and rebuild the East Campus rec center. [LB546]

DAVID LECHNER: And I wish you could have seen the pressure on the board in terms of looking for student support on those items saying student... [LB546]

SENATOR AVERY: Students voted on it. [LB546]

DAVID LECHNER: Absolutely they did. [LB546]

SENATOR AVERY: And they approved it. [LB546]

DAVID LECHNER: But at the meeting there was discussion with the student Regent from that campus, said: Are you really sure? And that also happened on the HPER building at UNO: Students, you're assessing taxes to yourself today that will only benefit the future. [LB546]

SENATOR AVERY: No, they were taxing me,... [LB546]

DAVID LECHNER: Well, it was...it's built by student... [LB546]

SENATOR AVERY: ...because I'm paying tuition and fees. (Laughter) [LB546]

DAVID LECHNER: Okay. Well, Dr. Professor Senator Avery, I have times three too, so. [LB546]

SENATOR SULLIVAN: Okay. Any other questions? Thank you for your testimony. [LB546]

DAVID LECHNER: Thank you very much. [LB546]

STAN CARPENTER: Good afternoon, Chair Sullivan, members of the Education Committee. My name is Stan Carpenter, S-t-a-n C-a-r-p-e-n-t-e-r, and I'm the chancellor of the Nebraska State College System, and I am here today in strong support of LB546 and want to thank Senator Kolowski for bringing that bill forward today. We have in the Nebraska State College System a strong, well-planned and managed revenue bond program. There are many controls in place in this case. Frankly, if that were not the case, we would not be so successful in selling our bonds in the market. In the past five years, we have issued more than \$30 million worth of revenue bonds, both for reconstruction or construction, renovation, and for reissuing of bonds to get a better interest rate, because interest rates are quite low. That \$25 million represents a great investment for us in the revenue bond market. And again, I will point out that these

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bonds, the funds are coming to pay these bonds from our revenue bond program--from our residence halls and from the food service contracts that we have for our students. I want to also point out that the experience that we have in the Nebraska State College System for dealing with these matters comes from our three vice presidents for finance and administration at the institutions, the vice chancellor for finance and administration and my office, and the vice chancellor for facilities and planning and my office. Those folks have more than 110 years' worth of service in higher education and in governmental finance and/or management of capital construction projects. And these are the folks who are charged from the beginning with oversight of the finances in these kind of matters and the construction projects that go along with them. There are also folks who work with the professionals that we work with in our revenue bond projects: the architects, the engineers, the construction managers, the bond rating agencies, the bond underwriters, bond counsel, and in some cases bond insurers. These are folks who then have to complete yet another level of review to go to the Coordinating Commission for these revenue bond projects. The process that we go through in the State College System is such that the projects are initiated at the colleges and then they come to the system office for serious in-depth review. And these processes begin with our campus master planning process. Every ten years each institution, through the direction of the system office, goes through a master planning process, and every revenue bond project that comes forward comes from that master planning process. So we begin to think about the bond issues in these matters sometimes 10 or 15 years before the bond is ever issued. And it's again important to remember that these are revenue bond funds, not tax funds. And we have in the system what we call our master resolution. That means that all the revenues from our bond, our revenue bond buildings and lunch and dinner facilities, are pledged for every bond that goes out. And so there's very little chance, Senator Scheer, for us to fail in that sense. We have enough revenues there to take care of our needs. And there are things in every bond that you all know as restrictive covenants, and let me just address a few, what we have to agree to in our bonds when we issue them. We have to agree to the time of completion of the projects. We have to agree to maintenance and repair of the projects. We have to have sound and efficient operations. We have to adopt and maintain rules that assure adequate revenues. We have to agree to furnish utilities. We have to keep accurate records and accounts of these buildings. We have to provide insurance. We have to hire a CPA firm of national reputation to audit our books. And we have to, of course, pay the bonds. And we have to maintain a minimum debt coverage ratio, as Mr. Lechner talked about. Ours, by bond policy, is 110 percent; by board policy it's not less than 125 percent. So as I said, we start this process long before the bonds are issued, and at every step along the way the system office is deeply involved in reviewing these projects. And to answer a question I think that Senator Avery talked about, a project that was going to be rejected by the board would never get past the system office, in our case, and because we have many conversations with our board and with our finance and facilities and audit committee on these projects before they ever come forward in a formal sense. Our revenue bond finances are reviewed almost daily, if not weekly, by

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the colleges themselves and by the system office; and annually we report...we construct a very detailed report about the status of our revenue bond financial position. And those revenue bonds are audited, as well as our facilities corp is audited by, as I said, a national...a firm with national reputation as well, and those audits are incorporated into the State Auditor's statewide audit of the Nebraska State College System. So when we finally get to the end here--and I will get to the end, Senator--when we get to the issuing point, those bond accounts are reviewed again and very carefully. And they're looked at by the system office and the bond rating companies and the bond underwriters and our bond counsel. And again, we use Ameritas and Scott Keene, and Lauren Wismer as well, as David Lechner said. Let me finish by saying that there are some folks I've heard along the way, over the course of the years, that say that the Nebraska State College System is not well-positioned to deal with these matters in a professional and efficient and thorough way. And I believe that is simply not true. We have as many safeguards in place as the university does and we are more than capable of looking after our own business. And anyone who would argue that, I would say is...well, I would say is condescending as they are wrong. The board is clearly capable of governing itself and its institutions, and the system office is more than capable of reviewing these matters, and it does, and it takes its role here seriously. And we are not incapable of conducting our business. And with that, Senator, I will answer any questions you might have. [LB546]

SENATOR SULLIVAN: Thank you very much. Any questions? Senator Haar. [LB546]

SENATOR HAAR: Well, I don't believe I'm condescending and wrong. And I, when I feel I have to pursue an issue, that's what I do. And so... [LB546]

STAN CARPENTER: Well, Senator, I didn't mean that you were condescending and wrong in pursuing this issue. But to say that we don't have the capability of doing the work, I've never heard you say that. [LB546]

SENATOR HAAR: No. And the issue for me is to look at cost and benefit, okay? [LB546]

STAN CARPENTER: Uh-huh. [LB546]

SENATOR HAAR: And we've heard in the past, at least, that having these additional layers is a benefit to the system. And I've heard today that when they get held up, that that's a cost. But I've heard that a benefit is that having, for example, the Coordinating Commission--again, I keep mentioning that... [LB546]

STAN CARPENTER: Sure. [LB546]

SENATOR HAAR: ...because we heard of that in the past--that having the Coordinating

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Commission involved has benefited projects by another set of eyes that says here's where you could save some money, here's where the project could be improved. And so I guess, you know, and I don't want to be condescending towards anybody, but the question has to be asked, has there been any benefit in the past of having them involved? [LB546]

STAN CARPENTER: That's a delicate question. I think it's open for debate. [LB546]

SENATOR HAAR: Okay. Well, I'm asking your opinion, in your knowledge. [LB546]

STAN CARPENTER: If you're asking my opinion,... [LB546]

SENATOR HAAR: Yeah. [LB546]

STAN CARPENTER: ...my opinion is no. [LB546]

SENATOR HAAR: Okay. [LB546]

STAN CARPENTER: I think that we have professional architects and engineers and construction managers and people who design, help us design our projects, who are more than capable of dealing with the question of construction or renovation that we deal with. We don't have a board that is willing to just say yes to everything. They question things. We talk about things informally, well before it ever gets there. We believe that the projects we bring forward are what we need to meet our students' needs and what we can afford. [LB546]

SENATOR HAAR: But on projects involving...there's still other projects, and we heard that earlier, where these other layers are necessary. [LB546]

STAN CARPENTER: Well, Senator, I guess there's a philosophical issue here as well. And remember that this bill would not remove the Coordinating Commission from its role of review and approval or disapproval, if you will, for those projects that are using state or tax dollars. That's not changed. What changes here is us using dollars that we're getting from students, that we are very careful and cautious about, to deal with revenue bond projects, projects that are not in any way supported by the state. [LB546]

SENATOR HAAR: Uh-huh. Well, whatever decision I make, I hope nobody will look at this as condescending... [LB546]

STAN CARPENTER: Senator, I... [LB546]

SENATOR HAAR: ...to either you or the Coordinating Commission. [LB546]

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STAN CARPENTER: Senator, if I offended you, I apologize. I was not referring to you. I've never heard you say that. But I've heard it from other folks that they don't think the state colleges have the ability to handle these kind of projects, and I find that offensive. I find it offensive for my board. [LB546]

SENATOR HAAR: Uh-huh. Okay. Thank you. [LB546]

SENATOR SULLIVAN: Any other questions? Senator Davis. [LB546]

SENATOR DAVIS: More an observation than anything else and, you know, we...I think a lot of us have sort of talked about this today. But ultimately, when it comes down to it, if a project, no matter whether it was a revenue project or not, ends up going south for one reason or another...and just to go back in history, there was a time when Peru State got to be very iffy as to whether it was going to survive. And we saw what happened to Curtis many years ago. So it's not impossible for some significant changes to take place. But anyway, ultimately, if these revenue projects don't make it, those companies are going to come back to us for recompense. [LB546]

STAN CARPENTER: Well, Senator, I think the law is quite clear that that's not a remedy for those companies. [LB546]

SENATOR DAVIS: And you guarantee that that will be what happens? [LB546]

STAN CARPENTER: Well, and I can also say to you that in my 13 years here, we've never come close to failing. And remember that the Coordinating Commission's role here is simply advisory in these matters. It doesn't have the power to say yes or no for revenue bond projects. So anything can happen, of course it can. I understand that. But I think that the likelihood of having a failure of any of our revenue bond projects is at zero percent. We do not take risks in these matters that we know we cannot afford. And most of our revenue bond projects, Senator, are really renovations of existing buildings. I can't remember the last time actually we built a new revenue bond building, although we are in the process of doing one now at Chadron with the replacement of the West Court apartments, with Eagle Ridge. But in that sense, we will not take the West Court apartments off-line until Eagle Ridge comes on-line, and we know that we're not going to be supporting two of those projects at the same time. So I appreciate your concern and I understand that, but I think what we have here is a Board of Trustees, in our case that's appointed, that oversees and governs the institutions in the system, and they do a good job of that. And I think there comes a point when you say, let's let that board do its job. [LB546]

SENATOR DAVIS: Thank you. [LB546]

SENATOR SULLIVAN: Any other questions? Thank you, Dr. Carpenter. [LB546]

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STAN CARPENTER: Thank you. Thank you. [LB546]

SENATOR SULLIVAN: Hello. [LB546]

LAUREN WISMER: Good afternoon, Madam Chair, members of the Education Committee. My name is Lauren Wismer, L-a-u-r-e-n W-i-s-m-e-r. I'm an attorney with Gilmore and Bell, which is a public finance law firm with offices in Kansas City, St. Louis, Wichita, Lincoln, and Omaha. And I'm here to testify in favor of LB546. It's been my privilege to work with the University of Nebraska since 1983 and with the Nebraska state colleges since 1990 on their respective tax-exempt financings. As mentioned previously, my firm specializes in tax-exempt financings. For the past two years, our firm has provided more approving legal opinions for municipal transactions in the United States than any other law firm. Our role in the transactions covered by LB546, which in finance improvements to residential housing, student and faculty unions, student health, and parking on the various university and state college campuses, is to provide an approving legal opinion to the various parties. And before we go any further, I have the Constitution of the State of Nebraska in front of me, and what it says with respect to these particular facilities. It says: which bonds shall be payable solely out of the revenues, fees, and other payments derived from the use of the buildings and facilities constructed or acquired. And one of the things that we used to do when we would talk with issuers about industrial development revenue bonds was to tell the issuers that they couldn't become liable on them even if they wanted to. And I think the same situation applies here. Because of the constitutional provision and what it says about the bonds being payable solely out of the revenues and fees of the facilities, I'm not sure that other funds of the university or other funds of the state are legally available to make those payments when the constitution is fairly clear. The constitution is the supreme law of the state and when it says they're payable solely out of the revenues and fees derived from those facilities, I think that it means what it says. And as an attorney involved in this process, we have an obligation to make sure that the university, the state colleges, and the other participating parties comply with any and all legal requirements that affect the issuance of revenue bonds of the universities and the state colleges, including any applicable state law and federal tax and securities laws. Because of these responsibilities, we prepare almost all the various documents necessary for these financings, including the bond resolution, the disclosure documents, the tax compliance agreement, the continuing disclosure undertaking, and various other documents that we deem necessary in order to provide our approving legal opinion. In the process of preparing these documents, we review the project and its financing very carefully to ensure its compliance with federal tax law and with state law. This is required to ensure that the revenue bonds are validly issued and that the interest is excludable from gross income for federal income tax purposes, as stated in our opinion. In addition, federal securities laws require that the university and state colleges disclose to prospective and actual investors all information that is material in making an informed

investment decision. This would include not only a description of the project and the terms and provisions of the revenue bonds and their sources of repayment, but it also includes audited financial statements for the universities or the state colleges; its respective revenue bond operations; historical and projected debt service coverage ratios and the assumptions which underly any projections; descriptions of the revenue bond facilities, their rates, their utilization; historical and projected enrollment; tuition and financial aid information; admission, retention, and graduation data; budget information; a description of any parity debt; and certain comparisons to peer institutions. We participate with the issuer and the underwriter in the preparation and dissemination of this information, which now includes providing annual updates to the Municipal Securities Rulemaking Board under the Securities and Exchange Commission's continuing disclosure requirements. As you can easily understand, it's vitally important that this information be complete and accurate. Every time the university or the state colleges issues revenue bonds for such purposes, its reputation is at stake. And as a professional advisor, we are not doing our job if we do not ensure compliance with all applicable state and federal law. As you can easily understand, it's vitally important that we do our job. This is a very brief summary of our role on the issuance of revenue bonds for residential housing, student and faculty unions, student health, and parking by the University of Nebraska and the Nebraska state colleges. While the Coordinating Commission for Postsecondary Education has an appropriate role in higher education in the state of Nebraska, we believe that the procedures followed by the university, the state colleges, and their professional advisors make submission of such transactions to the Coordinating Commission unnecessary because of existing rigorous and thorough review instituted by the respective issuers. For that reason, I am speaking in favor of LB546. I would be happy to answer any questions that you might have. [LB546]

SENATOR SULLIVAN: Thank you very much. Senator Cook. [LB546]

SENATOR COOK: Thank you, Madam Chair. And thank you for your testimony. Are there...has your firm...you mentioned that you operate within the state of Kansas and perhaps you mentioned a couple of other states. [LB546]

LAUREN WISMER: Yes, I did. [LB546]

SENATOR COOK: And has this proposal been introduced--that's my first question--in Kansas or...and/or was it necessary in terms of all the reasons that have been offered heretofore on the necessity of this proposal? [LB546]

LAUREN WISMER: My practice is limited to the state of Nebraska. [LB546]

SENATOR COOK: Okay. [LB546]

LAUREN WISMER: And I would be happy to find out for you but at this point I don't

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have sufficient knowledge to be able to answer your question. [LB546]

SENATOR COOK: Okay. I would like to know the answer to whether or not this is a unique problem, challenge that we face because of the way our revenue bonds are issued and how we pay for them and... [LB546]

LAUREN WISMER: I will find out the answer to that question and provide the committee with the information. [LB546]

SENATOR COOK: Thank you. [LB546]

SENATOR SULLIVAN: Any other questions? Senator Haar. [LB546]

SENATOR HAAR: I just have one and it's kind of a...you know, I'm convinced from the testimony we've had that the finances are fine. I'm not worried about repaying the bonds. My question that I'm going to have to make a decision on is, does having these other layers add value? Since we do it with taxpayer money, and that's not even a question here, does it add value to these bonded projects, which could be mortar and brick just like the other ones? Does it add value? That's what I'm going to have to decide on. [LB546]

LAUREN WISMER: I can't answer that question. [LB546]

SENATOR HAAR: No, and it wasn't really a question, it was...but I appreciate, you know, what you and the others have said certainly shows that the financial end of it is sound, and I appreciate that. [LB546]

LAUREN WISMER: Well, I think as Mr. Lechner indicated, the ratings for the University of Nebraska and while the state colleges may not have ratings quite in the same category for an institution--and rating agencies sometimes give greater weight to size than is appropriate--in both instances I think the ratings for the state colleges and the university are a very good indication of the sophistication and the capability of the management for those two organizations. [LB546]

SENATOR HAAR: Okay. Thank you. [LB546]

SENATOR SULLIVAN: Thank you for your testimony. [LB546]

LAUREN WISMER: Thank you. [LB546]

SENATOR SULLIVAN: Welcome. [LB546]

SCOTT KEENE: Good afternoon, Senator Sullivan, members of the committee. My

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name is Scott Keene. I'm a vice president...I'm sorry, S-c-o-t-t K-e-e-n-e. I'm a vice president with Ameritas Investment Corp. I'm an investment banker who has assisted municipal issuers in the state of Nebraska for nearly 25 years, including both the state colleges and the University of Nebraska. Both institutions are managed by very cautious, conservative, and financially sophisticated professionals. This makes my job much easier because they are willing to spend the time to structure their financings in a way that meets the needs of their institutions but also protects the interests of their investors. Nationally, a number of issuers have put themselves in very precarious positions because they forgot about the need to protect the investing public. State colleges and the University of Nebraska never ignore that duty. I have many responsibilities in debt financing, but my primary duties are to evaluate the creditworthiness of the issuer, appropriately structure their financings, monitor their ongoing financial performance, and accurately report their strengths and weaknesses to the financial markets. Mr. Wismer and I work with our issuers throughout the year to provide information of the securities markets, and are also involved in the very earliest stages of any contemplated financing. You've heard about the restrictive covenants that these two institutions have agreed to impose on themselves to guarantee that the bond market readily accepts their debt. Mr. Carpenter mentioned the master resolution under which the state colleges operate. The University of Nebraska also has a master trust indenture that achieves the same goal of cross-collateralizing their various enterprises, whether it's housing or parking, on all of the campuses. So the bondholders are getting the protection of much more than just the revenues of one of a single financed project but of all of the financed projects. These covenants...it's important to note that these covenants will survive the tenures of any of the individuals that have spoken to you today. They will last as long as either of these institutions have debt outstanding, continuing to protect the institutions and their bondholders long into the future. Even if an issuer contemplates a financing that is too risky for them or the bondholders, the investment banker and the bond attorneys are not the only parties working to prevent them from doing so. The rating agencies and the bond market itself help to regulate the issuance of debt as well. The issuer is just one party of many that help to guarantee the appropriateness of a financing. In addition, the many outside parties reviewing the institution's financial condition and debt issuance, both the state colleges and the university have many professionals within their organizations monitoring the same information. Not only do the individual state colleges monitor their debt issuance; so do the chancellor and the vice chancellors for finance and administration, and facilities and planning prior to any review by the Board of Trustees. The same is true for the university, where the president and the vice president for business and finance review proposals from campuses prior to any consideration by the Board of Regents. I would argue that the financial sophistication and hands-on management of these institutions are two of the key reasons that the market is so eager to purchase their bonds. Both have the policies and personnel in place to professionally manage their indebtedness. This is a long way of saying that there are many layers of review that go into the issuance of bonds by the university and the state colleges, and that while the

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Coordinating Commission serves many important roles in higher education in Nebraska, the review of debt financing does not need to be one of them. For these reasons, I am in support of LB546 and would be happy to try to answer any questions that you might have. [LB546]

SENATOR SULLIVAN: Thank you, Mr. Keene, appreciate your comments. Today we've talked a lot about bricks and mortar being financed through these revenue bond projects. [LB546]

SCOTT KEENE: Uh-huh. [LB546]

SENATOR SULLIVAN: Does it also cover the operation and maintenance costs of these projects? Do you know? [LB546]

SCOTT KEENE: The individual enterprises do pay the costs of operation and maintenance of the enterprises themselves. So the gross revenues that are generated from dormitory revenues, for example, go to pay the operations and maintenance of the dormitory system on a given campus, and what's left over after paying those operations and maintenance is what's available to pay the debt service. [LB546]

SENATOR SULLIVAN: Okay. All right. Thank you. [LB546]

SCOTT KEENE: And generally what we're seeing is that the amount that's left over is 1.5 to 2 times or more of the annual debt service on the bonds. So both the state colleges and the university have very strong debt service coverage, very good protection for the bondholders. [LB546]

SENATOR SULLIVAN: Okay. All right. Thank you. Senator Scheer. [LB546]

SENATOR SCHEER: Thank you, Senator Sullivan. I think sometimes we come in here with our set presentation, and I don't think you're addressing at least what I've heard from Senator Haar and myself and Senator Davis. The concern is not that there is not rigid funding controls within the system. We're not questioning that, at least I'm not, I don't think Senator Haar is,... [LB546]

SENATOR HAAR: No. No. [LB546]

SCOTT KEENE: Uh-huh. [LB546]

SENATOR SCHEER: ...neither is Senator Davis. But what we are questioning is...and it is not exclusively to the secondary counsel, we also have a legislative portion into this. It's the trifecta. It's not just a double dip, it's a trifecta. [LB546]

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SCOTT KEENE: Uh-huh. [LB546]

SENATOR SCHEER: And so what my concern, and I think it dovetails into others, is we have a system in place. It entails not only your due diligence from whatever facility, regardless if it's the state colleges or the university system, how you fund it, how you repayment. All those things go into it. We understand that. But there's also the second level of the continuation of a commission, and then there's also the final and last one of the legislative branch making sure that all due diligence was taking place. [LB546]

SCOTT KEENE: Uh-huh. [LB546]

SENATOR SCHEER: No one has yet to address, other than there might be a problem, that there is a problem with the system in place as we know it. And you're telling us to throw it out because we don't need it anymore, but no one has shown us where it has been a detriment and it hasn't been perhaps in some cases a positive event. And you know, the state colleges and the university, they can call their Regents or their board together and approve these anytime they want. The Executive Board can be called anytime that the Chairman so sees fit. It doesn't have...we don't have to be in session to do that. All of these things can be done in a very short period of time. And so my question is why are we changing the process if what we have works? It has the checks and balances that have worked well over the years. It's not overly cumbersome. So why are we changing it? [LB546]

SCOTT KEENE: I think that the biggest issue, and I don't know that we're really put...done a very good job today of putting a fine tooth on what the extended period of time is that we're talking about. Once the Regents or the Board of Trustees have approved a project or a financing, then the project is delivered to the CCPE for its analysis. I believe they have 60 days to review that project before it gets to their board. Then a report is delivered to the Legislature with regards to their recommendation. Whether that Executive Committee is able to meet within 30 days or 90 days, we're talking about at a minimum a 90-day, at a minimum, a 90-day period from the time that the Board of Regents or the Board of Trustees might be approving a financing before the Legislature can approve it, and as much as...could be as much as half a year. So I think it is not a matter of days or weeks of a delay of a project. It really is a matter of months. And that is significant. And whether interest rates are low or whether interest rates are high, there's always the risk that they may rise and so there is some goal and desire. They could also fall, but there is some risk that they would rise and that there is a need to get to market. That need to get to market quickly is...it is important now, especially just because rates are so low that they really don't have anywhere to go but up. And so I don't want to diminish the importance of that kind of timing, but I think it is important to put scope on it and recognize that we are talking about maybe 90 to 180 days of delay, not two or three weeks. [LB546]

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SENATOR SCHEER: Okay. Fair enough that there is the possibility of an extended time period. But, one, it's not like you come up with these projects and 30 days later they're ready to go to bid. That doesn't happen. We all know that. So the fact of the matter is most of your projects are a year or longer in scope and planning and looking at it; so it does give time for that process to be reviewed internally, either by them or by the Legislature, while ongoing things are working even within your system. It doesn't have to go from A, done, to B, done, to C. Those things can work and kind of in continuation of each other, not exclusive to one being done or not. So from that vantage point, I understand what you're saying. [LB546]

SCOTT KEENE: Uh-huh. [LB546]

SENATOR SCHEER: But that's if you're going, stop dead, start all over, stop dead, and start all over again. If that's how the system is working, we're all using the system wrongly. It should be a continuously flowing system that can work appropriately. If you have a concern with 60 days, then come in and ask it to be changed to 30, don't throw it out, because I think there's some of us that think there's benefit in those oversights. And if it is not working as you would like it to be working, then show us the flaws and how to change it, rather than just get rid of it. I think that I'm having a hard time following why to get rid of something when it's only what if and this could be. And, yes, we have low interest rates that may or may not go on. I mean I've been involved in a lot of those things, too, and it's a crapshoot. You're locking your rates in usually at maximum of 30 days, and even at the 30-day juncture is, hmm, is it going to go down, should we wait another week, another 10 days,... [LB546]

SCOTT KEENE: Uh-huh. [LB546]

SENATOR SCHEER: ...one day? You know, you've got the feds are going to have a meeting next week. Ooh, do we lock it before the meeting or do we take the chance and go after it? All of those things are unique to that process, which has nothing to do with what we're talking about. So funding does have an appropriate part, bonding is a big part of the construction process, but these safeguards along the way I don't think are an impediment. They're more of a benefit. And if they're not working appropriately then let's change how we go about doing them necessarily, than just getting rid of them. [LB546]

SCOTT KEENE: I might suggest two things. There is a bit more of a start-and-stop process for these institutions than would be readily apparent. Especially, the State College System does not have architects and engineers on staff, so they won't start the actual professional work tied to a capital construction project until they know that the Legislature has given approval. So they really are in a position where the board gives approval for a project and it might be, again, 90 to 180 days before they go out and engage the professionals because they don't have the ability...(A) they may not have the money; (B) they don't have the desire to stick their necks out to start encumbering

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professional fees when they don't know if they're going to have a viable project. So there, I agree, especially with the finance side of the work, a lot of what we do can overlap with what the Coordinating Commission does. We can be drafting legal documents. We can be having preliminary conversations with the rating agencies. But it's only because the bond attorneys and the underwriters and the rating agencies work on a contingency basis in that we are only compensated if the bonds are sold. So we'll go...we'll spend a lot of time and work, recognizing if the Legislature doesn't approve a project, the financing isn't done and we've just donated our time. And that's fine. But there are other aspects of the capital project that really are start and stop. [LB546]

SENATOR SCHEER: I just want to clarify something you just said because if it is the case, then a lot of this, to me, is moot. Are you saying that the state colleges, if they choose to make an investment in facilities, will not engage an architect or design people until the approval of the Coordinating Commission and the Legislature? [LB546]

SCOTT KEENE: I would defer to someone with the state colleges to answer that question,... [LB546]

SENATOR SCHEER: Well, because that's what I just heard you say. [LB546]

SCOTT KEENE: ...but I think that's...I believe that that is the case. They are not... [LB546]

SENATOR SCHEER: Okay. But then if that is the case, sir, then that 30 or 60 or 90 days between there really is sort of a moot point with the fluctuation of markets on a bonding basis, because it's going to take them six months to a year to design the facility. So the 60 days at the very front end may have no impact whatsoever on the tail end. So, I mean, and I'm glad you stated that because that really is a whole different perspective than what I was envisioning, and I thank you for clarifying it. [LB546]

SCOTT KEENE: Well, again, I'm not stating that that's absolutely the process that they use, but my intent is and what I'm trying to say is that the process adds 60 or 90 days...I'm sorry, 90 to 180 days for the process, regardless of when it's starting. So it's delaying the financing, it's delaying the start of the design work, it's delaying the construction, it's delaying the opening of the facilities. [LB546]

SENATOR SCHEER: But realistically, you're not locking any funds in on any project earlier than 30 days, and even at the 30-day window...you're telling me you locked your numbers in before 30 days. [LB546]

SCOTT KEENE: The bonds are oftentimes issued prior to the project being constructed, so we are locking the interest rates in prior to the completion of the project. Oftentimes we have...whether we have donor funds, whether we have surplus fund monies that are

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being used to help construct a project... [LB546]

SENATOR SCHEER: So your issue...you are issuing... [LB546]

SCOTT KEENE: ...we may be issuing a debt early in the process to try to lock in the interest rates. [LB546]

SENATOR SCHEER: You are issuing the bonds early, arbitraging it for later construction. Is that... [LB546]

SCOTT KEENE: Correct. [LB546]

SENATOR SCHEER: ...what you're telling me? [LB546]

SCOTT KEENE: Correct. [LB546]

SENATOR SCHEER: Okay. Thank you. [LB546]

SCOTT KEENE: Thank you. [LB546]

SENATOR SULLIVAN: Any other questions? Thank you, Mr. Keene. [LB546]

SCOTT KEENE: Thank you very much. [LB546]

SENATOR SULLIVAN: Any other proponent testimony? Anyone wishing to speak in opposition? We'll now hear neutral testimony. [LB546]

MARSHALL HILL: (Exhibit 2) Senator Sullivan and the committee, Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l, executive director of the Nebraska Coordinating Commission for Postsecondary Education. It probably surprises you that I'm not testifying in opposition to this bill. That's a decision reached after consultation with our commissioners, who are somewhat divided on the issue. My purpose here today is to lay out some points for your consideration and to be sure we're all talking about the same things. We're handing out some information and I'm not going to read my testimony for you. Let me just make some remarks in response to some items that have been addressed thus far. First, the Coordinating Commission doesn't really have any serious concerns about the institutions getting themselves into financial difficulties because of a flawed process of bonding. We have confidence in the legal support that they seek. We have confidence in the bond counsel that they employ. So the idea that the institutions would be getting themselves into trouble on revenue bond issues, while it could happen and indeed has happened in the past and sometimes happens in other states, that's not a substantive concern for us in this regard. So I'll talk about what our real concern is in just a moment. First of all, there is a 60-day window for the Coordinating Commission to review after

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receipt of a complete proposal and a financing plan. We generally don't feel that we have much difficulty with that. We would have a great deal of difficulty in complying with a 30-day turnaround. Our board does not meet monthly. We have to have opportunity for staff to evaluate and provide our recommendations to our board. Another point: Senator Haar has mentioned several times the idea that the commission has added value, in essence, by subtracting cost. Our assessment is that we have done that mostly on tax-funded projects, and I will provide the committee a letter we put together several years ago which identifies specific projects which saved the state significant amounts of money. Mike Wemhoff, who is our facilities officer and who is here and who has reviewed every 1 of these 80 projects that has come before the Coordinating Commission and every other project that has come before the Coordinating Commission can really only recall appreciable savings on one project that was a revenue bond project, so we're not making that argument in regard to the revenue bond projects. What kind of advice and what kind of review do we carry out? We've provided you two examples in your handouts, two actual examples of a commission review of revenue bond projects. One is the infamous recommendation for denial for the Outdoor Adventures Center; the other is a recent approval for a project at Chadron State. The commission uses the same review process for all revenue bond and surplus fund replacement projects. We use a process that the institutions helped develop and design. We consider, among other things, compliance with the comprehensive statewide plan, compliance with the statewide facilities plan, private...possible unnecessary duplication, and the finance plan for the project. We also consider how the proposals would impact students' abilities to pay for college. I want to say that again. We consider how these projects will affect students' abilities to pay for college. I think we all recognize that students are willing to agree...well, they are not great at deferring gratification, maybe none of us are, and so they are willing to charge themselves for something that they want. Maybe it's not something that they need. Why did the commission...I don't want to relegislate our recommendation for denial on the Outdoor Adventures Center, but the reason the commission recommended denial of that as opposed to the 80 other projects was this latter issue. The students, indeed, voted for themselves an increase for their student recreation fees from \$277 a year to \$445 a year. That was for every student on-line, on campus, who would take one semester credit hour or more. We, frankly, think they were wrong. We think the Board of Regents was wrong in adopting that approach. We all disagree from time to time. We made our views known to the Legislature; the Legislature chose otherwise. That's the process. My last comment, I'd like to address the point that Chancellor Carpenter made. We have never advocated a differential review of projects from the University and the community colleges...and the state colleges on any basis of competency of the sectors' review processes. The state colleges do have capable and competent people to do this work. Our concern in the past in making any distinctions between the two has been just on the size effect. A \$20 million project at one of the state colleges is a significantly more impactful project than is a similar size project for the university system. I'd be pleased to respond to any questions you have. [LB546]

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SENATOR SULLIVAN: Thank you, Dr. Hill. Any questions for the doctor? Senator Haar. [LB546]

SENATOR HAAR: Well, just the pages you've handed out here were the evaluation on a specific project. Is that correct? [LB546]

MARSHALL HILL: There are two. You have two. [LB546]

SENATOR HAAR: Okay. [LB546]

MARSHALL HILL: The first...and they are long and comprehensive, and the first is on the 1 project out of the 80 that we recommended the Legislature not approve, and that was for the Outdoor Adventures Center here at the University of Nebraska at Lincoln. The second is a similar revenue bond project that Chancellor Carpenter just previously mentioned, a renovation process for dormitory space at the...at Chadron. We are providing those to you to give you a sense of the process that the commission goes through and, second, what we forward on to the Legislature for your use in determining whether or not you choose to approve or disapprove the project. [LB546]

SENATOR HAAR: Uh-huh. And how did you develop these criteria? [LB546]

MARSHALL HILL: They were developed in consultation with the institutions themselves. They've been in place for quite a bit of time. If you have more detailed questions about that, I'm going to ask Mike Wemhoff, our facilities officer, to come up. [LB546]

SENATOR HAAR: No, that's okay. So are these simply a duplication then of what...and, you know, again, we're not saying the Board of Regents is, you know, is inadequate or anything like that, but are these questions simply a duplication? [LB546]

MARSHALL HILL: You will see in my written testimony the statement that Nebraska state colleges and universities have been mostly reasonable, was the term we came up with, and I'd go beyond that, have been largely reasonable. Obviously we think so or we would not have recommended for approval 80 of these projects. Occasionally, occasionally, we have a difference of opinion. We've provided that difference of opinion in this one case. As far as redundancy, yes, the Boards of Regents, the Boards of Trustees do go through a similar review process. I would say that the difference is our perspective is different. Our perspective is statewide. Our perspective is not specifically campus-based and actually is sort of predicated on what we think--it's a parental view--what we think is best for the students of the state of Nebraska. [LB546]

SENATOR HAAR: Thank you very much. [LB546]

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SENATOR SULLIVAN: Any other? Senator Davis. [LB546]

SENATOR DAVIS: Mr. Hill, do you have your document with you? [LB546]

MARSHALL HILL: I do. [LB546]

SENATOR DAVIS: Can you go to the Chadron State College lead page for me? [LB546]

MARSHALL HILL: Yes. [LB546]

SENATOR DAVIS: And let's just run through these dates because I want to be sure I've got them right. So the first date is date of governing board approval. That would be who? That would be your board? [LB546]

MARSHALL HILL: No. [LB546]

SENATOR DAVIS: That would be...? [LB546]

MARSHALL HILL: That would be, in this case, the Board of Trustees. [LB546]

SENATOR DAVIS: Board of Trustees, June 15, 2012; date of complete proposal received, August 24, 2012. So that is when you got it or...? [LB546]

MARSHALL HILL: Yes. [LB546]

SENATOR DAVIS: And then you approved it on the 19th... [LB546]

MARSHALL HILL: Of September. [LB546]

SENATOR DAVIS: ...of September. [LB546]

MARSHALL HILL: Correct. [LB546]

SENATOR DAVIS: So just a little over 60 days from the time the governing board approved it, it was out of your hands. [LB546]

MARSHALL HILL: Yes. We're very aware of our... [LB546]

SENATOR DAVIS: Less than 30 days in your hands. [LB546]

MARSHALL HILL: Yeah, we are very aware of our statutory limitations there. Frankly, we want to process project requests as quickly as we possibly can for two reasons: one,

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it's the right thing to do; and second is I don't want to give the institutions that hammer to use against us on our review process. Clearly, whatever process we have should be straightforward, timely. We have, if we're going to recommend this approval or have concerns about a project, we don't string it out in order to just wait longer to express those concerns. We do them up-front. There have been some discussions about ways to speed up the commission's review of projects, mainly of tax-funded projects. And we have expressed a willingness to work with the institutions earlier through the process to express any concerns that we might have so that that could be taken into account as the institutions prepare their proposals to us. That has sometimes worked and other times hasn't. The university, by and large, has taken the position that they did not want to send materials to us until they had been approved by their governing board. I understand why they think that way, but that does mean that our clock doesn't start until after theirs stops. [LB546]

SENATOR SULLIVAN: Any other questions? Thank you, Dr. Hill. Any other neutral testimony? Welcome. [LB546]

CAROLYN MURPHY: Thank you. Thank you, Senator Sullivan and members of the committee. My name is Carolyn Murphy, C-a-r-o-l-y-n M-u-r-p-h-y, and I'm vice chancellor for finance and administration for the Nebraska State College System. And the only reason I wanted to come up in neutral testimony was just to clarify our planning processes related to the question on our hiring of architects. And by the time that we take a project to bonding, we do have architects on board, and actually we've completed, for any project that requires it, a program statement, which has also been approved by our Board of Trustees and is also provided to the Coordinating Commission. In some cases, the colleges move ahead with design development and/or construction documents while that process is going on if they have the funding available to do that. In some cases they wait until the bond funding is there to complete that. But we do have those architects on board and do have the planning documents in advance of going to the market, so. [LB546]

SENATOR SULLIVAN: Okay. All right. Very good. [LB546]

CAROLYN MURPHY: Okay. [LB546]

SENATOR SULLIVAN: Thank you for your testimony. [LB546]

CAROLYN MURPHY: Thank you. [LB546]

SENATOR SULLIVAN: Any further neutral testimony? Senator Kolowski for closing. [LB546]

SENATOR KOLOWSKI: Thank you, Chairman Sullivan. Thank you very much,

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committee members, for your excellent questions and the discussion. I hope the material that has been covered answered your questions and I hope that will have influence on the moving ahead of LB546. I just wanted to repeat the...or mention in closing the motivation behind bringing this forward was very simple. From both the college and university individuals, the efficiency and the effectiveness of our process was what we were looking at. The number of fail-safes and secure points that were tied into all the discussions that you heard were seemingly very redundant. And although it works and you can continue to do what we're doing, there are ways of making it even better. And that's why this particular bill was proposed. And I hope you'll give that consideration as we move on, as you reflect on the things you've heard today. Thank you very much. [LB546]

SENATOR SULLIVAN: Very good. Any questions? Thank you, Senator. [LB546]

SENATOR KOLOWSKI: Thank you. [LB546]

SENATOR SULLIVAN: This closes the hearings for today. Thank you all for attending. [LB546]