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Government, Military and Veterans Affairs Committee  
February 03, 2016

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[LB718 LB753 LB766]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, February 3, 2016, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB753, LB718, and LB766. Senators present: John Murante, Chairperson; Tommy Garrett, Vice Chairperson; Dave Bloomfield; Mike Groene; Matt Hansen; and Tyson Larson. Senators absent: Joni Craighead and Beau McCoy.

SENATOR MURANTE: Welcome to the Government, Military and Veterans Affairs Committee. My name is John Murante. I'm the State Senator for District 49 which includes Gretna and northwest Sarpy County, and I'm the Chair of this committee. As our members filter themselves into the committee room...

SENATOR BLOOMFIELD: Very little filtering.

SENATOR MURANTE: Yeah, very little filtering. It's good to have you here, Senator Bloomfield. (Laughter) So hopefully they're listening somewhere and moseying...and Senator Hansen is here as well. All right, we're approaching quorum. So we'll get some formalities out of the way. We are here for the purposes of conducting public hearings on three bills which will be taken up in the order on which they appear on the agenda listed outside of this room. If you're here to testify on any of the matters before us, we ask that you fill out this green sheet which is located on...beside...on tables on the sides of this room. If you'd like to express support or opposition to a bill but do not want to testify, we have a sign-in sheet also on those tables and your opinion will be taken into consideration. If you testify, we ask that you begin by stating and spelling your name for the record; that's very important for our transcriber's office. The order of business is that the introducer will make opening statements. We'll proceed to proponent testimony, followed by opponent testimony, neutral testimony, and then the introducer will be given an opportunity to close. We ask that you listen and try not to be repetitive. In the Government Committee we do use the light system. Each person is allotted four minutes to speak. When the yellow light comes on, you have one minute remaining and we ask that you begin to wrap up your remarks. When the red light comes on, we ask that you conclude your remarks and we'll open the committee up to any questions they may have of you. At this time I'd like to request everyone to turn off or silence cell phones or anything else that makes noise. If you have prepared statement, exhibits, anything you'd like distributed to the committee, we ask that you provide us with 12 copies to the page who will distribute to the committee. If you don't have 12 copies, again, give it to the page and we will make copies for you. Introduction of members: not many to introduce, but on the far right we have Senator Mike Groene from North Platte, Nebraska. Next to Senator Groene, not with us in presence, perhaps with us in spirit is Senator Larson; Senator Dave Bloomfield from Hoskins, Nebraska; Senator Tommy Garrett

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from Bellevue, Nebraska, is the Vice Chair of this committee. Andrew La Grone is the committee's research analyst. To my immediate left, Senator Matt Hansen from Lincoln. Senator McCoy is from Omaha, who is traveling and will not be with us today. Senator Craighead, also from Omaha, is attempting to get back into Nebraska, but is stranded and having a difficult time getting here. So we hope to see her, but I wouldn't plan on seeing her today. So that concludes our formalities. And we welcome back Senator Crawford to the Government, Military and Veterans Affairs Committee.

SENATOR CRAWFORD: (Exhibit 1) Thank you. Good afternoon, Chairman Murante, and members of the Government, Military and Veterans Affairs Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm pleased to bring LB753 before you today. LB753 amends Nebraska's adoption of the Uniformed Services Employment and Reemployment Rights Act of 1994 to extend protections to persons who work in Nebraska, but are called into National Guard service in another state. Current law only provides employment protections for those who go into the National Guard service if they work in the same state in which they were called into service. For the brave men and women who serve our country, this is an oversight that must be corrected. Estimates show there are at least 242 individuals who are employed in Nebraska but are assigned to guard another state. Therefore, these individuals and their families are not currently protected by state law in the same manner which Nebraska Guard members are. Those National Guard members who work in Nebraska and serve our country through Guard duty in another state should have those same job protections as any other Guard member. The legislation will close an unnecessary loophole and allow service members and their families the peace they need while they sacrifice for their country. This bill will also help ensure those individuals are reemployed in Nebraska after they serve. It will provide the added benefit of keeping hardworking individuals in our state and contributing to our economy. More than that however, it's simply the right thing to do. As you'll hear in today's testimony and supporting letters, 20 other states already provide these protections. This includes our neighboring state of Kansas where an estimated 18 Nebraska Guard members are protected. Defense Department officials have also been working with Iowa for future legislation in that state. Iowa's potential future action on this issue would provide reciprocal benefits to Nebraska Guard members who work in Iowa. There are an estimated 99 Guard members assigned in Iowa who are employed in Nebraska, and there are 31 Guard members assigned in Nebraska who are employed in Iowa. These are self-reported Guard numbers, so figures could be higher. For our military families worried about economic security, their jobs, and their healthcare these protections are critical. The bottom line is it shouldn't matter if you work in the state in which you mobilize. We owe those employment protections to all our National Guard members. With that I'll be happy to answer any questions you may have, but first I just wanted to say that Martin Dempsey, Midwest Department of Defense, State Regional Liaison had intended to be here to testify, but the weather stranded him in the New York area unfortunately. You have a copy of his testimony for the record. [LB753]

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SENATOR MURANTE: Thank you very much, Senator Crawford. [LB753]

SENATOR CRAWFORD: Thank you. [LB753]

SENATOR MURANTE: Are there any questions for Senator Crawford? Senator Garrett. [LB753]

SENATOR GARRETT: Thank you, Senator Murante. Senator Crawford, mea culpa, I didn't do my homework. I meant to do my homework on this. As an employer, I own a small defense contracting company, and we are required...if I'm not mistaken, I'd have to check with my HR person, by federal law that any time a Reservist or a Guardsman gets activated, we have to guarantee them their employment when they come back to that same job or an equal job. And we've had people mobilized for over two years, sometimes it's real difficult, but I think it's USERRA, and maybe the General will have, when he comes up to speak, can correct us on that, but I think we're already required by federal statute to give those people their jobs back. So I was interested to see why we have it in state statute, why it's not already there. [LB753]

SENATOR CRAWFORD: All right. So what we have in the state statute is we have adopted several parts of the federal law that you're discussing. And as I understand it, what we have adopted, our statute, still has the focus on Guard members being protected in our Nebraska statutes, Guard members being protected who are serving the Guard in Nebraska. And so our state statutes that apply to our employers are focused only to provide that coverage for people who are in the Nebraska Guard. [LB753]

SENATOR GARRETT: Hmmm, okay. [LB753]

SENATOR CRAWFORD: So now I'll let someone behind me address the issue further if they have other things to add to that. We do in other cases...I know from my experience on the Business and Labor Committee, we have other instances where we do have federal protections for some employment practices where we also have state protections for those employment practices. And a part what that provides is that it provides different options for employees who may be aggrieved. So if we pass this bill, then if someone comes back and doesn't have their job back, they have recourse to our state Department of Labor. And so they may feel that they would have a better chance of getting their rights protected by the state of Nebraska, perhaps, than the federal government. That's a reason why there might be duplication of...if there is duplication, that's a reason why we have done that in other employment protection law in other places that I've seen so that the citizen has redress at either level. [LB753]

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SENATOR GARRETT: Okay. I think the light just came on over my head. It may be because the work that we have as a defense contractor... [LB753]

SENATOR CRAWFORD: That's probably true, that's probably true. [LB753]

SENATOR GARRETT: ...is via the federal government. [LB753]

SENATOR CRAWFORD: Right, so...you're right. So that very well may be that they are working for the federal government when they're working for you and a contract. And so you probably have to follow federal law as opposed to our Nebraska employers who are not in that situation. So that would...that's another...that's also a very likely the case. [LB753]

SENATOR GARRETT: Thank you. [LB753]

SENATOR MURANTE: Thank you, Senator Garrett. Senator Bloomfield. [LB753]

SENATOR BLOOMFIELD: Thank you. Senator, under...you mentioned reciprocity with Iowa. [LB753]

SENATOR CRAWFORD: Um-hum. [LB753]

SENATOR BLOOMFIELD: Does that exist now? [LB753]

SENATOR CRAWFORD: No, it does not. [LB753]

SENATOR BLOOMFIELD: Okay. When my son was in Afghanistan, when he came back he worked in Iowa, lived in Nebraska. And they told him he could keep a job, but it wasn't the job that he had when he went, it was a lower job where he would...had he been here, he would have been advanced and wasn't. Now he's...under this reciprocity agreement, would he have been eligible for the advance or would he have stayed at his old job? [LB753]

SENATOR CRAWFORD: Thank you. Thank you, Senator Bloomfield, so just to clarify, this bill applies to Nebraska employers. And it will ask Nebraska employers to give that protection to Guard members who are in Iowa. We will not have reciprocity until Iowa passes a similar bill in their state. And that has not happened yet. So Kansas has passed a bill. So what we're trying to do is... [LB753]

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SENATOR BLOOMFIELD: We're granting Iowa these rights without reciprocity going in? [LB753]

SENATOR CRAWFORD: Right. Right. That is the case. So what we're trying to do across multiple states is get multiple states to do this so the Guard members are protected. [LB753]

SENATOR BLOOMFIELD: Thank you. [LB753]

SENATOR CRAWFORD: So we have Kansas, Missouri, and if we pass it, then hopefully we would...hope that Iowa passes it next year. [LB753]

SENATOR BLOOMFIELD: Okay, thank you. [LB753]

SENATOR MURANTE: Thank you. Any additional questions? Seeing none, thank you, Senator Crawford. [LB753]

SENATOR CRAWFORD: Thank you. [LB753]

SENATOR MURANTE: We will proceed to proponent testimony. Welcome back. [LB753]

MAJOR GENERAL DARYL BOHAC: (Exhibit 2) Good afternoon, Senators, it's good to be back before the committee. I am Major General Daryl, D-a-r-y-l, Bohac, B-o-h-a-c, the Adjutant General from Nebraska Military Department and Director of the Nebraska Emergency Management Agency. Today I am offering testimony in support of LB753. As noted by Senator Crawford, this expands USERRA rights adopted by Nebraska in 1947 as an important step in recognizing and protecting the service of our Guard's men and women who call Nebraska home, but have chosen to serve outside of the state. Current law and the incorporation of the Federal USERRA Act into Nebraska law protects service members when called to active duty and Nebraska National Guard Soldiers and Airmen activated under state active duty by the Governor of Nebraska. However, protection is not currently granted to the over 240 service members employed in Nebraska who are members of the National Guard of another state and who are called into active service by the Governor of that state. LB753 addresses this technicality and extends protection to service members employed in Nebraska who are activated by their Governor for state active duty or disaster response. This protection allows National Guard Soldiers and Airmen to carry out their most essential mission--protecting the homeland without fear of reprisal in their civilian career. Many situations can impact a service member's decision to transfer to another state. As you may remember, the Nebraska Army National Guard announced a large force structure change earlier this year. Force structure and specific mission sets of units,

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along with career opportunity, on both the military and civilian side, can impact and drive motivation for interstate transfers. Nebraska and its neighboring states need to be cognizant of this and encourage an environment that is friendly to the reality of military service in our reserve component. LB753 is a necessary step in accomplishing this goal by strengthening statute to protect the reemployment rights of National Guard Soldiers and Airman while also providing a guideline for Nebraska employers as to what service activation constitutes job protection. I thank Senator Crawford for her leadership on this bill and Senators Garrett, Bloomfield, Craighead, Hansen, Hilkemann, Krist, and Morfeld for their support and efforts to advance LB753. I would be happy to answer any questions the committee has for the Nebraska National Guard in regards to the proposed legislation. [LB753]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none...oh, Senator Groene. [LB753]

SENATOR GROENE: Thank you, Chairman. You say there's 240 Guardsmen that might be in Iowa, South Dakota, Michigan. [LB753]

MAJOR GENERAL DARYL BOHAC: Yes, sir. [LB753]

SENATOR GROENE: They were there when they went to college or something, and then took a job in Nebraska? [LB753]

MAJOR GENERAL DARYL BOHAC: Yes. So... [LB753]

SENATOR GROENE: Can they transfer to our National Guard? [LB753]

MAJOR GENERAL DARYL BOHAC: They can...they can. And we usually try to recruit them back home, Senator. [LB753]

SENATOR GROENE: All right. [LB753]

MAJOR GENERAL DARYL BOHAC: But there are some times where they have specific opportunities or career opportunities within those other units in other states that are of benefit to them. And then there's some realities. For example, in the Iowa Air National Guard has the 185th Air Refueling Wing in Sioux City, Iowa, which we...I'm sure we have members living in Nebraska in South Sioux City who serve in Sioux City, Iowa. And when a Guards member swears in or swears the oath to enlist in the service and to the National Guard they swear two oaths--a federal oath and a state oath. And the state oath is to protect and defend the constitution

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of that state. And therefore they're subject to the command and control of the governor of that state. So if Governor Branstad so chose, he could activate those members under state active duty for emergency response. That's what this bill is going to address. Then it would protect that member when another governor activates them for state active duty. So the case that Senator Garrett was referring to before only involves federal active duty or for training purposes, not state active duty with your firm. [LB753]

SENATOR GROENE: All right. There was something else, but I forgot. [LB753]

SENATOR MURANTE: Okay. Thank you very much for your testimony, much appreciate it. [LB753]

MAJOR GENERAL DARYL BOHAC: All right. Thank you very much. [LB753]

SENATOR MURANTE: Is there additional proponent testimony to LB753? Welcome to the Government, Military and Veterans Affairs Committee. [LB753]

DOUG CARLSON: Good afternoon, Chairman, members of the committee. My name is Doug Carlson, D-o-u-g C-a-r-l-s-o-n, and I'm the executive director of the National Guard Association-Nebraska. We're a nonprofit organization representing the over 4,000 brave men and women of the Nebraska National Guard and I'm here today to support LB753. The Federal Uniformed Services Employment and Reemployment Rights Act of 1994, also known as USERRA, is one of the most fundamental protections afforded to veterans and members of the reserve components of the armed forces. It was enacted to ensure that members of the uniform services are entitled to return to their civilian employment upon completion of their service. As you know, getting called to active duty, particularly in times of conflict, places a great burden on our service members as well as their families. This law ensures that a loss of employment is not one of those burdens. Nebraska has incorporated this vital federal law into state law. By doing so, protections of the federal law have been extended to the members of the Nebraska National Guard when on state active duty. A governor can activate National Guard personnel to state active duty at any moment in response to natural or man-made disasters or homeland defense missions. This is why LB753 is so important because the world is inherently unstable and our militia of citizen soldiers stand ready for our state and nation. LB753 shows Nebraska stands with them. The intent of LB753 is straightforward. It is necessary to protect our Guard soldiers and airmen who are employed in Nebraska, who may live in Nebraska, but serve in the National Guard in another state. Members of the National Guard may choose between states for a variety of reasons. Among these are career progression, unit type, or simply out of family necessity. One example of this is Sergeant Tate Higgins. Sergeant Higgins has over ten years of service in the Nebraska Army National Guard including a 22-month deployment to Iraq with the 134th

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Calvary. Recently, Sergeant Higgins completed an interstate transfer to a different state's National Guard. Sergeant Higgins lives in Syracuse, Nebraska, and works at the Tecumseh State Correctional Institute. In fact, he was recently recognized here at the State Capitol an award ceremony for his bravery during the prison riots last year. Sergeant Higgins' story is similar to many other National Guard men and women. Sergeant Higgins would fall outside the protection of the current law if he were called to state active duty. LB753 provides a simple and necessary fix to afford the employment protection these brave soldiers and airmen need when answering their state's call to duty. LB753 assures Sergeant Higgins and so many others like him that they can focus on their mission rather than their employment status. I'd like to thank this committee for the opportunity to testify before you today. [LB753]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today, much appreciate it. Additional proponents wishing to speak on LB753. Mr. Bohrer, welcome to the Government, Military and Veterans Affairs Committee. [LB753]

BRUCE BOHRER: (Exhibit 3) Thank you, Mr. Chairman. Good afternoon, Chairman Murante, and members of the committee. Bruce Bohrer appearing on behalf of the Lincoln Chamber of Commerce and also our military affairs committee. For the record my last name is spelled B-o-h-r-e-r. I appear this afternoon on behalf of the chamber and the military affairs committee to voice our support for Senator Crawford's legislation, as you've heard to fix a deficiency in our state statutes related to National Guard members who are employed in Nebraska but called into active service by another state, you've already heard that outlined in the issue. Our MAC was first apprised of this concern by Samuel F. Wright who is the director of the Service Members Law Center at the Reserve Officers Association in Washington, D.C. Apparently every state has a law, as we've heard, that protects National Guard members on state-active duty, but some of these laws are better than others. The Service Members Law Center found a significant flaw in 36 states, including Nebraska, so we've kind of heard a little bit about that already. And in these states, as with Nebraska currently, the state law affording absence from employment protection only applies to members of the National Guard of the particular state. LB753 adds employment protections for National Guard members who are employed in Nebraska but called into active service by the governor of another state. Nebraska Adjutant General Bohac is actually a member of our MAC and led our committee discussion on this topic, so I think he probably reviewed the issue pretty well for us. We support LB753 because we view it as an improvement that extends appropriate protections for National Guard members employed in Nebraska. We're pleased to offer our support for LB753 and urge your advancement of the bill to the full Legislature for passage. I'll conclude my remarks and would be happy to answer any questions you might have. [LB753]

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SENATOR MURANTE: Thank you very much for your testimony. Are there any questions? Seeing none, thank you very much for coming down today, much appreciate it. [LB753]

BRUCE BOHRER: Thank you. [LB753]

SENATOR MURANTE: Additional proponent testimony to LB753? Welcome. [LB753]

BRYON LINE: Thank you, Mr. Chairman, and members of the committee. My name is Bryon Line, B-r-y-o-n L-i-n-e representing myself really as a veteran; former regular Army officer and Army Reserve officer, defense industry executive and a defense analyst--retired. I'm doing quite a bit of volunteer work for a non-profit organization in which we deal with a lot of veterans within the state of Nebraska; I've spoken to a lot of Nebraska Guard personnel about and then receiving a lot of information from them concerning job insecurities in the sense of...within both themselves as Guard's men or Guard's women and among their family members when it comes to the issue of their deployments out of state under state conditions, not merely federal conditions. Because as it's been more than expertly pointed out previously, the nationalization or federalization of service by Nebraska Guardsmen, as well, is well covered in law. And certain state provisions exist that guarantee their work within the state. But it's this problem of going across to the other state borders where, for various good reasons, they are, in fact, being asked to go and serve. It appears there's just a hole in terms of the protections necessary. So the focus on job security or job insecurity kind of comes home to me in terms of the volunteer work I've been doing because while the nature of the work goes very much at the heart of say trauma issues or family support issues for veterans, the fundamental issue that begins to underpin any hopes of recovery or improvement is that of sustained or guaranteed employment. And many of them know that they're going to be pulled into long-term deployments in...not federal deployments, but in other states, but who live here and are holding jobs in the state. This becomes, I think, a very much a problem. It may not be a huge number of soldiers and airmen, but it is a significant number, I think, from previous statistics in reporting. And I think that anyone who is from the standpoint of being willing to serve within the Nebraska National Guard should be afforded the protections that LB753 are trying to provide. Barring any of your questions, that's the extent of my testimony. And thank you for your time. [LB753]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down today. [LB753]

BRYON LINE: Thank you, sir. Thank you. [LB753]

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SENATOR MURANTE: Is there additional proponent testimony to LB753? Any opposition testimony? Any neutral testimony? Seeing none, Senator Crawford you are recognized to close on LB753. [LB753]

SENATOR CRAWFORD: Thank you, Chairman Murante. And I'll just say for the record that the corrections that have been made in terms of the difference between the federal protections and the state protections are very important and have been outlined by the other testifiers. And so I think it's important for anyone reading the record to know that the bill applies to those who are deployed for state action that provides that protection. And, again, I'll remind you, as we know of over 200 individuals that fall into this category in terms of Guard members being employed in our state but may be called to serve in another state. So it is the case that there are many families who are affected by this bill and it's an important protection to do. What we can do in our state is provide that protection here. Then we are working with other states to encourage them to pass it in their states as well. So the step we can do ourselves is to offer that protection in our state. And I urge you to do so. And we have been in communication, been trying to find out who in Iowa might be interested in offering it next year. We will definitely be working to help that happen, but we can't change Iowa's protection. What we can change is Nebraska's protections. So I urge you to do so. [LB753]

SENATOR MURANTE: Thank you. Senator Bloomfield has a question. [LB753]

SENATOR BLOOMFIELD: Thank you. I want to go back to the reciprocity. Instead of just outright offering Iowa the reciprocity with nothing coming back, do we get to a point where we say--if you do, we will or we will if you do? [LB753]

SENATOR CRAWFORD: Well, that's obviously a discussion the committee can have. I believe that there is a moral and ethical obligation on our part as a state to offer the protection to the people that we know are impacted who are employed in Nebraska. And also, good business reasons to offer that protection to people in Nebraska this year, whether or not Iowa moves forward. So I believe it's the right thing to do now and I believe that we should not wait or make it dependent upon what Iowa does. [LB753]

SENATOR BLOOMFIELD: Okay, thank you. [LB753]

SENATOR MURANTE: Thank you, Senator Bloomfield. Senator Garrett. [LB753]

SENATOR GARRETT: Real quick question, and perhaps I should have asked this of Major General Bohac...is there a time limitation if...if someone gets mobilized...again, from first-hand

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experience we've had people get mobilized for over two years and it gets real...the contract that they were on might not exist any longer, and I'm just wondering if there is a time limit. I know it's unusual for Guardsmen normally to be mobilized for such a long period, but... [LB753]

SENATOR CRAWFORD: The bill itself does not in any way impact that. I do not know the full details of the entire chapter to know what those restrictions are. But I will say that the bill itself doesn't impact those time frames that may be in place or not in place. [LB753]

SENATOR GARRETT: It's a good bill. I'm definitely going to support it. We can talk off line and just...was curious about that and Senator Bloomfield's comments about our dear friends in Iowa. I have no doubt that our friends in Iowa will be reciprocal, I'm confident in that...that we're "one team, one fight." [LB753]

SENATOR MURANTE: Senator Groene. [LB753]

SENATOR GROENE: Thank you, Mr. Chairman. Has there been an instance, a complaint in Nebraska that an employer did not honor the person's job when they got back? [LB753]

SENATOR CRAWFORD: We have not had an individual come to us. You heard one of the other testifiers talk about stories of concerns, of anxiety about job protections. I didn't have...I don't have a specific case of someone who has talked to me. Now in the...the other situation is that if someone had had that problem or complaint, there isn't the mechanism for them to lodge that complaint because the current protections that you would use to lodge the complaint apply to people in Nebraska. [LB753]

SENATOR GROENE: All right. I just...I'm a big proponent of the military and the National Guard, but I also don't want to cast aspersions on our great free enterprise and government employers who probably most of them would honor it without legislation is what my assumption would be. And I'm assuming that these National Guard and the association of...are working with Iowa, just like we are here with some legislators to do it. Thank you. [LB753]

SENATOR MURANTE: Thank you. Any final questions? Were you thinking this was maybe consent calendar worthy? [LB753]

SENATOR CRAWFORD: I would hope so. [LB753]

SENATOR MURANTE: (Exhibit 4) Okay. All right. Thank you very much for coming down today. [LB753]

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SENATOR CRAWFORD: Sure. Thank you. [LB753]

SENATOR MURANTE: (Exhibit 4) And that concludes the hearing on LB753. And we'll proceed to the next item on the agenda, it will be LB718. And I neglected that LB753 did have one letter to be read into the record in support from Paul Cohen on behalf of himself, so that is in the record. Senator Groene, welcome to the Government, Military and Veterans Affairs Committee. [LB753]

SENATOR GROENE: I kept my coat on in honor of you, sir. [LB718]

SENATOR MURANTE: What's that? [LB718]

SENATOR GROENE: I said I kept my coat on. Usually I show up at the hearing without my jacket. [LB718]

SENATOR MURANTE: You know, I appreciate that. We appreciate that level of deference and respect. [LB718]

SENATOR GROENE: (Exhibit 1) Thank you. LB718 would streamline the application process for dependents of veterans applying for the waiver of tuition program administered by the Nebraska Department of Veterans Affairs by removing a requirement that the application is submitted through a County's Veteran Service Officer or recognized veterans organization. LB718 would also remove requirement that a County Veteran Service Officer or recognized veterans organization determine eligibility and make a recommendation for action to the Nebraska Department of Veteran Affairs which duplicates efforts by the Department of Veterans Affairs which maintains the data determining eligibility and already verified status. I handed out an application for waiver tuition. Basically what's happening is with our mobile society, we checked it out, there's 93 counties and 34 of them really don't have a veteran affairs officer in their county courthouse. So right now if a student...a dependent of a veteran goes to his financial aid officer at his college and they say--well, you might be able to get some funds because your father or mother was a veteran. They have to go back...the application has to go back to the County Veterans Affairs Officer to fill out the part on the second page that's highlighted. Basically what this legislation would do would eliminate that. The financial officer of the college can send it directly in to Department of Veteran Affairs. It streamlines it; it cut costs. You don't got to hunt down a veteran officer in some rural county. It doesn't restrict the active veteran affairs officers who want to help. They can go to their high school and give a lecture to the senior class and say, hey, if your dad or mother is a veteran, we can help you fill out the papers. That doesn't restrict them from doing that. It just streamlines the whole process. This was brought to

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us, of course, by the director, John Hilgert, and asked my office to present the bill. So I'm going to let him explain what I did not explain well. So thank you. [LB718]

SENATOR MURANTE: Thank you, Senator Groene. Are there any questions for Senator Groene? He's already left and refuses to answer those, so. (Laughter) [LB718]

SENATOR GROENE: I was trying to get up before Senator Bloomfield had his light on. [LB718]

SENATOR MURANTE: Well, there aren't any questions anyway, Senator Groene. (Laughter) [LB718]

SENATOR GROENE: So I did a good job of explaining it. Thank you. [LB718]

SENATOR MURANTE: Mr. Hilgert, welcome back to the Government, Military and Veterans Affairs Committee. [LB718]

JOHN HILGERT: (Exhibit 2) Thank you. Good afternoon, Chairman Murante, and members of the Government, Military and Veterans Affairs Committee. Again, my name is John Hilgert, J-o-h-n H-i-l-g-e-r-t, and I'm the director of the Nebraska Department of Veterans Affairs. I'm here today to testify in support of LB718 and would like to thank Senator Groene for introducing the bill. LB718, again, seeks to streamline the application process for the waiver of tuition program by eliminating the requirement that the application must originate from a County Veteran Service Officer or recognized veterans organization. The changes no way preclude the counties or service organizations from assisting or submitting the application, but will not require it. This change, while minor, will clarify the process and allow the application to be processed in a more timely manner. Not in my testimony, I do want to do a shout out to Lisa Frederick. She's an employee with the Nebraska Department of Veterans Affairs and one of the things we've been trying to do is look at our processes to see what needs to be done, what's unnecessary complications, and this is something that came from one of our staff members. And we did go to the Nebraska Association County Veterans Service Officers and said--hey, would you be offended if we eliminated you having to sign this? And they said--no, it's fine. So with that I conclude my testimony. It just streamlines things. [LB718]

SENATOR MURANTE: Thank you very much. Are the county service officers, are they paid for at the county level? [LB718]

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JOHN HILGERT: Yes, we do not hire, fire, test, discipline, nor fund the County Veteran Service Officers of the state. [LB718]

SENATOR MURANTE: All right. Senator Bloomfield. [LB718]

SENATOR BLOOMFIELD: Thank you. Mr. Hilgert, Senator Groene alluded to it and I missed it. How many active VSO...county VSOs do we have at this time in the state? [LB718]

JOHN HILGERT: Well, statute says that every county has to have one, so theoretically and according to statute they certainly do. However, some counties have taken advantage of local government agreements to, in effect, share a County Veteran Service Officer. So at last count, our count was approximately 70 County Veteran Service Officers, but they're shared by other counties. But every county has one. [LB718]

SENATOR BLOOMFIELD: If the VSO behaves badly, how can you get rid of them? Does that take an act of the commissioners or the board in the county, or is there something that can be done (inaudible)? [LB718]

JOHN HILGERT: Well, the huge hypothetical that you're proposing that, you know, (inaudible) behaving badly. Again, we do not hire, fire, test, discipline, nor fund, and they're certainly an employee of the county. And it's up to the county to set the expectations. And it varies from different counties to counties. Some counties utilize the County Veteran Service Officer primarily as transportation to get to the community-based out patient clinic operated by the USVA; some have other expectations and so forth. So it really is a county to county function. [LB718]

SENATOR BLOOMFIELD: Thank you. [LB718]

JOHN HILGERT: Thank you, Senator. [LB718]

SENATOR MURANTE: Seeing no additional questions, thank you very much for your testimony. [LB718]

JOHN HILGERT: Thank you. [LB718]

SENATOR MURANTE: Additional proponent testimony to LB718? Welcome back to the Government Committee. [LB718]

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GREGORY HOLLOWAY: It's always a pleasure to be here, sir. And thank you for indulging an old guy. I do...I'm actually representing the Nebraska Veterans Council; I'm the chairman of the Nebraska Veterans Council. We did a similar thing and a few years ago to allow the Nebraska Department of Veterans Affairs to take the applications for the Nebraska Veterans Home, just to simplify it. We all supported all the veterans organizations combined. And we kind of estimate like 60,000 veterans in the state of Nebraska. So I'm the mouth for those guys right now. And we think this is a good thing and it will help move the process along a lot quicker and just simplify the matter. I was a County Veterans Service Officer in Lancaster County back in the '90s, so I've taken a lot of Nebraska veterans...these applications. And it can keep you pretty busy in the larger areas. But the smaller areas, we have one County Service (Veterans) Officer that actually works out of his car, you know, has no office at all, out in western Nebraska. And to kind of reiterate on Senator Bloomfield's question on what you could do. You are a...as a County Veterans Service Officer is an appointed county official. You serve at the pleasure of the county commissioners or county board. Each county board has a kind of veterans committee that five-person committee, up to five-person committee that kind of oversees the office or kind of...who the County Service Officer more directly is supposed to look...they're supposed to look after the county office. They don't really do their job all the time. But you serve at the pleasure of the county board. So if the county board is displeased with you, they don't have to have an election to say you're gone. So that kind of answer your question? So if anybody in any county that is displeased with their service of their Veteran Service Office, first they should actually go to the Veteran Service Committee, discuss it with them and then have the Veterans Service Committee take it to the county board. Any questions? [LB718]

SENATOR MURANTE: All right. Thank you very much for your testimony. Are there any questions? Seeing none, thank you for coming down. [LB718]

GREGORY HOLLOWAY: Thank you for letting me speak. [LB718]

SENATOR MURANTE: Is there additional proponent testimony to LB718? Seeing none, is there any opposition testimony? Any neutral testimony? Senator Groene, you are recognized to close...but you're not obligated. (Laughter) [LB718]

SENATOR GROENE: I just have one thing to say, Chairman, consent calendar, please, that's what I want to ask. [LB718]

SENATOR MURANTE: Okay. Now you know we're moving a mandate for county officials, so this is technically a property tax cut, you can campaign on that one. [LB718]

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SENATOR GROENE: Good. Smaller government, that's why I took it; smaller government, more efficient. [LB718]

SENATOR MURANTE: That's right. You got that. [LB718]

SENATOR GROENE: Thanks to Director Hilgert. (Laughter) [LB718]

SENATOR MURANTE: Thank you, Senator Groene. That concludes the public hearing on LB718. And we'll proceed to the last item on the agenda, LB766. Senator Garret, welcome. [LB718]

SENATOR GARRETT: Good afternoon, Chairman Murante, members of the committee. I'm Senator Tommy Garrett, T-o-m-m-y G-a-r-r-e-t-t, I represent the people of District 3 which includes parts of Bellevue, Papillion, and Sarpy County. Thank you for allowing me the opportunity to come here today to introduce LB766. A couple of years back, Speaker Adams, Senator Pirsch, and Senator Crawford passed legislation to allow a waiver of tuition fees to Nebraska state colleges for the children and spouses of our Gold Star veterans. I love that piece of legislation, but there was a problem we discovered. It capped the age at 26. I think the age cap is unfair. The children and spouses we're talking about are children and spouses of veterans who either died of a service-connected disability; died subsequent to discharge as a result of injury or illness sustained while a member of the Armed Forces which may or may not of resulted in total disability; is permanently and totally disabled as a result of military service; or is classified as missing in action, MIA; or is a prisoner of war, POW. So you can see we're not talking about the children and spouses of just any veteran. We're talking about veterans that through death are either a POW or MIA or a completely disabled or unable to care for their families. I have nothing but the greatest respect for all those that take a step forward, raise their right hand, and swear an oath to support and defend the Constitution of the United States. They took an oath and their death, imprisonment, or total disability was the price they paid to keep their promise. I think we have a responsibility to these veterans to care for their families since they cannot. I do not think we should be dictating this based on age, especially for the spouses. Colleagues, my office and I have spoken to attorneys who help disabled veterans navigate the system to get approved for their disabilities. They tell me that unless a veteran was awarded a combat infantry badge, it takes three years to get a decision on a veterans disability from a regional VA office. If you have to appeal the Board of Veterans Appeals in Washington, D.C., it can take over five years. So let's say a veteran is 22 and his wife is 22 when he becomes totally disabled. If the veteran has to appeal, he or she could be 27 or 28 before the veteran is finally approved for being 100 percent service-connected disabled. Therefore, the spouse would not qualify for this benefit under Nebraska law. William Lee Bailey, III of Bellevue died at the age of 29 near Taji, Iraq. He was providing security for military convoys with the 755th Chemical Company when an explosive

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device hit his vehicle. Thirty-year-old Benjamin Prange of Hickman; 29-year-old Joshua Robinson of Omaha, 30-year-old Patrick Hamburger of Lincoln; 43-year-old Jeffrey Garber of Hemingford; 31-year-old Robert Yllescas of Lincoln; 31-year-old Justin Duffy of Cozad; 35-year-old Jeffrey Chaney of Omaha; 28-year-old Kenneth Locker of Wakefield; 35-year-old Jeremy Mulhair of Omaha; 33-year-old Germaine Debroy of Omaha; 31-year-old Jeffrey Hansen of Cairo; 34-year-old Tricia Jameson of Omaha; 28-year-old Edward Iwan of Albion; 28-year-old Daniel Kuhlmeier of Omaha; 33-year-old Dennis Corral of Kearney; 27-year-old Micah Hill of Ralston; and 27-year-old Jacob Schmuecker of Atkinson are examples of individuals who died in combat or as a result of combat injury who were over 26. That's just a partial list. If their spouses are the same age or older than 26, I think they should be offered the same benefit as a spouse who are under 26 years old. So all this bill really does is it changes the limitation on the age, that's the only thing it strikes the age limitation of 26. So I'd ask the committee to move this legislation forward and I'll take any question you might have. [LB766]

SENATOR MURANTE: Thank you, Senator Garrett. So the university says cost is nominal; state college system says no significant cost; Nebraska community colleges say it's no fiscal impact at all, but the Metro came in with \$200,000. Do you have any idea where that number came from? [LB766]

SENATOR GARRETT: Now, we were talking about that just before the committee started and trying to get information on why they were estimating that number. But I can get that back to the committee. [LB766]

SENATOR MURANTE: Okay. Even DAS says that number is probably high. [LB766]

SENATOR GARRETT: Yeah, it shouldn't be significant. [LB766]

SENATOR MURANTE: Yeah, seems out of whack to me. But Senator Bloomfield has a question. [LB766]

SENATOR BLOOMFIELD: Thank you. I'm fine with the eliminating the age limit on the spouse, I'm a little curious about the children though. If we get up to...if the soldier was killed when his kid was a year or two old, I don't know that we want to guarantee him the right to go back to college when they're 50. [LB766]

SENATOR GARRETT: Yeah, I...I understand your concern there. I, you know, I myself am the benefit of VA and the GI bill. My father died when I was 13 and he was on active duty still. I

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went to college on his GI bill. So I...and there are still Vietnam veterans, guys of your age that for whatever reasons are just now getting their disabilities verified through the VA. [LB766]

SENATOR BLOOMFIELD: I have no problem with the spouse or the individual themselves going back. But I do...we'll have to discuss it off the mike about their kids hanging around for 50 years and going back to school whenever they feel like it. [LB766]

SENATOR GARRETT: Yeah, again, when you think about the Vietnam era veterans that possibly aren't, you know, I think of Senator Joni Craighead's husband who was exposed to Agent Orange during the Vietnam War and subsequently died of Agent Orange-related maladies that later in life that...I'm of the opinion that they should be granted...the children of that veteran should be granted...and the likelihood of someone going back to school at that age is pretty low, I suspect. But, again, I feel like we...I personally feel we have a debt of gratitude for veterans and out of respect to their spouses and their families that we do this. [LB766]

SENATOR BLOOMFIELD: You and I can talk off the mike about this. [LB766]

SENATOR GARRETT: Okay. [LB766]

SENATOR MURANTE: Okay. Any additional questions? Seeing none, thank you, Senator Garrett. [LB766]

SENATOR GARRETT: Thank you. [LB766]

SENATOR MURANTE: Proponent testimony to LB766? Welcome back. [LB766]

GREGORY HOLLOWAY: Thank you. I apologize I neglected to spell my name for the record. Greg Holloway, G-r-e-g H-o-l-l-o-w-a-y. In this case I'm representing the Disabled American Veterans and the Vietnam Veterans of America on this bill. I brought it to Senator Garrett because of the...one of the reasons is that when this bill was actually...to waiver tuition was actually put into effect, very, very few...I had a three-year-old daughter myself when I was in Vietnam in 1968. Very few persons overseas had families. That is not the norm anymore. My...one of the...I live in Bee, Nebraska; 208 people. One of the guys, 59 years old, sent back to Iraq out of my community. Who knows what would have happened. Luckily he came back unscathed. But it's not the norm. And I think the 26 year age back then when this was first started was kind of an arbitrary--that's a hard word for me to pronounce--age limit on it, they just picked a number out the hat, probably, I think, but I'm thinking that once you're 26, you should be pretty well established. That's not the case anymore. With the fields that a person could get in to and all

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the technology that you need to learn and the expertise you have to have to have a good education to take care of your family and possibly your parents anymore. I think that age should be looked at. So that's the reason. And to assist the disabled veterans of this state is our duty and my duty to make their lives better and their dependents' lives better. So that's why we're bringing this forward to you. And if...and it will be a very...if the minimal impact on cost. Not changing any of the education...anything in the education laws, what you can get. And the state technical college will just maybe give you that little bit of boost to make your income a little bit better for the families. So that's why we're bringing it here and we're asking you to consider it and at least get it to the floor. [LB766]

SENATOR MURANTE: All right. Thank you very much for your testimony. Senator Bloomfield. [LB766]

SENATOR BLOOMFIELD: Thank you. Mr. Holloway, I think you know me well enough to know that I'm not opposed to many veterans bills. [LB766]

GREGORY HOLLOWAY: I know, I know. That's why I'm glad you're sitting here. [LB766]

SENATOR MURANTE: He cosponsored this one. (Laughter) (Inaudible) skeptical (inaudible). [LB766]

SENATOR BLOOMFIELD: I'm not opposed to it either. [LB766]

GREGORY HOLLOWAY: It's always nice to see friendly faces. [LB766]

SENATOR BLOOMFIELD: I had been told, and I have not affirmed for myself, I'm going to ask if you can affirm it for me that a new directive from the VA is that anyone that served in Vietnam is now thought to have been exposed to Agent Orange and if any disease could be caused by Agent Orange shows up in an individual no matter the age that he would be considered under the guidelines of this bill. [LB766]

GREGORY HOLLOWAY: Here's the kind of synopsis on that. They have a list of things from...as a...you have to serve on land. There are...add some of the ships. Blue Water Navy is adding some ships because they drank the same water pulled out of there. And, you know, their water condensers or whatever they are to purify the water aren't that good. I have the beginning stages of diabetes so I was on the ground..."boots on the ground" in Vietnam so it's a presumptive that I'm service connectible for diabetes. But all those...not...don't necessarily give you a rating of a hundred percent automatically. [LB766]

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SENATOR BLOOMFIELD: I am full-blown diabetic. I served "boots on the ground"... [LB766]

GREGORY HOLLOWAY: You should be a hundred percent service connected for...if you haven't seen a service officer yet, go do it. [LB766]

SENATOR BLOOMFIELD: I have seen several of them. I finally got one that actually listened and tell me that I was, in fact, eligible for something. The others I... [LB766]

GREGORY HOLLOWAY: You're service connected for diabetes, it's a presumptive. [LB766]

SENATOR BLOOMFIELD: No, it was for ringing in the ears actually. [LB766]

GREGORY HOLLOWAY: Huh. [LB766]

SENATOR BLOOMFIELD: Any time I went in to talk to them in two different counties, they told me that I wasn't eligible for anything. [LB766]

GREGORY HOLLOWAY: You come see me, I'll fix it for you. [LB766]

SENATOR BLOOMFIELD: Well, I think we've got it taken care of. That's why I asked about the possibility of getting rid of a VSO officer because he has told another, not myself, but someone... [LB766]

GREGORY HOLLOWAY: The VA service officers? [LB766]

SENATOR BLOOMFIELD: Yeah. [LB766]

GREGORY HOLLOWAY: Go see your county board. Go to your county board. [LB766]

SENATOR BLOOMFIELD: Okay, we don't need to discuss that any further here. [LB766]

GREGORY HOLLOWAY: Call me any time. [LB766]

SENATOR BLOOMFIELD: But I am...I'm 70 years old now, as are you probably. [LB766]

GREGORY HOLLOWAY: Sixty-nine. [LB766]

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SENATOR BLOOMFIELD: So if I depart this world in another three years and they say it was somewhat due to diabetes, I don't necessarily think my children ought to be able to go back to school; although they're 50, 55 years old, on the taxpayers' dime. [LB766]

GREGORY HOLLOWAY: I understand. [LB766]

SENATOR BLOOMFIELD: That's where I had that little issue that comes to mind. [LB766]

GREGORY HOLLOWAY: Odds are, I know exactly what you mean. It's just...if you're not established by the time you're a certain age, you never will be. [LB766]

SENATOR BLOOMFIELD: Yep. [LB766]

GREGORY HOLLOWAY: But given an opportunity. And it's...I'm mainly concerned is the young service members returning that are of the age where their children are. And you never know. [LB766]

SENATOR BLOOMFIELD: I understand. I'm fully on board with that, but I just wonder if we're not ripping open a gray area here. [LB766]

GREGORY HOLLOWAY: We do it all the time. [LB766]

SENATOR BLOOMFIELD: I know. Thank you. [LB766]

GREGORY HOLLOWAY: We do it all the time. I've got a couple I'm arguing now because I think that. But it's...I can't say it's the right thing to do. I think it might be a responsible thing to do because we're giving the opportunity for education and every bit of education you can get in the state of Nebraska pays off in the end to the state of Nebraska. And if there's not a big financial impact, and I don't see a big financial, there's going to be very few of them that will say--okay, I want to go back to school...but there's the opportunity there. And if we eliminate the opportunity whatsoever it will never happen. [LB766]

SENATOR BLOOMFIELD: Thank you. [LB766]

GREGORY HOLLOWAY: That's what I'm asking for--the opportunity. [LB766]

SENATOR BLOOMFIELD: Thank you. [LB766]

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SENATOR MURANTE: Thank you very much. Thank you very much for your testimony, much appreciate it. [LB766]

GREGORY HOLLOWAY: Thank you. [LB766]

SENATOR MURANTE: Is there any additional proponent testimony to LB766? Is there any opposition testimony? Any neutral testimony? Senator Garrett. [LB766]

SENATOR GARRETT: I'd like to thank Greg Holloway for coming out and testifying before you. I'd just like to reemphasize that this is 100 percent disabled veterans that, you know, the partial disabilities don't count. And your Agent Orange exposure in Vietnam...when I was deployed to Desert Shield/Desert Storm, we had to sign waivers to take experimental anthrax shots in anticipation of possible chemical biological warfare. We also, just as the war started, we were taking our pyridostigmine bromide tablets, which is a prophylactic treatment against a possible use of a nerve agent and we took those for about a week. And I got to tell you, that did some weird things to a lot of us I think, you know. How I ended up in Walter Reed with a gangrenous gallbladder that came very close to killing me is interesting. How do you get a gangrenous gallbladder? But all that aside, there's a...you know, again, we're just trying to support...I think this bill was a great bill when it passed, but that age of 26 just seemed to be quite arbitrary. Again, I listed a partial list of the folks from Nebraska, the Guardsmen, and others who have been killed in combat and I think it's the least we can do make sure their spouses get free tuition and fees. And, you know, we can certainly discuss with the committee whether or not we want to include the dependent children. And again, I think it would be a very minimal number of folks that want to go back to college when they're 40 or 50. But anyway, I appreciate the committee's consideration. [LB766]

SENATOR MURANTE: All right. Thank you, Senator Garrett. Senator Groene. [LB766]

SENATOR GROENE: Thank you, Chairman. Did somebody bring this to you and said they went in and tried to get...or they turned 26 in the middle of their education and then they got turned down their junior year? [LB766]

SENATOR GARRETT: I can't remember the very specifics about how we...I'm always looking for veterans bills to carry and working with Greg and the director of the Nebraska veterans department...anyone and everybody. [LB766]

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SENATOR GROENE: How can there be no fiscal note? The colleges just let people go or does the state reimburse them for the fees and the tuition or how can there not be a fiscal note? [LB766]

SENATOR GARRETT: I'm not sure that we've seen much...I'll (inaudible). [LB766]

SENATOR GROENE: I'm just curious. I mean, they're in the classroom, they did pay their tuition and fees. So how can there not be a fiscal note? I don't understand that unless it's reimbursed by the federal government. Anyway, I'm just curious. [LB766]

SENATOR GARRETT: Okay. [LB766]

SENATOR GROENE: If you could answer that let (inaudible). [LB766]

SENATOR GARRETT: Okay. [LB766]

SENATOR GROENE: Thank you. [LB766]

SENATOR MURANTE: Seeing nothing else, Senator Garrett, thank you very much for your bill. [LB766]

SENATOR GARRETT: Thank you. [LB766]

SENATOR MURANTE: That ends the public hearing on LB766 and ends our public hearings for the day. [LB766]