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Appropriations Committee
February 11, 2008

[LB982]

The Committee on Appropriations met at 1:30 p.m. on Monday, February 11, 2008, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB982. Senators present: Lavon Heidemann, Chairperson; Lowen Kruse, Vice Chairperson; L. Pat Engel; Tony Fulton; John Harms; Danielle Nantkes; John Nelson; John Synowiecki; and John Wightman. Senators absent: None. []

SENATOR HEIDEMANN: Seeing none, we're going to close the public hearing on Agency 78 and open up the public hearing on LB982. Senator Schimek. [LB982]

SENATOR SCHIMEK: (Exhibits 7 and 8) Thank you. Good afternoon, Mr. Chairman and members of the committee. For the record, my name is DiAnna Schimek and I represent the 27th Legislative District right here in the heart of Lincoln. I am with you this afternoon to introduce LB982, which is the bill that would appropriate \$300,000 to Wyuka Cemetery which incidentally, you probably know by now, it is Nebraska's only state-chartered cemetery. Wyuka was chartered by the state of Nebraska in 1869 as the official state cemetery. And I might add at this point that if you go onto their web site, you can read a lot about the original purpose and history of Wyuka. It was maybe a bit different than we think about cemeteries today but it was looked at as being a park where people would actually go and take walks and have picnics. And it's kind of something that's not as prevalent today, but it kind of had a multipurpose. Its trustees are appointed by the Governor of Nebraska. By state charter over the years, the cemetery has provided discounted or free burials for veterans, as well as wards of the state and the indigent. Since its inception, Wyuka has provided millions of dollars of service to these groups without reimbursement of any kind. In almost 140 years of service to Nebraska, the cemetery has never received operating support from the state. Its statutory obligations are, in a sense, unfunded mandates. Many of Nebraska's early settlers are buried at Wyuka, including 1,000 veterans of the Civil War. Seven U.S. congressmen, 4 U.S. senators, and 7 Nebraska governors are buried there. It is on the national register of historic places because of its unique place in our state's history. At this time the trustees of Wyuka inform me that to continue to provide these services and maintain the historic graves is fiscally impossible without state support. LB982 requests \$300,000 to support the maintenance and upkeep of the state cemetery. This amount represents the cemetery's shortfall. Without state support, Wyuka again will have to sell off land, which they have done in the past, reserved for future burials. And really, I don't think it's advisable that they continue to do that. I would like to present an amendment to the committee if I could get a page, please. And the bill would replace...the amendment would replace the bill as introduced. It would create language acknowledging that Wyuka has provided a valuable service in providing a place of rest for our veterans and it also states that Nebraska will purchase 330 veteran lots intended for future use over the next 6 years. At approximately \$975 per lot, a one-time payment of \$321,750 would be made to Wyuka. The cemetery's current policy is that 10 percent of profits be put into

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the perpetual care fund. And in this case, that particular fund would be enhanced by then \$32,175. I also have a chart that shows the number of veterans and their spouses that are buried at Wyuka. And this is just for the last four years. And I understand the average per year is about 50 but I think last year it was maybe 64 or something like that. So they do bury a lot of veterans and their spouses, as well as, I mentioned before, indigents and others who are wards of the state. With that, Mr. Chairman, there are representatives here: the chairman of the board of trustees and the chairman of the Wyuka Foundation are here, and I believe a few others as well. [LB982]

SENATOR HEIDEMANN: How many veterans have we been burying a year there? [LB982]

SENATOR SCHIMEK: I think they told me the average is about 50 per year. And you'll notice that in this chart that the burials are divided into different categories. One category is the sections that are reserved just for veterans, and then there's an additional group of sections that also is part of, at least, set aside for veterans. And then there's a few that are buried in other sections, maybe they're...well, maybe they're buried in the section for congressmen or maybe they're, whatever, buried with a different group. [LB982]

SENATOR HEIDEMANN: There hasn't been any reimbursement up to this point though? [LB982]

SENATOR SCHIMEK: That is my understanding, yes. [LB982]

SENATOR HEIDEMANN: So now just you want us...it's my understanding, according to this bill that you want, or this amendment then, that we would reimburse you for something that, up to this time, we had been getting for free? [LB982]

SENATOR SCHIMEK: Yes. And not me personally. (Laughter) The cemetery board. [LB982]

SENATOR HEIDEMANN: Okay. Are...Senator Nelson. [LB982]

SENATOR NELSON: Well, how many lots would we be purchasing, did you say? [LB982]

SENATOR SCHIMEK: There would be, let me double-check my figures, 330 veterans' lots and that would be spread over a 6-year period, I believe, and each of those lots being worth \$975. So as I understand it, what they're suggesting is that this still be a one-time appropriation but that the lots would be available over a six-year period of time. [LB982]

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SENATOR NELSON: And the figure was 300-some thousand, is that what the...
[LB982]

SENATOR SCHIMEK: Yes, it would equal \$321,750. [LB982]

SENATOR NELSON: So this isn't reimbursement for all the lots that have been used...
[LB982]

SENATOR SCHIMEK: No. [LB982]

SENATOR NELSON: ...in the past which Wyuka furnished. [LB982]

SENATOR SCHIMEK: Right. [LB982]

SENATOR NELSON: Okay. [LB982]

SENATOR SCHIMEK: This would be going forward. [LB982]

SENATOR NELSON: All right. And I haven't...this just came to us, but Sections 12-104 and 12-105 of the Revised Statutes, that imposes the obligation, does it, on Wyuka? That's in your amendment there. [LB982]

SENATOR SCHIMEK: I believe so. And I'm looking for the bill. [LB982]

SENATOR NELSON: When you talk about an obligation to provide the soldiers, sailors, marines, and their relatives, then that's, as you say, that's kind of a mandate, an unfunded mandate that we... [LB982]

SENATOR SCHIMEK: Yes, yes. And they've done very, very well in meeting that mandate over the years, I believe. [LB982]

SENATOR HEIDEMANN: Senator Wightman. [LB982]

SENATOR WIGHTMAN: Senator Schimek, this may be better directed to someone else. What's the cost for burial lots to the public that wants to be buried at Wyuka? [LB982]

SENATOR SCHIMEK: It is better directed at someone else. But maybe they're on alert now that they can answer that question when they come up. [LB982]

SENATOR WIGHTMAN: And then one follow-up question. I'm assuming maybe the switch from just the \$300,000 appropriation to purchase of lots is kind of an indication to us that you won't be back maybe for a few years until we've used up the 330 lots.

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[LB982]

SENATOR SCHIMEK: It is my understanding that what they're suggesting now is a one-time appropriation and that for that appropriation, then the state would actually be given these lots that would be spread out over a six-year period of time. [LB982]

SENATOR WIGHTMAN: Thank you. [LB982]

SENATOR HEIDEMANN: Senator Engel. [LB982]

SENATOR ENGEL: Senator Schimek, I know I got a letter from Wyuka here a while back inviting me to spend my eternal life there. (Laughter) And because they said the resting place would be great. And I believe them, but I'm not ready yet. (Laughter) But the thing is a couple questions. One: have they ever thought about privatizing Wyuka, that you know of? [LB982]

SENATOR SCHIMEK: Well, they would have to, I believe, to totally privatize it they probably would have to come to the Legislature for that. I know that...and they are going to tell you some of the kinds of things they are going to be doing in lieu of the audit that was issued by Foley. And I know one of the services they are going to privatize. But they can tell you more about their plans and what they may or may not have considered in the past than I, Senator. [LB982]

SENATOR ENGEL: And the only other comment I have to make: you said in the past they donated millions and millions of dollars, and that's why I'm kind of wondering, is...of course, it's by a board of trustees, I guess, appointed by the Governor who manages them, I think. So evidently they would probably not really putting aside money for contingencies and so forth in the future if they're giving it all away. [LB982]

SENATOR SCHIMEK: Well, they always have put away money for perpetual care, which is, you know. [LB982]

SENATOR ENGEL: Right. [LB982]

SENATOR SCHIMEK: But as I understand it, some of that money has diminished in the last few years because of the financial situation that they've been in. But again, those kinds of questions really belong to the board of trustees and the foundation board. [LB982]

SENATOR ENGEL: Okay. Thank you. [LB982]

SENATOR HEIDEMANN: Any other questions of the senator? Seeing none... [LB982]

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SENATOR SCHIMEK: Thank you. [LB982]

SENATOR HEIDEMANN: Will you be closing? [LB982]

SENATOR SCHIMEK: I don't know. I would like to reserve that right, but I mainly would like to just sit and listen. Thank you. [LB982]

SENATOR HEIDEMANN: Okay. [LB982]

JEFF SCHUMACHER: (Exhibits 9 and 10) Mr. Chairman and members of the Appropriations Committee, my name is Jeff Schumacher. I'm chairman of the board of trustees of Wyuka, and thank you for giving me the opportunity to speak here today. Thank you, Senator Schimek, for introducing the bill on our behalf. Before I begin, I'd like to hand out a couple notebooks we've put together. And these two notebooks have pictures of Wyuka, the tombstones, the Holocaust memorial, many of the other memorials that are in there. And Wyuka is truly an incredibly beautiful place with a lot of history. As Senator Schimek indicated, almost 5,000 of our brave men and women in armed services, many of whom were killed in combat, are buried there and that is their final resting place. And for any of you that have not been out there, I would personally like to invite you out there to show you what a beautiful place it is. We can visit the Holocaust memorial, which was dedicated about a year and a half ago. And there's so much history there with the soldiers' cemetery there, the plot. You're all welcome and please give me a call, I'd be glad to give you a personal tour. So having said that, I'd first like to pass out, if there's a page available, a letter from Garold Chalupa who's the Lancaster County veteran service officer. He couldn't make it here today but he is...he wrote a letter. It's an unsigned letter but he's given me permission to hand it out to you today at the committee hearing. And if you'll pass that around, I'd appreciate it. What I'd like to do is just go through a brief history of Wyuka and tell you where we are from a financial standpoint. Wyuka, as Senator Schimek indicated, was charted in 1869 and it is a public service corporation and has been that the entire time. The sections which Senator Nelson referenced do require Wyuka to set aside certain plots of ground within Wyuka for burial for the veterans. The current price of a burial space at Wyuka is \$975, and that's...there are a few that are more than that that are in certain areas that we charge a little more, but the vast majority are just under \$1,000. Ten percent of the purchase price goes into perpetual care. And I think one of the senators had a question earlier about are we dedicating any money for the long term in perpetual care, the cemetery; and yes, we are, and that's that 10 percent figure. So assuming...so if you take the numbers and we're requesting the state of Nebraska to purchase 330 burial spaces, we currently have a tract of land that has about 480 spaces available that's dedicated strictly for veterans. We will continue to keep that available. And you say, well, why 480 instead of 300. Well, in some cases spouses of veterans request to be buried alongside their spouse. And so that way it'll give us a little bit extra. In some cases, we provided burials for spouses as well. What I'd like to do here, if I may, that

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handout that Senator Schimek passed out that shows the number of veterans, I'd just like to go into that in a little more detail if I may. I thought it would be helpful for the committee to see the average number of veterans that have been buried in Wyuka each of the last four years. And if you look at the two left columns that have a single asterisk underneath them, if you add those two up, those are the number of veterans each year for which Wyuka has received no consideration for the burial space. We do receive a nominal fee for burying them, but that basically just covers our cost. And then for those that elect, and this is key, the veterans or their families elect voluntarily to be buried in other sections, we do collect the full \$975 fee. That's in the third column over under the double asterisk. So I want to make sure, you know, I'm very clear there. So if you run the math, and obviously there was a spike in 2007 up to 64, but assuming there are going to be 50 or 60 veterans that are going to be buried there and they'll be buried in sections reserved for veterans, then basically that will carry us out 5 or 6 years. Initially we came in, as you know, for a flat \$300,000 appropriation. I thought long and hard about that the last several weeks and I know you have many, many other requests for funding from almost infinite sources. And I thought there has to be a better way. And so a week or two ago I began thinking about maybe amending the bill to include language identical to what we have in the amendment. And I just think that approving this is a win-win for everyone. It's a win-win for the state of Nebraska and it shows the state of Nebraska's support of the veterans that have fought courageously in all the wars, defending our precious freedoms. Secondly, it's a win for Wyuka obviously, and I'll get into this in a little bit. But we're very tight for cash right now and we've got fairly high accounts payable that...got a lot of bill collectors knocking on the door almost on a daily basis. But thirdly: it's really important, I think, for the veterans that we honor them. And by you showing your financial commitment to purchase these spaces, they win, Wyuka wins, and I think the state of Nebraska and their citizens win as well. So what I'd like to do next...any questions before I go on to the...Senator Kruse? [LB982]

SENATOR HEIDEMANN: Senator Kruse. [LB982]

SENATOR KRUSE: Just to clarify some of the original conversation or comments implied that you all were giving away the store or you gave these things out out of the goodness of your heart or something. My understanding was that's in the original mandate for the cemetery, that veterans were to be buried without cost. Is that correct? [LB982]

JEFF SCHUMACHER: Right, that's correct. Right. The statute... [LB982]

SENATOR KRUSE: That's not some action of the trustees? [LB982]

JEFF SCHUMACHER: Oh, no, no. That's correct. [LB982]

SENATOR KRUSE: That's in the... [LB982]

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JEFF SCHUMACHER: That's in statute. [LB982]

SENATOR KRUSE: That's in statute and that's in the setup of the cemetery as a state cemetery. [LB982]

JEFF SCHUMACHER: That's part of our bylaws and rules and regulations, that's correct. Yes, um-hum. [LB982]

SENATOR KRUSE: So about how many grave sites have been provided under that arrangement free? Did you say 4,000? [LB982]

JEFF SCHUMACHER: Close to 5,000. I think, as Mr. Chalupa's letter indicates, he mentions 900 Civil War veterans and I think he referenced an additional 3,600 veterans from other wars since then. So I think close to 5,000. And I believe there's, I think, 55,000 people buried there total. [LB982]

SENATOR KRUSE: Thank you. [LB982]

JEFF SCHUMACHER: If I may, I'd like to pass out...my goal as chairman is to be transparent in everything. So if you have any questions, I mean, we're going to show everything we have here, and these are all from audited financial statements. And what I'm handing out here, and I won't get in the specifics until everybody has a copy, but I spent the better part of two or three weeks digging through 12 years of audit financial statements, looking through every footnote and every number to make sure that what I'm telling you today is accurate, and try to give you a little history of what's been going on there the last 12 years. As you can see, and this begins in 1995, as you can see, and this is the net income from operations only before depreciation. So obviously, with depreciation being a noncash accounting item, these are numbers before depreciation or the numbers would be even worse. But in '95 through basically '99, you can see we had three years there we were profitable, a couple, '98, we lost \$97,000. I came on board...I've been here three years. This is the start of my fourth year. And one of the current trustees, Mike Tefft, came on in late 2000, and then Faye Osborn, who is here in the room today, was appointed by Governor Heineman a year ago. So we are the three trustees. We serve six-year terms by statute. And so in roughly 1998, the board of trustees made a decision that they thought to become competitive in the cemetery and funeral business that they needed to purchase or get...have a funeral home on site. A funeral home was built on site. If you go out and drive by basically 36th and O and look just on the north side there through the gates you'll see the funeral home there with the pond behind it. That...they leased that building from Stewart Enterprises. Stewart Enterprises was a Lincoln business, Nebraska company that had other cemetery and funeral interests in town. And that lasted for several years. And then at some point in time, Wyuka decided to purchase the funeral home from Stewart Enterprises at a

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sizable amount in the seven figures. Because of that, we currently have about a \$1.1 million note with a local Lincoln bank that we pay approximately \$80,000 of interest expense and then there's more to each monthly payment, but the rest of that is principal reduction. So we're probably talking, you know, \$100,000 of cash that...just to pay on that one note. And so as you can see then, when the purchase was made, I think in late 2001 or 2002, so you can see the negative numbers begin to spike in 2002. They went from a negative \$47,000 to a negative over \$200,000. And since then, you know, they've been all red numbers. So...and a big part of that was that decision. I'm not here to cast any aspersions. I think they truly believed at the time that to be competitive and to make Wyuka Cemetery a viable financial economic enterprise in the future that that had to be done. Wyuka historically has never been very profitable. Some things were done in the past in the, I believe, in the early 80s. If you drive by Wyuka east towards 40th Street you'll see some big apartment buildings just east of Wyuka. That used to be land owned by Wyuka. The trustees had to sell that land because they had bills to pay. They were having some financial issues. But our goal as trustees is not to have to sell any land. That would be the easy answer right now. We've got some prime real estate up on Vine Street for, you know, ten acres or more that we could sell that I'm sure developers would be more than interested in. The middle of Lincoln, put more apartments, that type of thing. Probably get a good chunk of change. But I believe one of our fiduciary duties as a trustee is to preserve the useful life of that cemetery. And that would be the last option I would ever foresee using to keep Wyuka from, you know, going under. But as I'll tell you in a little bit, I think we've got a good plan going forward to prevent that. So another thing that happened is in 1991, looking through the footnotes, Wyuka trustees purchased some land down at 84th and Highway 2. And if any of you have been in southeast Lincoln, there's a big Wal-Mart, Super Wal-Mart there and there's an incredible amount of development going on, very valuable land. Six years later, or seven years later in '98 they sold that land that they purchased for about \$300,000 and they sold it for like \$1.6 million, between \$1.5 million and \$1.6 million. I mean, just an incredible gain, great decision made by the trustees. Of that \$1.6 million, about \$300,000 was put in the perpetual care fund for reasons unknown to me. I haven't had a chance to talk to any of the trustees that were there at the time. Arguably it should have gone into operations. The other \$1.3 million went into operations. So suddenly Wyuka in '98 had all this cash, just flowing with cash. Well, for whatever reason, they invested many of those...most of that investment, I'm told, was invested in the stock market. Well, what happened in '99, 2000, 2001? Stock market tanked. If you look at the audited financials, in three years, '99 through '01, almost a half a million dollars of unrealized capital losses. So all that profit they made on that, you know, down and then you add the funeral home and having to pay, you know, \$100,000 a year in loan payments. That added to the worsening of the financial situation. So where are we now and where do we go from here? You saw the Auditor's report. There was an alleged embezzlement by our accountant. None of the trustees knew about it until Mr. Foley told us in mid-December about his past criminal history. Shortly thereafter the alleged embezzlement was discovered. That person, of course, is no longer with us. One of our

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presidents that was referenced in the report, no longer with us. We're hoping to not have to rehire for those two positions. We're hopefully going to outsource. I've got three proposals right now for \$3,000 we can outsource our payroll to ADP. That's 500 checks out of the 1,400 checks that we issue every year. It's a great deal. We're going to try to train our current bookkeeper who's very good at what she does in learning how to run the computer system. I'm going to hope to get a lot of volunteers in the Lincoln community involved. We're going to look at hopefully finding a law firm that will provide services to us gratis, an accounting firm that would maybe every month at the end of every month or at the end of every quarter come in, reconcile the books to make sure everything is proper, and hopefully do that for a nominal fee or for free. So we've got a lot of good ideas on the plate. We've cut our...I haven't finalized the 2008 budget yet, but we've cut \$50,000 out of our advertising expense. Probably need to do it but I just said, no, we're going to cut...that's \$50,000 that we'll add to this bottom line. We don't have to hire for the two officers that are no longer there, there's another close to \$100,000. So you know, suddenly we're getting pretty close. We've given our sales staff some good financial incentives. By the way, right now we have 18 full-time equivalents is all we have. And of our approximate \$1.9 million expenses in our payroll in '07, and that was when we had 20 full-time equivalents--those two are no longer with us--one third, over one third of our \$1.9 million...or, I guess right about one third was labor expenses. When I came on board in '04 you didn't have to be an expert financial analyst, I don't believe, to see what was out there and where we were heading. We made some, at the time we thought, very good decisions in terms of cost cutting. Unfortunately, none of our employees in '04-05 got a raise at all. In '06 I just thought hey, they haven't had a raise in two years. We gave most of them a 3 percent raise last year in '07. You know, these people, you know, they're very dedicated. You know, they probably have ample opportunity to work somewhere else. But you know, I think we owe it to them. So I'm hoping to be able to give them a nominal pay increase this year. Like I said, we're going to try to outsource a lot of these services that we're currently doing through full-time employees. We put a cap a couple years ago on capital expenditures, that no capital expenditures could be made for more than \$5,000 without the approval of the three trustees. You know, last year in the middle of the summer, one of those 95 degree humid days, one of our hearses went out, the air conditioning went out. Quite embarrassing, obviously. We had tried to hold off and not purchase any...well, we didn't have the cash to purchase any. You know, the trustees said in, I think it was July or August, said hey, we need to go find a couple new. These were 15, 20 years old. So we authorized them to go out and now we've got two- or three-year rentals on a couple respectable, good-looking leases to where the air conditioning won't go out in the middle of the winter (sic). So...but we've got a lot of deferred maintenance out there. We did...our equipment to shovel the roads and to do various things, we authorized them last year. We didn't want to do it, but we had no choice. We authorized them to do, I think, a 24-month rental on a John Deere tractor. Trust me, we're not wasting money out there. We're counting every penny and we're going to continue to do so. So I'm hopeful that I should have our budget finalized the next couple weeks. I just

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met...received an estimated...that's why I had the word estimated, by the way, in '07. Our auditors just got in there and that number may change, that negative \$172,395 may change but it shouldn't change much, if any. I know I've thrown a lot of information. If I may, let me check and see if I've got anything else to mention. I guess I really don't at this time. But if any of you are around for Memorial Day--and I've been, like I said, a trustee for three years but I've been going out there with my kids for the last ten years at Memorial Day. And it's really, truly a special service and we'd invite all of you there again this Memorial Day where we have a really good ceremony lasting generally a couple hours to honor all the brave soldiers that have died for our country. So having said that, are there any questions? [LB982]

SENATOR HEIDEMANN: Out of curiosity, I'm looking at your list and what you have lost or made in the previous years. Where did you come up with \$300,000 or \$300-some thousand now? Where did you come up with the figure where this is going to help you out? [LB982]

JEFF SCHUMACHER: Well, a good question, Senator Heidemann. First of all, our accounts payable at the end of 2007 were \$214,000. And over, I'd say, probably two-thirds of those were over 60 or 90 days old. And thank goodness we've got a lot of very cooperative vendors and been willing to work with us on that. And then secondly, you know, that \$300,000 is what the cost of our salaries for the people that maintain the cemetery. So part of it is because that's historically what our costs have been for the maintenance of the cemetery. And of course we're required by statute to maintain the cemetery. And as Senator Schimek indicated, we've never been given any financial consideration for that in 139 years. [LB982]

SENATOR HEIDEMANN: Where did they get the land out on 84th and Highway 2, what they sold to Wal-Mart or where there is a Wal-Mart now? Where did they... [LB982]

JEFF SCHUMACHER: Well, I don't believe...I think they may have sold it to Saint Elizabeth's, I believe. Yeah, but it's in that general area, that's my point. But I wasn't around then, I'm not sure what the details were. Obviously, in that case that was an investment that really, really paid off. Otherwise, there may have been somebody here 10, 15 years ago before I got here maybe asking for funds. I can't say. [LB982]

SENATOR HEIDEMANN: Is there any other land that they own like that now, or just they're back right now just only... [LB982]

JEFF SCHUMACHER: No, it's that land right there and then...oh, and I'm glad you asked that question. About ten years ago--and once again, this was before I came on the board--but the city of Lincoln entered into an agreement with Wyuka whereby they gave a tract of land located about 84th and Holdrege out east of Lincoln. It's called Fairview. And so we own that now, that's the good news. The bad news is the

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agreement said that we have to maintain that. And you know, there's no water out there. We're working to get water there now, but we've had a lot of labor costs in the middle of the summer. Obviously we want to keep it as beautiful as possible. You've got people out there hand-watering and doing other things. So that, I believe, is the only other land that we own. [LB982]

SENATOR NELSON: It's a cemetery? [LB982]

JEFF SCHUMACHER: Yeah, it's a cemetery. It's a cemetery, right, Fairview Cemetery. So that's part of Wyuka as well and that's in these...the amounts we get for burials and when they purchase caskets, and that type...those are included in these numbers. [LB982]

SENATOR HEIDEMANN: Senator Wightman. [LB982]

SENATOR WIGHTMAN: Yeah, thank you for being here. I guess when you bought the land out at Highway 2, I don't know whether you said it was 84th and Highway 2 or wherever it was, was that done as an investment or was that done with the idea that you may locate a cemetery there at some point? [LB982]

JEFF SCHUMACHER: I honestly don't know. That was, you know, 15 years approximately before I came on the board, and the reason for that wasn't disclosed in the footnote in the audit of financials. [LB982]

SENATOR WIGHTMAN: Now obviously it was a good investment, but you wonder if it was appropriate or proper investment for the type of organization that you are, I guess. [LB982]

JEFF SCHUMACHER: Right. [LB982]

SENATOR WIGHTMAN: My follow-up question would be, how many acres approximately are there in what's left of Wyuka, and how many of those acres are still unused? [LB982]

JEFF SCHUMACHER: I think there's 220 acres total, I believe. And I'm sorry, I don't have that information. But you know, I'm told if we don't have to sell any more land, that there, based on actuarial projections of deaths and that type of thing--I know it's hard to quantify that over the next couple hundred years--but I was told a couple years ago by one of the presidents that 200 years or more of...as a general rule of thumb, each burial space is 10 feet by 3.5 feet, so that's 35 square feet. An acre is 43,560. And there's issues of trees and those type of things. But generally you can probably figure to bury...have 1,000 burial spaces per acre. And so let's say there were just 25 acres, 25 times...so you could bury 25,000 people there. But I know there's more than that.

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[LB982]

SENATOR WIGHTMAN: But you said it would be good for how many more years?
What was your guess? [LB982]

JEFF SCHUMACHER: If we didn't have to sell land, I was told--I need to check on this, but I was told a couple years ago a couple hundred years. That's how much space that's out there. [LB982]

SENATOR HEIDEMANN: Senator Nantkes. [LB982]

SENATOR NANTKES: Jeff, thanks for being here and for sharing all this helpful background information. I know that you mentioned that the trustees were trying to look at a variety of different options in terms of cost-saving measures to try and be helpful to the overall financial situation of the cemetery. And one thing that you mentioned was possibly trying to find a local law firm or otherwise to do maybe some pro bono work for you. And you know, I would always encourage firms to become engaged in their communities and to offer those kinds of services. But just for the record, I want to be clear that, you know, I frankly don't appreciate the Governor or the Auditor weighing in and interfering and making assessments about the propriety of an existing attorney-client privilege with your current legal counsel, or your attorney-client relationship that you have existing with your current legal counsel, and making any sort of assessments as to the soundness of his opinions without reviewing all the facts. And so I just wanted to let that be known for the record that I, you know, have a concern about those things. And I would hope that, as part of large cost-saving measures rather than directed at, you know. I think Jim Gordon is a great attorney and is a wonderful member of our Lincoln community here. And so I just am a little, you know, disturbed to see comments about the soundness of his work in terms of the work that he's done for Wyuka in the media and otherwise. And so...thanks. [LB982]

JEFF SCHUMACHER: Thank you, Senator. I appreciate those comments. [LB982]

SENATOR HEIDEMANN: Are there any other questions or comments? Seeing none, thank you for coming in today. [LB982]

JEFF SCHUMACHER: Thank you very much. [LB982]

CHARLES PALLESEN: Mr. Chairman, members of the committee, my name is Charles Pallesen. In another life, I'm an attorney here with Cline Williams Law Office in Lincoln. I'm serving as a volunteer as president of the Wyuka Historical Foundation, which is a separate organization, not-for-profit 501(c)(3) organization that was founded a number of years ago to support the Wyuka efforts. We have a number of efforts going at the present time with respect to beautification and enhancement of the Wyuka Cemetery.

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We've been quite successful in getting pledges for not only that...pledges in cash contributions for that effort, but also in setting aside money for the general upkeep of the areas that we're improving; in other words, putting money also into "an endowment" for that purpose. But I'm also here to tell you that we're unsuccessful when we go to potential donors and say, well, we need this money to pay salaries for operations. That's...for those of you, I'm sure that includes all of you, have served on not-for-profit groups. It's next to impossible to get people to donate for operational losses. Enhancements, yes; losses to operations, no. And so in response to some suggestions that we should be raising the money from this foundation to take care of the operations; sorry, it doesn't work that way. But I just wanted to be here and tell you that not only do we have a board of volunteers for the Wyuka Historical Foundation, but we also have an auxiliary which works as a special subcommittee of it of a number of individuals who do just great things all the time at Wyuka in bringing visiting groups there--some are students, some are visiting dignitaries. We have a number of events over the year, including the memorial event that Jeff talked about, that we're involved in. And it's a great pleasure to be able to use some of the community's time in volunteering for that effort. So if you have any questions specifically about the Wyuka Historical Foundation, I'd be glad to address them. [LB982]

SENATOR HEIDEMANN: Are there any questions? Seeing none, thanks for coming in today, Charles. [LB982]

CHARLES PALLESEN: Thank you. [LB982]

SENATOR HEIDEMANN: Is there anyone else wishing to testify in support of LB982? [LB982]

WILLIAM BOWMAN: Good afternoon, ladies and gentlemen. My name is William Bowman and I'm not affiliated with the cemetery. I'm with the military organizations in town, the American Legion, the Vietnam veterans, and what have you. And a lot of time, we spend a lot of time out there volunteering. We go also...we go to Wyuka for our parades and we really enjoy the parades that we have out there. And I think with the help that they get they need it. Yes, sir. [LB982]

SENATOR HEIDEMANN: Are there questions, or... [LB982]

WILLIAM BOWMAN: No, I don't have any questions. [LB982]

SENATOR NELSON: I'm sorry, I didn't catch your name. Would you spell your last name for us? [LB982]

WILLIAM BOWMAN: Bowman, B-o-w-m-a-n. [LB982]

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SENATOR NELSON: Thank you. [LB982]

SENATOR HEIDEMANN: Thank you for coming in today. [LB982]

WILLIAM BOWMAN: Thank you. [LB982]

SENATOR HEIDEMANN: Is there anyone else wishing to testify in support of LB982? [LB982]

MARY SPENCER: Hello. My name is Mary Spencer and I'm not affiliated with Wyuka. I've always known that Wyuka was more than just a cemetery. When I was a very young girl, my relatives and I used to take walks through Wyuka and we realized the historical value and the architecture that's there, as well as the nature. And my grandfather bought many lots in a row close to the soldier circle. And as the time has gone by, we've filled those lots with family members. And different...my cousins and I still go out there and we decorate those graves. We do it not only in respect for them, but we also do it for the beauty that Wyuka has. And a couple years ago, I lost a daughter of mine. She was only 21. And my family also has 13 plots out there. And so Chelsea was buried there and I learned to go back to Wyuka, just what I call my 360 degree fix. I go to my daughter's headstone and I look one way and I see the soldiers circle. You can look down into it and it's always absolutely beautiful. I turn a little bit more and I can see the ten plots my grandfather has with all the matching flowers. I turn a little bit more and I look and there are the most beautiful trees; many, many different kinds, some have leaves on them, some don't. They're absolutely beautiful. And depending on the season, they're full of birds. Right now we have snowbirds on the ground and they're very enjoyable to watch. I can turn more and I can see a family of squirrels. And I can turn a little bit more and there's a fox out there. There's a family of foxes that live at Wyuka and I had never seen a fox before. And he came running by me with his tail blowing and he was absolutely beautiful. And I have found that if I go early in the morning, I can see him. So I just...it's just a beautiful place to go. I kind of call...I'd much rather walk through Wyuka than to even go to Pioneers Park because there's so much more there at Wyuka. I kind of call it Lincoln's central park. So we've got our own New York right here. (Laugh) Thank you. [LB982]

SENATOR HEIDEMANN: Thanks for coming in today, Mary. Is there anyone else wishing to testify in support of LB982? Is there anyone wishing to testify in opposition of LB982? Is there anyone wishing to testify in the neutral position on LB982? [LB982]

BILL LAUBER: Chairman, my name is Bill Lauber, L-a-u-b-e-r, legislative chairman for the Nebraska Funeral Directors Association. I think that the cemetery at Wyuka is indeed historical, very beautiful indeed, very unique in our country because I don't believe there is too many state-chartered cemeteries in our nation today. And in fact, most states use the National Cemetery Association to bury their veterans, and so it's

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federally funded. So having a state-chartered cemetery that uses the veterans for its burial system is unique for the state of Nebraska. However, I want to testify in neutral to this apportionment because as a funeral home owner, I can sense the problems that occurred at Wyuka, is when they purchased the funeral home from Stewart Enterprises. And I knew it was going to drain the operational expenses from the cemetery. And it was a fear for many of us in the funeral profession, and I have a feeling that we were correct in that matter. So if we appropriate funds, then I suggest that maybe we make sure that it goes towards the cemetery operations and that it doesn't go into the funeral home portion until we have a more clear idea as to what indeed will it take to service that debt. And so I would hope that you take it under advisement that if you proceed in this direction, that you make sure that the investigation that has happened with the embezzlement and so forth has concluded and you're comfortable with those conclusions. And that also that you place these funds towards the cemetery operation because it may be to the point where you may have to privatize that funeral home to keep the cemetery going. [LB982]

SENATOR HEIDEMANN: Thank you for coming in today. We note your concerns. Are there any other questions? Thanks for coming in today, Bill. Is anyone else wishing to testify in the neutral position on LB982? [LB982]

KENNETH GRAY: Is this neutral or opposed? [LB982]

SENATOR HEIDEMANN: This is neutral. [LB982]

KENNETH GRAY: I'm opposed, so we missed opposed. [LB982]

SENATOR HEIDEMANN: Actually, we had opened it up for opposition before. If you would like to testify in the opposition to it, we will so note that. [LB982]

KENNETH GRAY: Okay, thank you. [LB982]

KENNETH GRAY: My name is Kenneth D. Gray, K-e-n-n-e-t-h D. G-r-a-y. Just a couple clarifications for testimony that's gone on before. Within lots, there are graves. It's not lots for sale. You can buy a lot and get a discount but there are graves out there. Fairview Cemetery is located 84th and Adams, not 84th and Holdrege. The formation and mission statement of Wyuka Cemetery--which was established, as has been noted, back in 1869 by the Nebraska Legislature--is in the Revised Nebraska Statutes of 12-101 through 12-105, and states it's to be used specifically for the burial of the dead, that's 12-102, and as a burial ground which admits all honorably discharged soldiers, sailors, marines, and nurses who serve in any war of the United States without restriction or limitation to the branch, time, or place of service or sex, color, nationality, or religion of the member; that's 12-104. And the framework and structure under which the cemetery is to be organized and operated is described in Nebraska Revised

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Statutes as 12-101, 12-103, and 30-3201, which is basically a charitable corporation. Of historic note, Wyuka Cemetery is one of six state-charted cemeteries in the United States. It is the only state-chartered cemetery that receives no financial support from any state agency here in Nebraska. Instead, Wyuka relies on operational revenues, gifts, grants, donations, and the interest income from various trust accounts for operations and development. You've all been made aware of the Auditor's report. I used to work at Wyuka. I was a family service representative, I was a co-director of development. I was in the death care industry for approximately eight years. I am what they call a "cemeterian." I'm not a funeral director, I'm a "cemeterian." My primary role is to deal with families at time of need and preneed. I'm pretty familiar with the operations of a cemetery. And as I've sat and watched the proceedings of this committee today and all the different aspects you've covered, I am reminded again of the unique and really effective beauty of our system of government. And as a former lobbyist in Washington, D.C., I'm also reminded of the importance of relationships and networking that you come to rely on as you weigh the value and the validity of requests which come before you. Many of those who have spoken today or lobbied you outside of this hearing in favor of LB982 fail to grasp the purpose and legislative mandate of Wyuka Cemetery. With the exception of trustee Faye Osborn who became a trustee this past year, I challenge the rest of their motives. Those who have had the privilege to work at Wyuka Cemetery and Funeral Home and Fairview Cemetery want these institutions to continue to operate as the best cemeteries and funeral home possible. This can only be accomplished by continuing to provide exceptional service to the families served. But for the last nine years, as the State Auditor's report pointed out, the failure of the trustees to fulfill their fiduciary obligations to protect and ensure a solid and secure financial future for both cemeteries has created an avoidable situation, but an unnecessary financial crisis. This crisis not only impacts the employees and their dependents who rely on Wyuka and Fairview for a living, but most importantly and more importantly, it is an assault on the peace of mind for the thousands of families who have entrusted the remains of their loved ones to be honored and protected at the cemetery that is expected to operate within and under the Revised Statutes of the state of Nebraska. In all the controversy and media exposure of the past month, not once have you heard a Wyuka trustee or a foundation director express concern to and for the families of Wyuka and Fairview. This lack of understanding and awareness of purpose and fiduciary responsibility is the crux of the real problem and mess these people have created for Wyuka. This is why several of us have refused to sit idly by while the unethical and possibly illegal actions of a core group of people who have no comprehension or understanding of the death care industry appear to have wantonly and constantly endeavored to severely damage these public treasures and erode the trust built up over decades of hard work by dedicated and caring professionals. It is sad, but the Wyuka trustees and the directors of the Wyuka Historical Foundation appear to have no comprehension or concern for the families who turn to Wyuka and Fairview in their hour of need. Their focus has been, and is clearly, somewhere else besides what is best for Wyuka. While Wyuka's shortage of funds is a severe and--I'm sad to say--a possibly

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fatal symptom, it is just that; a symptom. It's a symptom caused by years of inexcusable and deplorable mismanagement by the Wyuka trustees and the Historical Foundation directors. To provide any monies to Wyuka until these people leave or are removed is, in my opinion, a waste of the taxpayer dollars and public monies. So I ask you not to entrust public funds and taxpayer dollars to a group of people who have betrayed our trust. Instead, I ask each of you to join the Governor and the Auditor in the demanding of the resignations of the trustees, foundation directors, senior management, and contracted professionals on whose watch this has occurred. I'd be glad to take any questions you may have. [LB982]

SENATOR HEIDEMANN: Thanks for coming in today. Are there any questions of Kenneth? Seeing none, thank you. [LB982]

GREG EASLEY: I'm also speaking opposing. [LB982]

SENATOR HEIDEMANN: Okay, so noted. [LB982]

GREG EASLEY: Thank you for allowing me to be here. My name is Greg Easley, that last name is spelled E-a-s-l-e-y. I've been in the cemetery business for 34 years. I manage a large cemetery up in Omaha, Nebraska, called Westlawn-Hillcrest Cemetery and I retired there three years ago and I've been a consultant since then for the cemetery business. I'm also a former past president of the International Cemetery and Funeral Association. With all...what I've seen here with Wyuka and I heard them say that they got \$1.3 million for selling that land over by Highway 2, wherever it was. And that money is somehow gone. And then I hear about the perpetual care money of \$1.7 million. That's gone for operations. I have never had to go in...I ran a for-profit cemetery in Omaha. We put money in a perpetual care fund. We never had to borrow money. We never had to go into the perpetual care fund. Our cemetery started in 1910. It's got a perpetual care fund of over \$5 million. It's because you leave that alone. It's for the future care of the cemetery. I don't care what excuse you come up with, there is no reason to go into the principal of the perpetual care. Any good manager in trustees will not do that because of that. You'll see places like Forest Lawn in California, \$500 million. Spring Grove in Cincinnati, you know, has like \$400-some million in perpetual care fund money. They do not touch that. How do they operate? You get your digging of the graves which we call the opening-closing, the sale of graves, markers, vaults, other ancillary products such as floral tributes, cutting of final dates in stones. All of this is all you need to operate the cemetery, which I did for 31 years. Had no problem at all and still had to give a profit to the owners. So to say that, you know, they say this is a \$300,000 one-time thing. What happened to that one time of \$1.3 million from the sale over there? What happened to the perpetual care \$1.7 million? The millions add up. I cannot see...I just can't imagine the people of the United States after seeing Enron go under with their management and their techniques, going before Congress after being audited and seeing what happened to them, said give us some money and bail us out.

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They'd say, well, not with this president and trustees and management position. There has to be a change made or things will continue the same way they are. Any capable cemetery manager can make Wyuka operate profitably. I've done it. I've seen...I have on my grounds up there, I do 800 burials a year, 800 burials a year. I have eight men during the wintertime on the grounds force. Wyuka, I think, has 6 or 7 maintenance people during the wintertime for 253. They have a horticulturist on staff. I do 800 burials a year; I can't afford a horticulturist, you know? There's some of these places that do over...there's one cemetery up in Wisconsin, Milwaukee. It's called Wisconsin Memorial Park. They do over 2,300 burials a year. They do 45 burials a week. You average Wyuka's out; they do five a week. That cemetery has only nine people during the wintertime. I operate with 7 and I do 18 burials. They have six or so and they operate with five burials a week. There is something wrong there. They do not need...the industry standard is, the industry standard is you should not have more than 1 man per 100 burials a funeral. So that means they only need three men. I'll give them four because they have Fairview that might help out, but if they have more than four people there's a big savings to be made there. Horticulturist? All they have to do is cut grass, keep the grass green. I don't need a horticulturist (laugh) to do that. No cemetery that I know of except Spring Grove and a few other big large ones--and so Wyuka would not qualify for this--have horticulturists on duty. But they are making a profit, and that's fine if you're making a profit if you want to spend that money on a horticulturist. I understand the dilemma you have with this being a state cemetery. I'm a Nebraskan, too. I feel real bad about this because I'm in the cemetery business and I'm seeing no reason this should have happened. No reason whatsoever. So as a "cemeterian" I'm thinking, what is going on here and why are you going to give more money there? And I say, if they're going to amend the law, you say providing, except for that last person that got put on board, I'd say everybody has to retire from the board before we give more money because we've seen what you've done with the money before. Let me see what you've done before and I'll see what you're going to be doing in the future. And I don't know if...and I'd find out how many maintenance people they have on board there. I operated with 3 administrative staff for 800 burials. I don't know how many they have out there; don't know. But if you get a proper cemetery manager in there that knows maintenance, knows sales--because you have to have a sales team to get this out of trouble. If you don't have a sales force, they are doomed. But with a proper sales force, a proper maintenance, somebody that knows about maintenance and how many it takes and how to run it, and a good administrator, you can get out of this problem. There has never been a cemetery go under with a funeral home on its property. Wyuka will be the first that I'm aware of in 34 years. They will be the first, mainly because of what this audit report...cash procedures, no background checks, spending of perpetual care money, which is any "cemeterian" worth their salt will not allow and will not do. With that, I'm asking you not...if you do give the money, to make sure that you give it to a group that knows what to do with it. And that means that everybody but the last trustee that's been put in, the others be asked to resign and the counsel also. They got them where they are. We need some...a new team to get them where they got to go.

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Evidently they don't know how to do it. And if they've asked for...if they've gone through so many millions already, what makes you think this is going to be the last \$300,000 if they had trouble getting rid of \$1.3 million and \$1.7 million? This could go on and on with what you've got presented before you. So as a Nebraska citizen and as a "cemeterian," I oppose this. Are there any questions? Thank you. [LB982]

SENATOR HEIDEMANN: The cemetery that you manage, how many free burial sites do you give... [LB982]

GREG EASLEY: We give away a free space to every veteran. [LB982]

SENATOR HEIDEMANN: Is that right? [LB982]

GREG EASLEY: Yeah. We do that all the time. We've been doing that for years. So we aren't chartered to do that; we do it. [LB982]

SENATOR HEIDEMANN: Senator Nelson. [LB982]

SENATOR NELSON: Thank you for your testimony, Greg. You've run a cemetery for a good many years and you bring a lot of expertise to this. You and I go back, what, about 20 years, 25? [LB982]

GREG EASLEY: Yes, we do, John. [LB982]

SENATOR NELSON: Something like that. I think mention was made by Mr. Schumacher about the fact that he felt it was a mistake for the cemetery to get into the funeral home business. Did you hear him say that? [LB982]

GREG EASLEY: Yes. [LB982]

SENATOR NELSON: All right. Westlawn-Hillcrest is very successful. You did not always have a funeral home. [LB982]

GREG EASLEY: No, we did not. [LB982]

SENATOR NELSON: And it's a beautiful place. [LB982]

GREG EASLEY: Yes, it is. [LB982]

SENATOR NELSON: And apparently very successful. When did you build that? [LB982]

GREG EASLEY: Built that about 1999. [LB982]

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SENATOR NELSON: Okay. So it's a little less than ten years. The funeral business, in Omaha anyway, is very competitive; right? [LB982]

GREG EASLEY: Yes, it's very competitive. [LB982]

SENATOR NELSON: Did you feel that you needed to build the funeral home to compete with some of the others, like John A. Gentleman and other places? [LB982]

GREG EASLEY: I didn't need it to compete. I just wanted to secure the future of the cemetery. Whenever you put a funeral home on a cemetery, it will secure the future of that cemetery. [LB982]

SENATOR NELSON: Okay. [LB982]

GREG EASLEY: I cannot see how their...I don't know what's going on there, but I cannot see if they're the first ones to ever have this problem with that. But anyway, go on. [LB982]

SENATOR NELSON: Would you agree then it was undoubtedly a mistake for Wyuka as a nonprofit organization to attempt that, to build a funeral home and try and perhaps, maybe for the purpose of competing with the other cemeteries? Would you feel that was a mistake? [LB982]

GREG EASLEY: Well, Stewart Enterprises built that with their money and they sold it to them for the very same price they built it for. And they should not have done that because Stewart was paying them lease money, so they were making a profit off the funeral home. Now they took on this debt, which evidently at the time nobody knew that, but they weren't profitable during this time so why should they take on more debt? So to answer the question, no, they shouldn't have done that. They should have...because after 20 years the funeral home would be handed over to them absolutely free, absolutely free. [LB982]

SENATOR HEIDEMANN: Senator Wightman. [LB982]

SENATOR WIGHTMAN: You indicated you do 18 burials a week and Wyuka does 5, is that right? Is there some point where you maybe would be profitable to have a funeral home on site and at some lower figures it would not? And if so, what might that figure be? [LB982]

GREG EASLEY: Boy, I didn't understand the question. I apologize, Senator. [LB982]

SENATOR WIGHTMAN: Well, you do 18 burials, I think you said Wyuka does 5. I assume having a funeral home requires doing a certain number of funerals for it to be

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profitable. [LB982]

GREG EASLEY: If you're doing 100, at least 100 services a year at that funeral home, you'll be profitable. A rule of thumb they might use is that you will get, minimum, 50 percent of the people that go into your cemetery will use your funeral home, minimum. I've got 80 percent using my funeral home, and that's because, again, the sales force. If you don't have a good preneed or at-need sales force, it will be a problem. And evidently it must be a problem for them. Somebody doesn't know what they're doing there in the sales area. They have...when they did this, I think they had 350 burials a year. That means they should have gotten a minimum of 175 of those families. And I think they got up to 125, I don't know exactly. I remember that's what Mike Hutchinson would tell me; he says he got up to 110 or something like that. I'm not sure about that exact number, but it was moving the right way. And so generally you would get 50 percent minimum, anywhere from 50 to 70 percent of the burials. So you just divide your burials in half or take 70 percent and that would be normally what you would get. But you're right; if you're only doing 100 services in your cemetery and you try to start a funeral home, you'd only get 50 of those, you would not succeed. You're right about that. [LB982]

SENATOR WIGHTMAN: But at the level that Wyuka is performing... [LB982]

GREG EASLEY: Oh, they will have no problem at all. [LB982]

SENATOR WIGHTMAN: Thank you. [LB982]

SENATOR HEIDEMANN: Senator Kruse. [LB982]

SENATOR KRUSE: Just as a matter of curiosity, what's the going rate for a lot? [LB982]

GREG EASLEY: A going rate? Well, they vary depending upon... [LB982]

SENATOR KRUSE: I mean for a...not the full lot, I mean for a grave site. [LB982]

GREG EASLEY: For a grave, could be anywhere from \$750 to \$1,500 if you have a private estate situation. It could be more, I don't know. Some cemeteries make family estates with bushes around them and make them very special and therefore they charge more for that sort of thing. So some cemeteries might charge more. They might put a private mausoleum on, of which there's a bunch at Wyuka. Very nice ones, very historical ones, beautiful ones. [LB982]

SENATOR HEIDEMANN: Any other questions? Thank you for coming in today. [LB982]

GREG EASLEY: All right, thank you. [LB982]

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LARRY STIVERSON: I'm opposition. [LB982]

SENATOR HEIDEMANN: You're testifying in opposition? So noted. [LB982]

LARRY STIVERSON: Mr. Chairman, committee members, my name is Larry Stiverson, S-t-i-v-e-r-s-o-n. I'm at Forest Lawn Cemetery in Omaha. I have worked there for 26 years; the past 16 years I've been the general manager. We are governed by a board of trustees, nine trustees, and they manage our accounts. They review our finances monthly. We're audited annually and we have an annual finance meeting with our bank. So we're well-managed. And we...through our good management with our directors and the staff we have, we put 25 percent of the cost of the graves in a perpetual care trust fund. Over the years, since 1885, we have accumulated over \$7 million in our perpetual care trust fund. And we haven't had to use that money. So we are in opposition of LB982 unless...if you are considering financial assistance to that cemetery, we also agree that you need to get new management there, new management and new directors, with the exception of the last one to get put on the board there. So that's my testimony. [LB982]

SENATOR HEIDEMANN: Thank you for coming in today. Are there any questions?
Senator Engel. [LB982]

SENATOR ENGEL: Just one. Do you pay property taxes and sales taxes on... [LB982]

LARRY STIVERSON: No, we do not. We're not for profit. [LB982]

SENATOR ENGEL: You're not for profit either. Okay, so that puts (inaudible). [LB982]

LARRY STIVERSON: So we're a not-for-profit cemetery. [LB982]

SENATOR ENGEL: Okay. [LB982]

SENATOR HEIDEMANN: Senator Synowiecki. [LB982]

SENATOR SYNOWIECKI: I'm just interested in that perpetual care fund. Then you just draw the interest off that? [LB982]

LARRY STIVERSON: We do... [LB982]

SENATOR SYNOWIECKI: When you say you don't touch it, are you talking about the principal amount? [LB982]

LARRY STIVERSON: Right, the principal. We do draw interest if we need it, but so far

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we haven't needed it so we put it back into the perpetual care... [LB982]

SENATOR SYNOWIECKI: Okay, okay. [LB982]

LARRY STIVERSON: ...and let it build up. We get our money from opening-closing, like Greg was saying, and other income. But you know, we don't use that. It just perpetuates itself. [LB982]

SENATOR HEIDEMANN: What is the industry standard as far as putting it in the perpetual fund? Is it 10 percent, 20 percent, 25? [LB982]

LARRY STIVERSON: I think state law...might call on Greg. I think it's a 15...what's the...Greg? We put 25 percent in. I think it's 15 cents per square inch or something like that, but what we put in is far more than what's required. But there is a minimum for state law, but I don't have that exact number. Do you know what it is, Greg? [LB982]

GREG EASLEY: Ten percent on mausoleums and (inaudible). [LB982]

LARRY STIVERSON: But how about graves? [LB982]

GREG EASLEY: But on a grave it's 25 cents per square foot on a memorial park. It's 50 cents per square foot...\$9 for a memorial park and \$18 for a monument park. (Inaudible) put in by law. [LB982]

LARRY STIVERSON: But our...for example, we have a grave, \$750; 25 percent of that far exceeds what the law says. [LB982]

SENATOR HEIDEMANN: Okay. Are there any other questions? Senator Kruse. [LB982]

SENATOR KRUSE: What's your policy with veterans? [LB982]

LARRY STIVERSON: We give a discount on the graves. We discount the veteran's grave itself. We don't give a free grave away, but we do discount every veteran. [LB982]

SENATOR KRUSE: By how much? [LB982]

LARRY STIVERSON: By \$200. Our starting grave is \$750 and we sell it to a veteran for \$500. [LB982]

SENATOR HEIDEMANN: Senator Synowiecki. [LB982]

SENATOR SYNOWIECKI: Help me understand. We just started a new veterans' service cemetery up in Senator Louden's district, Alliance. If you have a veteran perhaps from

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an indigent family, they could use that resource as well, the other... [LB982]

LARRY STIVERSON: Yeah, they can go to the VA and get help. [LB982]

SENATOR SYNOWIECKI: Okay. So help...I was out of the room a little bit. Help me understand. Why does the state have to have a...we have federal cemeteries and so forth. I think our state affairs office can... [LB982]

MIKE LOVELACE: I think we have one federal veterans' cemetery, McPherson... [LB982]

SENATOR SYNOWIECKI: And the rest of them are state-run by the Veterans' Affairs? [LB982]

MIKE LOVELACE: We've started a system. It's not built, the first one is not built yet. It's not operational yet, but we're headed that direction. [LB982]

SENATOR SYNOWIECKI: Okay. When we get the one up and running, do you think the state needs to maintain this in statute with this facility? [LB982]

LARRY STIVERSON: You mean at Wyuka? [LB982]

SENATOR SYNOWIECKI: Yes. I mean is there a genuine purpose behind having the state statutorily have a chartered cemetery? [LB982]

LARRY STIVERSON: I honestly don't know, Senator. I don't know. Maybe somebody...Greg...they might know. [LB982]

SENATOR SYNOWIECKI: You might have to come up and reidentify yourself, but I defer to the Chairman if he wants... [LB982]

SENATOR HEIDEMANN: It would be best, yes, if you reidentify yourself for the transcribers. Speak into the mike, please. [LB982]

KENNETH GRAY: My name is Ken Gray. When Lincoln was selected or when they moved the state capitol down from Omaha, there were...basically you needed to have, to be a legitimate state capitol, the custom was that you would have an insane asylum, you would have a state university, and you would have a cemetery. And those were usually the three requirements that designated a community as a state capitol. That's why if you'll notice in the history that you'll see that the university was founded in the same year. In fact, the fencing, some of the fencing is the same from the university that's out at Wyuka at vice versa. So that was why the state chartered the cemetery. [LB982]

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SENATOR SYNOWIECKI: Okay. Thank you for that information. But given that though, is there...does there continue to be a genuine purpose for us to have a state-chartered cemetery? [LB982]

KENNETH GRAY: I think there is. I mean, you've got a lot of people that...you know, my burial space is out there. I want to see it to continue to prosper and be out there. On the county burials or the indigent burials, those are done...up until two years ago they were done...there was a compensation given from the county and the state back to the cemetery. That's now changed to where there's a fee for...partially for the grave and for the opening-closing. There are others that can probably speak better to that. But they changed from a traditional burial to just cremation burials from the county now. [LB982]

SENATOR SYNOWIECKI: Okay. Thank you. [LB982]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you for coming today. [LB982]

LARRY STIVERSON: Thank you, Senators. [LB982]

SENATOR HEIDEMANN: Is there anyone else wishing to testify in opposition of LB982? We're going to open it up one more time and ask if there's anybody in the neutral capacity of LB982. Seeing none, Senator Schimek, like to close? [LB982]

SENATOR SCHIMEK: Yes, just briefly, Mr. Chairman. Just to maybe restate a couple of points and to let you know that I've been given information that there have not been any funds withdrawn from that perpetual care fund since 2001. That practice has stopped and will continue to stop. I think what...you know, I think some of the observations here from some of the people who are opposed to this bill are valid. I think some mistakes were made in the past and I think that you heard Jeff Schumacher tell you what some of those mistakes were. I think what you have now is a new board chairman and a board that is really committed to working through the problems that occurred because of past actions and that came to surface because of the Auditor's report. I know that Jeff told me one day that he's working 24-7 on this problem right now and he wonders how he ever got into (laugh) being on the board. I don't think it was anything that he anticipated that there would be these kinds of problems. I think that there...as the last gentleman who spoke mentioned, this is of historical importance to us and those graves do need to be maintained out there. And I think we have just a point in time here where there needs to be some help. Now I also think that it would not be unreasonable for this board to have to report back to this committee from time to time to find out what kind of progress is being made and what kind of steps are being taken to rectify the situation at Wyuka. They have gotten rid of one of their staff members, as you heard. They are also thinking about outsourcing some of their functions. So I think they're headed in the right

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direction. But momentarily, I think there's a need there and I would ask for your serious consideration. [LB982]

SENATOR HEIDEMANN: Thank you for coming in today. [LB982]

SENATOR SCHIMEK: Thank you. [LB982]

SENATOR HEIDEMANN: Are there any questions? Seeing none, thank you. With that we will close the public hearing on LB982. (See also Exhibit 11.) [LB982]

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Disposition of Bills:

LB982 - Held in committee.

Chairperson

Committee Clerk