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Education Committee  
March 03, 2009

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[LB400 LB413 LB607 LB655 LB673]

The Committee on Education met at 1:30 p.m. on Tuesday, March 3, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB655, LB673, LB400, LB607, and LB413. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Brad Ashford; Bill Avery; Abbie Cornett; Robert Giese; Ken Haar; and Kate Sullivan. Senators absent: None.

SENATOR ADAMS: We've got our committee members here, at least enough to get started, so we're going to begin this hearing of the Education Committee. First thing I would ask you to do is to turn off your cell phones so as not to interrupt the testifiers or any of your ability to hear the testifiers. And the next thing on the list, I want to introduce you to the people who are here today. First of all, on my far right, Becki Collins, the committee clerk. And I would ask you that if you're going to testify, that when you come forward that you fill out one of the registration forms, and you leave it with Becki. And if you're going to testify on more than one bill, you have to fill out more than one form, sorry. And when you get up here to the microphone, we would appreciate it if you would state your name for the record and spell it for the record, so we get that very clear. Typically we use the light system, and we will again today with the exception of the introducer, and we will limit the amount of time to testimony to three minutes per person. And then, of course, whatever questions the committee might want to ask. Senator Ashford will soon be here. Senator Giese from South Sioux City; Senator Cornett. To my right, Kris Valentin, the legal analyst for the committee; Senator Howard, the Vice Chair of the committee. Senator Sullivan was away this morning, but she'll be with us just as quickly as she can. Senator Avery has arrived, and Senator Haar from Malcolm is here. We'll begin the day with the first hearing which is LB655 that has been brought to us by Senator Harms. Senator, you're up.

SENATOR HARMS: (Exhibits 1, 2) Thank you. My name is John, J-o-h-n, middle initial N. Harms, H-a-r-m-s. I represent the 48th Legislative District. Senator Adams and colleagues, thank you for giving me the opportunity to come and visit with you about LB655. Senator Adams, I'd like to give you just a little bit of background about the Nebraska Community College Association, because this is really the heart of how this concern, give you a little bit better understanding about this association and how it works, how it functions, and how it fits into the community college system. First, it's a nonprofit corporation. Two board members from each of the community college districts are elected locally to serve on this board. They have their officers--president, vice president, and they rotate those, I think, every year. The purpose of the association is, first of all, to provide statewide coordination for the community college system. It's the only real coordination we have comes through that board, NCCA. They prepare, and they do an update on the statewide community college system's strategic plan. They have a long-range plan. They update that fairly often so they know what direction they're going. They know just exactly what's taking place, where they need to go with their

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courses and programs. They coordinate the budget, and the budget portion of it would be the state aid that they're going to pursue. They also facilitate program and need assessment and articulation agreements. They have articulation agreements with, I think, just about all the public and private institutions in the state. They also receive a lot of requests for people to serve on boards and task forces and commissions and special issues that deal with maybe labor, business and training, and they make those appointments. They also coordinate all the information and data that people require from the federal government to the state government. They do all the public information kinds of issues that you might have. They coordinate also the strategy for legislative issues that come forward, and then they also do conflict resolution between many of the college areas, and that's really what brings us here today. Senator Ashford, I do have some information I'd like to hand out. I know you all have lots to read, and you've got more than you can probably read, but you might want to give this to one of your aides just to look through. What it gives you is the...about the corporation, about the Nebraska Community College Association's bylaws, and all the kinds of information you might want to look at sometime. It gives you the planning procedure that they use, and what they're recommending, and it also gives you just a little bit of history about the community college system. Now this NCCA office has...this board has an office, and they have an executive director, and that's Dennis Baack. They also have an administrative assistant, and it's funded by dues that the association...that the community colleges that belong to, have to pay. It's done by a sliding scale. I think the larger you are, the more you pay; the smaller you are, the least you pay by FTE production. It has its own committee structure, and so on. In 1983, Senator Jerome Warner...I believe it was 1983, Senator Jerome Warner introduced legislation that indicated that you needed to belong to the Nebraska Community College Association if you're going to receive state aid. And what we realize today the shortcoming of that legislation was, what happens if you choose not to belong; if you were suspended for any particular reason, what would be the penalty? There is no penalty, at least that I can see here. That's spelled out very clearly, and so this is what this is about is regardless of who it might be, regardless of whether it would be, you know, Southeast or Metro or Western or someone else who would choose to leave the system for whatever reason, and the law is clear that you need to belong, and then what's the penalty for that? Then one of the things I'd like to point out to you fairly clearly is this is a much more serious...it has much greater ramifications than what you first might look at in regard to this issue of being suspended from the community college system. And those ramifications are that the question we have to ask ourselves as senators, does this system work now, and will it work in the future, the present structure that we have today? And I think that's the concern that I have. The community colleges have been battling among themselves for the last three or four years, and the last year, I guess, has been fairly severe. And so I'm beginning to really wonder in my own mind whether or not the system we have is the appropriate system, and I think that we have battles like this brought into a legislative arena and asking us to resolve it; it tells me there's something seriously wrong somewhere in the structure. There are options. We could

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take the community college system, put it in the state system, strip the boards of their authority--make them advisory and control it, or you can merge them with the state colleges or...and go to regionalization, or you could merge them with the university system. There are a lot of different options. And so what I want you to...I hope that you'll understand as you look at this, that this goes much deeper than what I'm going to talk to you about today. Okay? Now this legislation is fairly simple. If you'd look on page 3 of the green copy, item 5, it simply says, "A member of a community college does not meet the association membership requirements of this section, is not eligible to receive aid payments pursuant to the Community College Foundation Equalization Act until such members' requirements are met." And then further down on line 21, it instructs the Department of Administrative Services to withhold those funds until this is met. And that's really what this is about is should there be a penalty or not? I've been asked on one occasion by one of the media sources about, do you think this is too harsh, Senator Harms? And my reply is, no, I don't think it's too harsh. We heard testimony yesterday in the Appropriations Committee from a board member of Metro Community College who indicated that the state aid was poorly used, there was not much need for the state aid, and we could do without the state aid. So I guess if that is truly a factor, then removing \$23 million should not be a problem here for the penalty. So I'm asking you just to give this consideration. Look at it, review it, and if I can answer any questions, I'd be happy to do that. [LB655]

SENATOR ADAMS: Are there questions for Senator Harms? Senator Ashford. [LB655]

SENATOR ASHFORD: John, what...it's coincidental that this mess started after you left Western (laughter). Isn't that correct? [LB655]

SENATOR HARMS: Yes, that's correct (laugh). [LB655]

SENATOR ASHFORD: I don't want to have to grill you on this, but I just want to know...let me, let me just, from my perspective just kind of follow what you're saying here very, very briefly, because this is going to be a long...it could be a long afternoon. But to me, this seems so similar to the struggle that we confronted in '06 and '07 with the school issue in Douglas and Sarpy County and the learning gap. And where we are arguing on the...we are arguing silo issues, we're arguing up here about who's getting the most money or the least money or how should...you know, and that someone is getting the raw end of the deal and someone is getting the better end of the deal and so forth and so on. And I just...from my perspective, I don't know who's right or wrong or not, and we'll have to...we'll hear today about that, but I honestly think that your idea of structural change is...it's about I don't think we can do this anymore. And I think we have to look strongly, because what's happening now is...as it was in the learning community issue, it was...it's all about the kids, you know, it's all about learning opportunities especially with community colleges, and where we're dealing with minority students and poverty students across the state who have no other options. And this is now the

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second year, I guess, of this or third year; as you suggest, the last year has been the most difficult, but for you, I'm sure, having been a president, it's difficult for you. I guess, Senator, we can't do this anymore; this has to stop. We have to...we cannot squabble anymore, and it needs to start starting now, and we need to think about how we're going to properly fund, obviously, funding for community colleges is inadequate statewide. And so, with that, I...you know, I commend your service, obviously. We worked together for a long time when I was in the Legislature before, and hope that we can...because this is just hurting kids and all this. So that's my indicia going... [LB655]

SENATOR HARMS: Well, I think you're absolutely right, Senator Ashford. You know, the thing about a community college is they...I mean, it's a beautiful thing that's happening. They do some great things with students. I mean, they'll take students who don't have any other options. They'll take students who are displaced homeworkers. They'll take students who are struggling with remedial courses, and get these students ready for careers and to move on, and they touch so many lives, it's just unbelievable. And to get it more down on this kind of issue and forget what we're really about, and that's educating kids, students for the future, and educating a work force is critical to the state. And... [LB655]

SENATOR ASHFORD: And...and just, just...yeah, and just to follow on, one of the ideas that in the learning community statute that I think is...it applies across the state is the idea of focus schools which is the basically the...the cumulation or the coordination of activities for students by more than one institution. And maybe we need to...we need to move into that direction. I guess, all I'm saying is, if we spend all our energy doing this, we will suffer and...and...I guess I've said it, but. [LB655]

SENATOR HARMS: Well, Senator Ashford, if we don't correct it now, it'll be worse the next time it comes back. I mean, that's where we are, and I think that's the thing we have to look at. And, I guess, Senator Adams, as you know, that's in your realm, and if there's anything I can do to help you, I'd be glad to do that or provide any information. I think you'll find us to be very cooperative, so is there any other questions? [LB655]

SENATOR ADAMS: Senator Avery. [LB655]

SENATOR AVERY: Thank you, Mr. Chair. Senator, what happens now if a community college area does not meet the requirements for membership? [LB655]

SENATOR HARMS: They would lose their state aid, not immediately, I don't believe. I think it would be when they start their next budget process. [LB655]

SENATOR AVERY: That's the way it currently is? [LB655]

SENATOR HARMS: No, that's what would happen now if they pulled their state aid. I

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don't think you'd want to pull it immediately. I think it would have to go into the next budget cycle. They simply wouldn't have it, and they'd have it levied on their property tax. They're no longer in the community college system; they've been suspended, which first of all, to be suspended by your colleagues is, gosh, it's got to be embarrassing. It would be for me, the fact that you're suspended from your own system, saying, you know what? Just pay your dues, and we'll try to work these things out. I guess that's not happened. [LB655]

SENATOR AVERY: Can we be blunt here? [LB655]

SENATOR HARMS: It depends on how blunt you want to be (laughter). [LB655]

SENATOR AVERY: I understand that Metro did not pay its dues, \$73,000 or something like that. Does that mean that they will...their funding will end in the next budget cycle? [LB655]

SENATOR HARMS: That would mean that their state aid would end. Their funding would not end because the simple fact is, they have the ability to levy property tax, and they could fund themselves very easily just on the property tax side which I think, first of all, would be a tragedy to place all that onto the property tax owners, so. [LB655]

SENATOR AVERY: So what does this item 5 here on page 3, what does this do then? [LB655]

SENATOR HARMS: It pulls \$23 million from them in state aid, that's the penalty. [LB655]

SENATOR AVERY: So what is different about what you're proposing compared to what we now do? [LB655]

SENATOR HARMS: Well, they're getting the \$23 million in state aid, but they will not get the state aid. The penalty for them not belonging to the association by law would simply be the simple fact is, they lose their state aid. They're no longer in the system. They're no longer funded by the community college system. So you'd almost have to look at a different funding formula for them or they'd have to levy it on their property tax. [LB655]

SENATOR AVERY: Okay, thank you. [LB655]

SENATOR ADAMS: Senator Cornett. [LB655]

SENATOR CORNETT: Senator Harms, what were the reasons stated why Metro chose not to pay their dues? [LB655]

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SENATOR HARMS: I don't know. That's something you'll have to ask them and ask whoever might follow me because I don't really know, Senator Cornett. I've not been involved in that process. In fact, I've tried to stay away from it. I've not wanted to get drawn into that issue because what I'll do is just inflame the issue because of my background. So I've really tried to stay away, so I really can't answer that question for you. [LB655]

SENATOR CORNETT: So you're just looking at the system as a whole, not at the reasons why the system is breaking down? [LB655]

SENATOR HARMS: Yeah. I'm just concerned about where we are in the community college system. I gave 33 years as a college president. I love that system. And my heart is there, and all I'm wanting to say is that we don't want this destroyed. But I think what Senator Ashford and I have both said, we can't tolerate this anymore. You can't come back every two years. If you don't resolve this issue now, you could come back next year, it's going to be worse than it is today. And I don't think we can tolerate it. I think we have to say, you know, enough is enough. Let's fix it, whatever it takes to fix it. [LB655]

SENATOR CORNETT: And I would agree with that, and I would agree having been here over the past few years that we will see this continuing over and over again, but as Senator Ashford said, you can liken this a little bit to the learning community, and it was brought about because one school has different needs than the other schools in the area or part of that system, and I believe Metro feels that its needs are different. [LB655]

SENATOR HARMS: Actually, in fact, their needs are the same as everybody else, Senator. They may have more students...they may have more students in developmental education which would be foundations education, remedial education. So do all the other community colleges. English for a second language, they're all the same in community colleges. As I view this,... [LB655]

SENATOR CORNETT: The numbers are different, though, correct? [LB655]

SENATOR HARMS: The numbers are different. They're greater numbers, because they have greater...they have a larger population base to draw from. [LB655]

SENATOR CORNETT: Just like OPS's numbers are greater compared to Bellevue's or Papillion's. [LB655]

SENATOR HARMS: Well, I don't know, I'm assuming that. To answer your question, is that...the way this funding formula works, it's a weighted funding formula. So if you're in heavy vocational technical programs, you get more dollars because of that, because it takes more money or it's more expensive than just doing an academic class. If you look

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at the numbers of Metro, you will find that they have gone more into the academic world, and they have stayed away from, to a certain degree, having a lot of the heavy vocational technical programs, and that's what's funded. And if they've created a problem, that's the problem they created themselves. Because academic transfer courses are light classes. I mean, that's how they fund them. The light, and the heavier the vocation, the more money that goes to that. So that's part of the issue, but it's not for me to say, I guess. [LB655]

SENATOR ADAMS: Senator Howard. [LB655]

SENATOR HOWARD: Thank you, Mr. Chairman. Well, John, you're a very fair person. I mean, in dealing with you the past couple of years and seeing you on the floor, I think you've always tried to reach equitable solutions on things. I would feel safe in saying that about you. And I'd like to just possibly have a commitment from you that you'd work with us to try to resolve this problem. You're from western Nebraska. Your college is in western Nebraska, and Metro is in the heart of north Omaha which has its own set of differences from...certainly from western Nebraska, but I think you have a lot to offer in terms of coming to the table and providing information. I agree with you that there is a greater cost with the more technical, the more manual. But on the other hand, Metro does serve a population that comes in with some needs that I would feel safe in saying you probably don't see out in western Nebraska. So...the numbers especially, the numbers of people that would come in needing the remedial or the extra classes that would bring them up to a college level to be able to perform. But I would like to kind of recruit you to be a part of the solution in all this. [LB655]

SENATOR HARMS: I'm not part of the problem here. (Laughter) Okay, I want you to understand that. I'm not the problem here. [LB655]

SENATOR HOWARD: Well, I would never say you're a part of the problem. [LB655]

SENATOR HARMS: No, but I would help...be very happy to help you. But let me just correct one thing, if I might. That in...where I came from as a college president, and I've been out of that system now three years; 70 percent of the students who entered that institution were mandatorily placed into remedial developmental education. So the arguments you're using is not, in fact, you know, correct. All the community colleges, I would bet if you asked them, I would say that probably the majority of them will say the same thing. About 70 percent of the students who enter their institution are placed into developmental education, and I will tell you, that's expensive. It gets down to one on one kinds of environments. Sometimes those students are with us for three years, so it is an issue. And I also agree that you do have...that Omaha Metro does have, and that north Omaha has a special issue. We have one with a similar...where I live, and I know that Central has it also, we have a high population base of Latino which has some of the same issues, some of the same problems, you know, drop out of school early, have no

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hope. They have no support from home. I mean, all those issues fit across this great state, so they may be in smaller amounts, but they're smaller institutions, smaller numbers. But the issues are basically the same. They just have greater numbers. [LB655]

SENATOR HOWARD: Well, I think that's why we're in agreement. I think we really need to get the accurate information on the numbers, on the needs, and look at it objectively. And I think there is a solution to this, but it's going to take some work on everybody's part. [LB655]

SENATOR HARMS: I agree. Thank you very much. [LB655]

SENATOR ADAMS: Senator Ashford. [LB655]

SENATOR ASHFORD: I just want to follow on one comment, John, and you know this. One of the issues that we confront in the learning community and obviously applies here is that there's a difference in spending. A smaller community college is going to spend more per student than a larger community college like Metro. Is that generally correct? [LB655]

SENATOR HARMS: That's correct, and Senator Ashford, there's...when you open your doors, there's certain front-end costs that everybody pays. [LB655]

SENATOR ASHFORD: Right. [LB655]

SENATOR HARMS: The efficiency then comes with the growth. [LB655]

SENATOR ASHFORD: Right. [LB655]

SENATOR HARMS: The bigger you get, the more efficient you're going to be, so when you want to start picking on the FTE cost and production, it's really unfair analysis, because in a small...it's just like a small public school or a small community college. The costs are going to be a little bit higher. [LB655]

SENATOR ASHFORD: And I'm not picking on it. [LB655]

SENATOR HARMS: Yeah. [LB655]

SENATOR ASHFORD: What I'm trying to suggest is that when we develop the funding formula for the learning community, those districts that spent considerably more per student than those that spent less--OPS versus South Sarpy, for example--we took that into consideration in developing the formula to...because there was a...there was an ability to spend more based on the needs. And that's...and the resources...and

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that's...I'm not...I don't know if that's an area that we can explore or not. But I mean, it was an area that...or an issue that we explored within the learning community formula. It is about the economics. It's about the kids. I mean, can you provide...can you provide a quality education in community college at a lesser...or should state aid reflect more of a constant per student spending than not? And I... [LB655]

SENATOR HARMS: I don't know. That's something you could explore. I will tell you this. If you lose equalization, the rural community colleges are pretty much in trouble. [LB655]

SENATOR ASHFORD: But I don't think that's losing equalization. I think that's taking the resources that you have and matching them with the needs, and if the resources have traditionally enabled...and I'm not suggesting this happened. I just say if the resources enable a college to spend more per student than another college, there may be legitimate reasons for that and you don't have to address it, but there may be reasons. And I just...thanks, Senator. [LB655]

SENATOR HARMS: Sure. Thank you, Mr... [LB655]

SENATOR ADAMS: Are there other questions? Just a... [LB655]

SENATOR HARMS: You've been very kind. Thank you. I will not close today because of our hearings next door, so. [LB655]

SENATOR ADAMS: All right. May I ask a couple of questions? [LB655]

SENATOR HARMS: You sure may. [LB655]

SENATOR ADAMS: Structurally, other states have these associations as well, I'm assuming? [LB655]

SENATOR HARMS: I'm sorry? [LB655]

SENATOR ADAMS: Other states have these similar associations that we've been talking about here. [LB655]

SENATOR HARMS: Yes, they do, but they have a lot more strength and power. See, the problem we have with our association here is the Duis Amendments gets in its way. And there's a very fine line, because we already were found once unconstitutional in 1973, and that was because of the Duis Amendment, and the Duis Amendment simply says that a state entity cannot levy property tax. So Nebraska is really unique in, I think, in that particular area. And that creates a problem for us because of the fact is that it depends on how much power and strength you give that association, will determine

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whether or not you're in violation of the Duis Amendment, so it's a very fine line. But I think that's the area that needs to be studied, is that we need to determine how much more strength can we give that association so these kinds of issues don't come rolling into the legislative arena. They can make the decision there, and it's permanent, and it's final. That's what happens in most of the other states. [LB655]

SENATOR ADAMS: Thank you, Senator. [LB655]

SENATOR HARMS: You're welcome. [LB655]

SENATOR ADAMS: Any final questions? And you're going to waive closing? [LB655]

SENATOR HARMS: I am going to waive closing. Thank you. [LB655]

SENATOR ADAMS: All right. Thank you for being here then. [LB655]

SENATOR HARMS: Yes, you're welcome. Thank you very much, thank you. [LB655]

SENATOR ADAMS: First proponent? Come on up, sir. Go right ahead, whenever you're ready. [LB655]

TOM PERKINS: (Exhibit 3) Thank you. I'm Tom Perkins and I'm from Western Community College. I'm here to support LB655. You need to know that not only am I a member of the Western Nebraska Community College Board, I'm also a member of the Nebraska Community College Association Board. I'm also a member of the Association of Community College Trustees Board of Directors which is a national organization that helps trustees. Given the more recent turmoil that Nebraska community colleges have experienced, it seems only reasonable that we revisit the statute to community colleges being required to be members of an association of community colleges. In 1989, the late Senator Jerome Warner met with the Nebraska Technical Community College Association Board of Directors, which was the predecessor to NCCA, about some of the funding and governance issues that they were struggling with at that time. He was very candid with the group as it struggled with the funding formula and their own inner turmoil with the funding formula, and he simply stated, "If you don't solve the problem, someone else will." I think that's an important comment, and you would find that in the NCCA Board of Directors' handbook, in fact. In 1991, the Legislature passed LB625 which established the Association of Community Colleges, and made it mandatory for all community colleges in Nebraska to belong to the association. That bill had a somewhat quieting effect on the six community colleges. However, it lacked the means to enforce membership in the association. As you are aware, the association recently expelled one of its members for its unwillingness to pay its dues in full. This has been a lamentable, unfortunate turn of events. We may not have arrived at this moment in time had some consequences associated with the termination of membership either by withdrawal or by

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being expelled. Certainly any community college would think twice about violating a statute that provided penalties, nonpayment of dues, and/or withdrawal of membership from the association. The present regrettable situation that the association must deal with is a weakness in an otherwise commendable statute. When considering a positive vote for LB655, please keep in mind that all of Nebraska community colleges are in need of this amendment. It will require each one of us to be serious about our responsibility, not only to ourselves, but to the association and to the state of Nebraska which sanctions and supports our work. It will help us to work forward to good-faith negotiations so that we will not arrive at a point in the future where a community college could be expelled from the association or be tempted to withdraw its membership. I urge you to support LB655 and bring it out of the committee so that the entire legislative body can discuss and debate its merits. Before you is a resolution from Metropolitan Community College, and the bottom line is, it gives its reasoning for wanting to withdraw its membership from the association. I would ask that you would read that resolution, and then begin to think seriously about supporting LB655. Thank you. [LB655]

SENATOR ADAMS: Thank you, Mr. Perkins. Are there questions for this testifier?  
Senator Giese. [LB655]

SENATOR GIESE: Thank you, Chairman Adams. Mr. Perkins, so I'm a member of the association. [LB655]

TOM PERKINS: Okay. [LB655]

SENATOR ADAMS: What do I get as a result of that membership? [LB655]

TOM PERKINS: What you get is, in essence, an opportunity to start thinking in terms of a funding formula that will be helpful for everybody, and to make plans for that. You will also get an opportunity to develop a strategic plan for all community colleges in Nebraska as well as the association. You will also get an opportunity to work through the association with other colleges and universities in the state of Nebraska to provide transference of credits from community colleges to universities and colleges. Those are important issues for us as well as you get some training from the board when needed. [LB655]

SENATOR GIESE: But if I wasn't a member of the association, couldn't I do that? I couldn't be involved in that process at all? [LB655]

TOM PERKINS: There's strength in numbers. To do it by oneself, it's possible. But to be able to have a core group of colleges with like mind and like effort, it's much better. [LB655]

SENATOR GIESE: Thank you. [LB655]

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TOM PERKINS: Yes. Yes, Senator. [LB655]

SENATOR ADAMS: Senator Cornett, go ahead. [LB655]

SENATOR CORNETT: when you talk about...what benefit do the rest of the community colleges get from having Metro as part of this? [LB655]

TOM PERKINS: I was asked that question recently by a World-Herald reporter, and it came as a result of my response to what happened a week ago, and that is, there's no winners; there are no winners here, absolutely no winners in this situation. And so, very simply, we will lose. We will lose the benefit of their experience. We will lose the benefit of their wisdom that they have gathered over the years. We will...may...I don't know for sure, but the next question is, will we lose the benefit of transferring our students to Metro in terms of their transcripts when our students want something special from Metro in terms of an offering of a course? That I really don't know. But there are some losses, and I'm not thinking in terms of the fiscal issue at this moment. I'm thinking in terms of the policy and the philosophical issues that will be lost in this process. Wisdom and experience are terribly important. [LB655]

SENATOR CORNETT: When you do discuss, what would the fiscal implications be? [LB655]

TOM PERKINS: What would the fiscal implications be? [LB655]

SENATOR CORNETT: Yes. [LB655]

TOM PERKINS: Well, one fiscal implication would be that the five remaining community colleges will have to come up with more funds to support the NCCA. [LB655]

SENATOR CORNETT: So when you mentioned...when you were speaking a moment ago, that they should work as a team because there's power in numbers, you'd have a whole group that doesn't want to be part of the team, though, correct? [LB655]

TOM PERKINS: We have one member that doesn't want to be a part of the team. That's correct, yes. [LB655]

SENATOR CORNETT: And does that member pay the most dues? [LB655]

TOM PERKINS: That member pays dues based upon two factors, one of which... [LB655]

SENATOR CORNETT: Which is number of students attending. [LB655]

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TOM PERKINS: Number of students, yes. [LB655]

SENATOR CORNETT: So, again, which member pays the most? [LB655]

TOM PERKINS: Metro will pay the most, yes. [LB655]

SENATOR CORNETT: Thank you. [LB655]

TOM PERKINS: Um-hum. [LB655]

SENATOR ADAMS: Senator Ashford. [LB655]

SENATOR ASHFORD: Just going...a couple of things. This reminds me a little bit of my prior years when Kearney came in and suggested that they were too big for the state college system, and there was a...quite a similar debate. I think that they were right. They were too big for the state college system and... [LB655]

TOM PERKINS: Yeah. [LB655]

SENATOR ASHFORD: ...and that's why we moved the way we have. I think we may have a similar situation here. The reason that the Metro board doesn't want to be part of the association is, they don't feel that they're represented by the association. That's their... [LB655]

TOM PERKINS: That's their point. [LB655]

SENATOR ASHFORD: ...that's their point, and I believe their point also is, is that they're growing, and that their growth is...is exceeding the growth of the other community colleges and will continue to exceed that growth, and that there is no way under any reasonable scenario that they can be adequately funded to meet that growth. I believe that's what they're saying. [LB655]

TOM PERKINS: Okay. [LB655]

SENATOR ASHFORD: And I...at least that's what they're telling me. To me, that's a very similar argument that was made by Kearney years ago to me...that...and the university there. We had a recipient--the university system wanted them or was willing to take them though there was controversy within that. [LB655]

TOM PERKINS: Yes. [LB655]

SENATOR ASHFORD: But to me, I think we're in a similar situation. We have an

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institution that almost by definition cannot be represented by a group that is not because there's not a willingness on your part to represent them or represent all of you as a collective. I don't doubt your (laugh) motivation here. [LB655]

TOM PERKINS: Yes. [LB655]

SENATOR ASHFORD: But I think it's...I'm beginning to come to the point where it's not possible, that it's just not possible for Metro to function with the growth that they're having, and with the needs and demands that they're having in the kind of system that we've devised. [LB655]

TOM PERKINS: You may be correct. I would not challenge your thinking at this point... [LB655]

SENATOR ASHFORD: And I may be absolutely wrong. I just... [LB655]

TOM PERKINS: ...and it may well be that as you begin to look at it in that context, that maybe Metro is now too big for the rest of Nebraska. Maybe what happens is that Metro is broken out and put into another system altogether. I do not know. [LB655]

SENATOR ASHFORD: Yeah, and I...so I don't think....I think, I would hope we...I understand your point. [LB655]

TOM PERKINS: Thank you. [LB655]

SENATOR ASHFORD: And...and I...and I'm not belittling it because I think it's heartfelt, but...and I know it's heartfelt. But I just don't...I think we're beyond the emotions of it. I think we're in a situation now where is there adequate funding to fund Metro's growth? And I question that. I don't think there is, and that we're in a very similar situation to where we were with the Kearney situation, where they couldn't grow anymore. That was the argument they made. They needed to be part of the university system in order to grow, and for a lot of other reasons. But that was one of their big reasons, and Ron Roskins kept telling me about it until I was blue in the face. He was blue in the face (laughter), so I...but I think we may be in a similar environment today. [LB655]

TOM PERKINS: It's entirely possible, Senator. For the last two, maybe three years, I've pondered that question myself, and even pondered it to the point of maybe Metro ought to be a part of the University of Nebraska at Omaha. [LB655]

SENATOR ASHFORD: Maybe they should, and maybe what you've got here is a situation where it's not about people not wanting to hurt somebody else or about one part of the state wanting to get something over on some other part of the state. Somehow we've got to get over that, and...because we're all Nebraskans and we all do

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care about each other even though we may yell at each other, and that if you and if Metro Community College cannot function in the environment that currently exists, we ought to find a way for them to function, because it is the kids in the end that will suffer. [LB655]

TOM PERKINS: That's right. I agree with you 100 percent on that one, that our basic concern will be the people that we serve and not our own personal interests at this point. [LB655]

SENATOR ASHFORD: And I believe that's your belief, so thank you very much. [LB655]

TOM PERKINS: Thank you, sir. [LB655]

SENATOR ADAMS: Are there other questions for this testifier? Thank you, sir. [LB655]

TOM PERKINS: Thank you, appreciate it. [LB655]

SENATOR ADAMS: Other proponents? If there are no other proponents to the bill, then we would hear from opponents to the bill. [LB655]

RANDY SCHMAILZL: Randy Schmailzl, R-a-n-d-y S-c-h-m-a-i-l-z-l, interim president Metro Community College. And I'm here today to oppose LB655, and my comments are directed specifically at LB655 because that's what's on the testimony docket today. We are concerned with the public policy aspects of LB655, and when I say "we," I'm speaking on behalf of Metropolitan Community College. Back in 1974 when the community colleges started, the location of the community colleges landed in the political subdivision arena with villages and counties. And the nonprofit corporation that's set up to the Nonprofit Corporation Act was the association, and so from the start, the community colleges never were set up to be a system like the state of Nebraska universities and colleges. They were set up for political subdivisions, just as I said, like villages and counties. And so, I'm not a legislator nor am I a legal person. I'm an educator, but I would question the public policy aspect of the forcing of a political subdivision to be part of something in order to receive its funding. Secondly, our legal...internal and external legal counsel reviewed LB655, and provided some constitutional questions that I'm sure the Legislature will study and consider before supporting LB655. Duties of the association: The duties of the association have morphed over the years into a variety of written and unwritten duties. Some duties are assigned, and other duties are assumed. For example, the lobbyist duties, the duties to set up offices and accounting systems and a variety of duties that, in prior testimony today, you heard. I don't know nor can I tell you exactly the composite list of written duties that's in place that has been assigned the executive director nor the association. But that would be an important fact to know. And finally, the next person that will be opposing this from Metro is our internal legal counsel to address Metro's dues and the

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acquisition of state aid by virtue of us not paying our full dues. We partially paid dues, not the full dues, so with that, I conclude my remarks. [LB655]

SENATOR ADAMS: Thank you, Randy. Are there questions? Senator Ashford. [LB655]

SENATOR ASHFORD: Randy, now I really am getting frightened, because now we're getting too many legal counsel, and this reminds me of when legal counsel were running the show. But seriously, would you agree with me that possibly the structure for the community college system needs to be revisited in a real way? [LB655]

RANDY SCHMAILZL: Yes. [LB655]

SENATOR ASHFORD: And would you agree that there is a significant, though there are similarities, that there is a significant difference between what Metro is becoming, and what the traditional view of community colleges is. [LB655]

RANDY SCHMAILZL: Based on local needs, yes. [LB655]

SENATOR ASHFORD: And what are those local needs and...could you tell me that? [LB655]

RANDY SCHMAILZL: For the four-county area that Metro serves, the need for developmental education to support college-ready activities so students can not only enter Metro Community College, but move on to any state or private institution. The business needs for students to be able to acquire the math skills to pass the bricklayer's exam using fractions needs to be in place for the unions. Any support to the unions developmentally need to be in place. The academic transfer component is an important portion of Metro's curriculum, because when we set up the trades programs, we also set up a general education component of 22 hours that it is all academic transfer courses, so that the student can take the degree from Metro and move on through articulation agreements that are with the local universities into a four-year master's level, whatever, so it doesn't become a terminal degree. And all those are from Metro to the independent college that we're working with. They have nothing to do with the association, and then the...finally, you know, our mission is the trades. And we've invested in the trades in the Omaha area, and we're the only community college and trades school that is supported by the state of Nebraska. The other trades are supported through usually proprietary school education. So that's the components that make up most of Metro. The other component that we deal with is the continuing education, adult learning ABE, GED, ESL, that may be noncredit related courses to round out the adult learner population in Omaha, which we have a significant adult learner population that attends the college. [LB655]

SENATOR ASHFORD: And how many students do you...both FTEs and nontraditional

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students do you take care of on an annual basis? [LB655]

RANDY SCHMAILZL: Last year we served 42,000 individual credit students with over 10,000 FTE. When you divide our credit hours by 45, you'll come up with 10,000 and some change. [LB655]

SENATOR ASHFORD: Thank you. [LB655]

SENATOR ADAMS: Senator Avery. [LB655]

SENATOR AVERY: Thank you, Mr. Chair. What is it that you do at Metro that's not done, say, at Southeast? What is it in your mission that's different? [LB655]

RANDY SCHMAILZL: Nothing is different in our mission. [LB655]

SENATOR AVERY: What is it in your mission that's different from what is done at Western? [LB655]

RANDY SCHMAILZL: The state mission for a community colleges is all the same, so all the community colleges would have the same mission. But the individual location would require differences in service, and that's why each community college is set up as a political subdivision to meet the needs of their local community. [LB655]

SENATOR AVERY: Okay. Do you have needs in the metro area that are different from the needs in the rest of the community colleges? [LB655]

RANDY SCHMAILZL: I would say yes. [LB655]

SENATOR AVERY: What would they be? [LB655]

RANDY SCHMAILZL: The urban setting that exists in north Omaha and south Omaha creates a significant difference in dynamics of how people live, the unemployment rate, job availability than living in another community in the state. There's no place in the state that's similar to north Omaha and south Omaha that I'm aware of. The needs parallels the needs of the local K-12 school districts, and that is that we have a number of learners that require extra support for whatever reason beyond the normal support that a high school or anyone else can provide. And that's usually ABE, GED, adults basic ed and general education diploma, English as a second language, developmental classes along with a large academic transfer component, along with trades programs that Metro has set up to meet the local needs and, you know, we do not have many ag-related programs at Metro, and the reason we don't have many ag-related programs is because the percent of rural farmland and agriculture need in our service area is limited. Although we're working with Blair and Cargill on some programs, most of our

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programs are urban, suburban in nature. [LB655]

SENATOR AVERY: Are you suggesting here that it's more costly to deliver those kinds of programs than it is to deliver programs in Lincoln or out in Scottsbluff? [LB655]

RANDY SCHMAILZL: It can be more costly to deliver those programs in Omaha. Specifically, the academic transfer as it relates to sciences and the number of science labs Metro needs on its campus and the investment that we've had to make in science labs because the academic transfer course of sciences, they're rewarded as an academic transfer course. So biology and chemistry receive the same value as an English course, and it costs as much to offer a science credit as it does most trades, so that's different at Metro. I'm not sure on the general education if all the community colleges have changed now to that. Metro did before most of them, so, you know, we have a large general education component that transfers to UNO, to Bellevue. [LB655]

SENATOR AVERY: The problem here seems to be with the funding. That's almost naive to suggest (laugh) that we need to say that. But can you show empirically that your needs are that much greater than the needs elsewhere in the community college system such that your board has to take the drastic action it has taken? Isn't there a way that you could satisfy your needs through the existing formula or some changes to the formula? [LB655]

RANDY SCHMAILZL: No. [LB655]

SENATOR AVERY: So the only thing you can do is this off-the-wall, way-out-there drastic, you know, draconian action to refuse to pay dues to the association. [LB655]

RANDY SCHMAILZL: Well, the reason of needs and why we didn't pay dues to the association is not related. The reason we didn't pay dues to the association was representation and the lack of representation that our board felt was being provided to Metro Community College. And not paying the full amount of dues was based on just that, the lack of representation. [LB655]

SENATOR AVERY: So it's not connected to the other issues? That's totally separate, has to do with the governance, doesn't have anything to do with funding. [LB655]

RANDY SCHMAILZL: In part, it had to do with funding, but to pay the dues that was levied to us...we paid all the expenses that was our share. We did not pay any of the salary of the executive director. [LB655]

SENATOR AVERY: And so you paid the one-sixth...\$9,000. [LB655]

RANDY SCHMAILZL: Well, we only paid \$9,000 and some change. [LB655]

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SENATOR AVERY: Yeah. [LB655]

RANDY SCHMAILZL: But when I mentioned the duties of the association and lobbying, I'm not sure the duties of the association is to lobby against one of its members, and that's what our board felt. [LB655]

SENATOR AVERY: That's a governance issue. I think, though, that the whole issue of governance ultimately comes down to how much money Metro is getting in the ag formula. Maybe I'm wrong, but you haven't convinced me (laughter). [LB655]

RANDY SCHMAILZL: Thank you. I'm here for LB655 today, though (laughter). [LB655]

SENATOR ADAMS: Senator Cornett. [LB655]

SENATOR CORNETT: When you were talking about the representation that you were receiving for the amount of money that you were paying, and I asked the testifier before this. You pay the largest percentage of the dues based on the fact that you have the most students, correct? [LB655]

RANDY SCHMAILZL: Yes, there's a dues formula. [LB655]

SENATOR CORNETT: It's a sliding scale, correct? [LB655]

RANDY SCHMAILZL: Um-hum, yeah. [LB655]

SENATOR CORNETT: But you have the same amount of representation as everyone else, correct? [LB655]

RANDY SCHMAILZL: Right. We have one vote. [LB655]

SENATOR CORNETT: And the rest of the community colleges did not support any legislation that would favor Metro, am I correct? They only chose to support one? [LB655]

RANDY SCHMAILZL: Right. [LB655]

SENATOR CORNETT: And you felt that the one piece of legislation that they chose to support was detrimental to you? [LB655]

RANDY SCHMAILZL: Pardon? [LB655]

SENATOR CORNETT: And you feel that the one piece of legislation they chose to

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support was detrimental to you. [LB655]

RANDY SCHMAILZL: On the funding formula? [LB655]

SENATOR CORNETT: Yes. [LB655]

RANDY SCHMAILZL: Yes. [LB655]

SENATOR CORNETT: Thank you. [LB655]

SENATOR ADAMS: Senator Ashford. [LB655]

SENATOR ASHFORD: Just so we...I'm sorry, Mr. Chairman, but I... [LB655]

SENATOR ADAMS: No, it's all right. [LB655]

SENATOR ASHFORD: ...think it's important that we get the record clear here. It's a little bit like the United Nations, sort of one vote. But I don't want to go into that questioning. But the...to be precise here, the funding formula that was implemented last year was generally agreed to by everybody, though there now is some discussion about the fact that there was a change at the last minute to the use of REUs instead of FTEs, and I think that... [LB655]

RANDY SCHMAILZL: That's correct. [LB655]

SENATOR ASHFORD: ...and I know there are different theories on why or how the changes were made, and what I'm hoping...and...but now...now, and it's my understanding that there were discussions over the summer to try to encourage the association to think about other ways of reflecting the growth, and the nature of the growth at Metro in the funding formula. Would that be a fair comment? [LB655]

RANDY SCHMAILZL: As it relates to full-time equivalency growth, yes FTE. Um-hum. [LB655]

SENATOR ASHFORD: Full-time equivalency growth. And I know there are lots of meetings and lots of discussions, and it's hard to categorize them, but I think without casting dispersions on any individuals here, what really happened was there was just...at some point in the process last fall or last summer, Metro came to the conclusion that its concerns or needs were not going to be addressed in changes to the funding formula. [LB655]

RANDY SCHMAILZL: That's correct. [LB655]

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SENATOR ASHFORD: Isn't that kind of what happened here sort of? And I know...and there are a lot of theories about...and contentions about who said what to whom, and I...you know, but other than...there was a genuine disagreement between you and...your campus and the other campuses about funding. Is that...I mean, I'm not trying to trick you here (laugh)... [LB655]

RANDY SCHMAILZL: No, no. I mean that... [LB655]

SENATOR ASHFORD: ...I mean that...I mean, basically, there were ongoing discussions, and you just reached an impasse. [LB655]

RANDY SCHMAILZL: I believe, Senator Ashford, everyone realizes that Metro is in disagreement with the funding formula so...so that's fair to say. [LB655]

SENATOR ASHFORD: Right. No, I'm not trying to...I mean, I'm just trying to get...I mean, there's an impasse here is what's happened, isn't there? [LB655]

RANDY SCHMAILZL: Yeah. Right, yes. [LB655]

SENATOR ASHFORD: I'm not saying that's a bad thing. I'm just saying there's an impasse (laugh). [LB655]

RANDY SCHMAILZL: That's right. [LB655]

SENATOR ASHFORD: Okay. And I think from our perspective as legislators, we would rather have you solve the impasse without having to come to us, obviously, because we have other stuff to do. But if...because we have a lot to say about funding and that you're here, and that's why we're discussing this. But...so I guess I'm...I understand why the decision was made not to pay the dues, I understand that. And I don't think it's helpful to make a qualitative judgment about whether that was a good or bad decision. I understand why you didn't do it, Randy, to be quite honest. The real question is where do we go from here, and it seems to me that you've established, for me, a case that...and I know there's a lot of similarities between what you do and the other campuses do, but the nature of what you do, that is necessitated by the place. You're in a very highly concentrated poverty area and urban center, that that is a difference, correct? [LB655]

RANDY SCHMAILZL: That's correct. [LB655]

SENATOR ASHFORD: And that makes you different from everybody else. [LB655]

RANDY SCHMAILZL: In one way. [LB655]

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SENATOR ASHFORD: And what is the one way? [LB655]

RANDY SCHMAILZL: And that is...I mean, that is the one way that makes us different. Then there's other ways that...but that's the fundamental way. [LB655]

SENATOR ASHFORD: And that really is...but that's the fundamental difference, and that...and we've been going along our merry way for years funding the community colleges in somewhat of a loose association. Everybody kind of agreed, but now what we have is this can't go any...we've got high poverty; we've got high unemployment; we've got a need to get these people trained, and you can't do it under the current situation. And I...that's kind of where we are at, correct? [LB655]

RANDY SCHMAILZL: Yes. [LB655]

SENATOR ASHFORD: Okay. [LB655]

SENATOR ADAMS: Senator Howard. [LB655]

SENATOR HOWARD: Thank you, Mr. Chairman. You know, Randy, I would suggest one of the things that contributes to this is that you're not the only game in town. There's UNO; there's Creighton. And I think often, at least in my observation, often you take on the role or get put in the role of being an entry level. And there are students that come in that really do have special needs, and probably wouldn't go on to college, but they have this opportunity, and they require a lot of support to reach a level where they do have some credit hours, and they often transfer over to UNO because they think that's going to be the college they want to graduate from. And you hear people say, well, we'll just pick up some of the basics over at Metro, for one reason, because they consider it to be cheaper. And then we'll take those, and we'll transfer out. And it seems to me when you continually deal with a base population of people with very high needs, there's going to be a cost involved with that, so when I stop and look at this, and see where does the funding really go, I would say it's to bringing people up to a level where they can make a choice if they're going to continue in the Metro College or in many cases if they're going to carry those credit hours over to UNO and leave you. So I think that's an accurate portrayal. Does that... [LB655]

RANDY SCHMAILZL: That's very accurate because one of our strategic planning goals at the institution is to help whomever. We're an open access institution. We don't deny enrollment at Metro. To move into a productive place in their life so they can discontinue any support, you know, and get on the tax rolls and be a productive employee in Omaha. And I'm sure everyone else does that, too, but that really is one of our premier duties in Omaha. [LB655]

SENATOR HOWARD: Yeah, I think you have a very unique role in Omaha, both in

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north Omaha and south Omaha. I appreciate you doing that. Thank you. [LB655]

SENATOR ADAMS: Are there other questions? Senator Avery. [LB655]

SENATOR AVERY: You just said, I'm sure other community colleges have to do this too. I'm still trying to find out what's so special about your population that you serve compared to Western or Southeast. It seems to me that you're doing the same things. Maybe you have to do more of it; maybe you have more students, but that is reflected in the funding formula now. [LB655]

RANDY SCHMAILZL: Well, Metro...the most recent study by the Community College Association, Metro provides 62 percent of the developmental education in the state of Nebraska. And if we have 35 percent of the enrollment, and everybody else was providing equal services, then our 62 percent would only be 35 percent. So we provide twice the amount of developmental education compared to the other colleges. That's just one problem. [LB655]

SENATOR AVERY: And that's more expensive than some other kind of learning experiences and teaching challenges? [LB655]

RANDY SCHMAILZL: You know it is, because in the special needs arena that we provide in, we're the college of choice for special needs students within Omaha. And special needs education and the continuance of special needs education on to a college requires interpreters, tapes, equipment, accommodations that the Vocational Rehabilitation system of the state cannot pay for anymore. And we pay for much of that, and we...if anyone in the city of Omaha were to talk about special needs for college students, they would talk about Metro Community College as the college of choice, because most institutions send their students our way because it's too expensive to provide that kind of service, the number of tutoring services and learning labs, and just the sheer numbers that we deal with, it becomes an expense, because we don't have enough room on campus to do this. And so we're always looking for other buildings, other places, and so the staffing...it doesn't require the high-end equipment cost like you may see in a utility line program. But it does require enough that it will eat up quite a bit of your budget in order to provide these services. [LB655]

SENATOR ADAMS: Other questions? Before you get away, Randy, at the outset of your testimony, you outlined four different areas that Metro focuses on, and the last one of those was vocational. Am I correct, if I remember right? [LB655]

RANDY SCHMAILZL: Correct, right. [LB655]

SENATOR ADAMS: I'm not going to batter you on this, because I think you've responded to it two or three times already, but it would seem to me that the other

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community colleges, whether they be Western or Southeast or whoever they may be, have those same four basic areas that they have to focus on. Is that legitimate? [LB655]

RANDY SCHMAILZL: I would think that would be...yeah, at least four they're focused. [LB655]

SENATOR ADAMS: Okay. And I sense in your testimony today that one of the things that you're saying is that Metro, for whatever reason, is moving more towards developmental courses and college transfer courses and less in the area of vocational. Is that? [LB655]

RANDY SCHMAILZL: No. [LB655]

SENATOR ADAMS: No? [LB655]

RANDY SCHMAILZL: No, that's not...no. What...I want to be...I need to clarify that, Senator Adams, and that when many of the community colleges started, they had properties that supported vocational education: Milford, for example. You know, Metro has inherited properties and properties that had been built for the trades, never truly were designed for trades programs. So we've been in a constant capital struggle to attempt to get up to speed in the vocational programs. Our most recent purchase dealt with an applied technology center for our truck driving diesel, and we are committed to the trades in Omaha. But we're also committed to the developmental and the academic transfer needs which can easily race past some of the trades needs in terms of the amount of money... [LB655]

SENATOR ADAMS: Is...I was going to say, is one overwhelming the other? Is one... [LB655]

RANDY SCHMAILZL: It's a tough balance because the resources that you need to balance this all, decisions are made. [LB655]

SENATOR ADAMS: So what's driving this ship? Is it the demographics, the economics of the Omaha area, or is it a conscious board decision that this is the direction we're going to start going? [LB655]

RANDY SCHMAILZL: No. In fact, it's a conscious board decision to always keep the trades ahead of everything else because we are the only state provider of trades courses. People find it fashionable, Senator Adams, to poke at Metro because of our developmental education and our basic needs, you know. It doesn't seem to be fashionable to offer that, but no one else will. I mean, someone has to do that. It's messy education. [LB655]

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SENATOR ADAMS: As it is with probably Southeast and Western and everybody, all the other community colleges. [LB655]

RANDY SCHMAILZL: Could be. I never hear anything about it, so I'd have to study their numbers. But our numbers are very high. [LB655]

SENATOR ADAMS: To be honest with you, one of the things that I'm struggling with here, as I have...and you and I have had very productive discussions,... [LB655]

RANDY SCHMAILZL: Um-hum. [LB655]

SENATOR ADAMS: And as I have tried to examine this from all directions, I continually hear the argument that the metro area creates a unique needs...there are unique needs that are driving maybe to the point you're at right now, maybe to this hearing today. And I keep my ear to the ground, because as we worked on the learning community, it was the unique needs of the metro. And one of the things that I'm still struggling with is, I want to be flexible, and I want, as a committee chair, to respond to that, and I haven't yet determined what makes your needs unique compared to the other community colleges for one. The other thing is, in an equalization formula, as we have developed and the TEEOSA formula, it's so driven by needs, and we need to be constantly looking at those needs. I guess I have to ask the obvious. Why can't we be looking at those needs and working to amend the formula rather than some of the discourse I've had with others, blow it up? [LB655]

RANDY SCHMAILZL: The desire to discuss that would be part of that process is what brought us here today. [LB655]

SENATOR ADAMS: Good. Okay, thank you, Randy. Are there other questions? [LB655]

SENATOR ASHFORD: I just want to...just for the record. Developmental education can apply to all sorts of educational opportunities. It isn't just transfer courses. [LB655]

RANDY SCHMAILZL: No. Developmental ed is normally English, math, science, reading, study skills. [LB655]

SENATOR ASHFORD: Yeah. The reason we're different at Metro and the Omaha metropolitan area is very much the same reason OPS is different from south Sarpy or Elkhorn. Isn't that correct? [LB655]

RANDY SCHMAILZL: Exactly, because the students of OPS, south Sarpy, and whatever, come on to Metro and...more than ever now. [LB655]

SENATOR ASHFORD: Right. Right, and so the reason I suggest that maybe this isn't

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going to work anymore is the same reason why I think we all thought that the way the school systems were set up without any kind of...with any focus on poverty in the metro area was not going to work anymore. [LB655]

RANDY SCHMAILZL: It's true. [LB655]

SENATOR ASHFORD: So I mean, that is...now where we go from here, I don't know, but certainly the needs are...they're not different in the sense that you do the same thing, but you do them to a different degree. I mean, you're taking students who can't function at a level of some of your other students, and they need to be brought up to a level where they can take these courses. Isn't that correct? [LB655]

RANDY SCHMAILZL: That's correct. [LB655]

SENATOR ASHFORD: And that's very expensive. [LB655]

RANDY SCHMAILZL: Very expensive. [LB655]

SENATOR ASHFORD: And that...is that the critical...one of...would that be the top...forget the formula for a second. Is the...on the needs side because it's not just a needs formula, it's also a resources formula. On the needs side, is that need dealing with students of very special needs because of their socioeconomic background and their poverty and some of the racism that occurs, has occurred over the years, that that is one of the...that's kind of been heaped on your...in your lap? [LB655]

RANDY SCHMAILZL: That's one of the top three needs that the college has. The other I mentioned was, you know, infrastructure needs for the trades. [LB655]

SENATOR ASHFORD: Okay, okay. [LB655]

SENATOR ADAMS: Other questions for Randy? Thank you, Randy. Next opponent? [LB655]

JIM THIBODEAU: Hello, committee. My name is James Thibodeau, J-a-m-e-s T-h-i-b-o-d-e-a-u, and I am general counsel and director of labor relations for Metro Community College. And I wasn't planning to testify here today, so I just have a few points that I'd like to make kind of in response to some of the things I've heard today. There was some discussion early about how Metro Community College would lose its state aid currently by not being a member, either if not this year, then a year or two down the road. By my reading of state law, there is nothing...there is no loss of state aid under the current law based upon your membership or nonmembership in the Nebraska Community College Association. Again, there's no penalty in the statutes for resignation or expulsion as the case may be. The college's state aid is funded by the Legislature,

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not by the NCCA and I want to make that clear. Secondly, the Legislature created the community colleges to meet the needs as political subdivisions to meet the needs of the area of those political subdivisions. And that's one of the points that Metro has. It has to meet the needs...meet the demand that it receives from its students and from its constituency. Again, getting back to the NCCA here, the NCCA itself was not created by the Legislature. The Legislature stated an intent that the community colleges belong to an association, but the association itself was created not as a state agency or state body but under the Nonprofit Corporations Act. I think it's important to note that. In my experience the association served more as a trade association type of an entity for the colleges than an official state agency that they would belong to. And lastly, I think Senator Giese, you asked a very, very good question earlier today when you said, what do colleges get as a member of the association? Well, in Metro's case, it got outvoted in the board 10 to 2 in everything that...just about everything that came before the board. The...Metro's board of governors felt that they simply had no representation and that it served no benefit to the college to continue to be outvoted 10 to 2. And I see my red light is on, so if there are any questions... [LB655]

SENATOR ADAMS: Are there questions? Senator Avery. [LB655]

SENATOR AVERY: Are you defending this action that if you lose in the association 10 to 2, you withdraw from your membership, is that what you're saying, Mr. Thibodeau? [LB655]

JIM THIBODEAU: I can't speak for the entire motive of our board of governors, but I know that that was one of the big issues that prompted the board of governors to take the action they did. And that was in response to Senator Giese's question, what do you get as a member? Well, that's certainly one of the things Metro got. [LB655]

SENATOR AVERY: So if we can't win all the time, we're going to quit play. That's what it sounds like to me. [LB655]

JIM THIBODEAU: Well, I wouldn't characterize it quite in that way, Senator. [LB655]

SENATOR AVERY: No, I know you wouldn't. [LB655]

JIM THIBODEAU: Okay. I think that, again, without speaking directly for our board of governors, you know, any time you belong to a group or an association in which you feel does not look out for your interests and in which you actually don't have a voice, most individuals or groups, as the college is or our board of governors is, would consider the value of remaining a member. [LB655]

SENATOR AVERY: But you had a voice. You didn't have a majority voice. [LB655]

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JIM THIBODEAU: No, if constantly being outvoted by all the other colleges together against you is having a voice, then... [LB655]

SENATOR AVERY: Well, that's the nature of membership in an organization. You take votes. If you don't win, you accept it, and you move on instead of trying to destroy the organization or blow it up as Senator Adams mentioned. [LB655]

JIM THIBODEAU: Metro has absolutely no desire to destroy or blow up the Nebraska Community College Association. [LB655]

SENATOR AVERY: I don't have any more. [LB655]

SENATOR ADAMS: Any other questions? Seeing none, thank you, sir. [LB655]

JIM THIBODEAU: Thank you. [LB655]

SENATOR ADAMS Next opponent? Any other opponents? If not, we'll hear neutral testimony. [LB655]

DENNIS BAACK: Senator Adams and members of the Education Committee, for the record, my name is Dennis Baack, D-e-n-n-i-s B-a-a-c-k. I'm the executive director of Nebraska Community College Association, appearing in a neutral capacity, because, quite frankly, we think there needs to be some spelling out in the law of what is the consequence of not belonging to the association. I don't know what the right consequence should be. I think that's something that's a legislative issue. The Legislature is the one that put it into statute that they belong, and I think the Legislature has to make that decision. And I'm also here just to answer questions about the association if you have some specific questions about that. I might address a couple of things. One of the things that's been coming out that the Metro president, Dr. Schmailzl, talked about, was how unique Metro Community College is. Quite frankly, they're not all that unique. You can look at the community college system, and you'll find that Southeast Community College is almost identical in size; they serve almost the exact same number of students. And, in fact, until a few years ago, Southeast Community College was the largest community college in the system. They were...and Metro was the second largest. So they're not...it isn't totally unique from all of the other colleges. I think you can make some arguments that they are unique, more unique from Western, but they're not that unique from Southeast Community College. And, quite frankly, over the years, Southeast Community College has never felt constrained by the formula. They don't today. They support the formula very strongly, and they feel that there are provisions in there that will allow them to grow, and they will grow also. They're one of them that can grow, and the fact of the matter is, all of them are growing right now, because we're in economic difficult times so all the colleges are growing right now. They're all growing at a...you know, 4 to 5 percent clip right now. That's just happening,

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and it always does in an economic downturn, so we're seeing them grow. I think you can make some arguments as to the population they deal with. I think that they do have some unique circumstances there. I don't think that the association has ever been afraid of talking about those unique circumstances, but we were always under the impression that those unique circumstances, even if we dealt with those unique circumstances, that would not satisfy Metro, because they wanted to get away from equalization. They did not like the idea that there was equalization within the formula, and that has been the rub as we've debated this issue as we've gone through it. One of the things that I feel is my duty as the executive director of the association is when I see things that are going to threaten the system or threaten the idea of having community college education available to all students across the state, because I think that's the responsibility we have, I have to oppose those kind of things. And I think as an association, we have to oppose those kind of things if it's going to harm the education in some other parts of the state. With that, I'd be happy to answer questions or... [LB655]

SENATOR ADAMS: Thank you, Dennis. Are there questions for Dennis? Senator Howard. [LB655]

SENATOR HOWARD: Thank you, Mr. Chairman. Dennis, in a nutshell, can you tell me what are the benefits of belonging to the larger association? I know there's strength in numbers, you know, the obvious. But if one college feels that they're being outnumbered and start to get defensive about that and feel that their position is really not being heard, what would be the benefit? [LB655]

DENNIS BAACK: Well, I think there's a lot of benefits to being part of it. I think if you look at...historically, if you look at what has happened with the association just in the...I have been with the association now 16 years...this is my 16th year with the association. And I think when I started with the association, we were getting about \$27 million of state aid. Today we get \$87 million of state aid, so we've made some substantial gains in how much state aid we get and having the state participate in the business of community colleges, and having a partnership with the state. And I think that came about because we were speaking with one voice, quite frankly. That was a very strong voice that we were speaking with. I represent the community colleges on probably 12 or 13 different boards. Several of those are governor-appointed boards where a community college representative is required to be on those boards such as the Work Force Investment Board, the Worker Training Board, those kind of things. We also have a lot of partnerships that have been formed between the various community colleges as far as programs go. There's a lot of programs that one college will develop, and the other colleges get to connect into that, and utilize the expertise they have at one college, and the other college get to use that without having to put their own expertise on their own staff. I hope those things don't go away, because those are kinds of things that are really good for students, and I hope we don't see those kinds of things go away. I think there's other benefits. I think, you know, Metro will say that we were working

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against their interests in the last few years. I don't think that's true at all. I think if you go back to when Senator Raikes, when this current formula was passed, one of the pieces of that was adding additional dollars in so that we made sure that all of the colleges were kept whole as we went into this new formula to make sure that nobody got hurt as we went into new formula. And part of the deal was there we would put an additional \$12 million into the formula the first year to make sure that they were all held harmless. And one of the things that we worked very hard was to get that \$12 million. There was a lot of skepticism about whether we could get that \$12 million, but we did get the \$12 million. In fact, Senator Raikes tried to lower it to \$8 million once on the floor, and we fought against that, because one of the...because, as a matter of fact, the biggest loser, if we'd have lost those \$4 was Metro, and we fought very hard to keep those dollars in. So I think we have tried to represent their interests. We have had disagreements within the association before, this isn't a first. A few years ago, Western Community College was on the outs with the system and didn't feel like the system was representing them, but they didn't quit the system. They stayed with it, and we were able to finally get things worked out. A couple of years before that, Northeast Community College had some issues with the system, felt isolated. We've always been able to work those things out, and it's happened numerous times over the years. But this time it just seems like we can't get it worked out, and it's unfortunate. [LB655]

SENATOR HOWARD: Yeah, that is unfortunate because as Senator Ashford said, (laugh) this can't go on, so thank you. [LB655]

SENATOR ADAMS: Senator Avery. [LB655]

SENATOR AVERY: What is it that this community college board does or association does that the Coordinating Commission for Postsecondary Education does not do or could not do? [LB655]

DENNIS BAACK: Well, I think it's the internal coordination kind of things that we do rather than somebody on the external side doing that. I think it's the budget presentations that we do. We try to make sure that all of the areas report budgetary numbers the same and do all of those kinds of things, so I think that's the role that we act in, and we're an advocate strictly for the community colleges. And if you got to...the coordinating commission doing some of these things, they're an advocate for all of higher education, not strictly for the community colleges, and I think that advocacy specifically for community colleges is the most important thing that the NCCA can do. [LB655]

SENATOR AVERY: I think the more I listen to testimony today and other days in this committee, and the more I look at the structure of governance in higher education, the more convinced I am it's musclebound. There's just too many boards, and there are too many coordinating commissions and too many layers of administration that we ought to

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take a look at, I believe. Maybe I'll ask you to help me with that. [LB655]

DENNIS BAACK: Well, I mean, I think that those are things that the Legislature has to look at, at all times. I think they have to consider those kinds of things, and I think that, you know, there's been some discussion about whether or not Metro is too big for our system. I don't happen to believe that, quite frankly. I will say that as they move more and more to transfer education, they're starting to look a little more different than some of the other community colleges, because our number one role and mission is still vocational technical, and I think that they're correct, that they start putting some more emphasis on that vocational technical and get back on the track to doing that. [LB655]

SENATOR AVERY: It seems to me that we have too many layers and layer upon layer of administration in higher education in this state. It's costing us money, and maybe we're not getting much in return. Maybe some overlapping responsibilities and overlapping activities that perhaps we don't need. That's for another day. Thank you. [LB655]

SENATOR ADAMS: Senator Sullivan. [LB655]

SENATOR SULLIVAN: Thank you. Do you know...are you aware if there is any other entity that has this requirement to receive state aid that they have to have membership in an association? [LB655]

DENNIS BAACK: Well, I don't think the law requires that today. You know, I mean, I think that Mr. Thibodeau was absolutely correct that the state law today does not say, you lose your state aid if you're not a member. It does not say that. That would only be the case if Senator Harms's bill would pass, and then you'd have that in place. No, I don't know of any other states that do that, but I've never researched it either. I don't know if, other states if they're even required to be a member of an association. I don't know that, but I can certainly find out for you. But I would guess that we're somewhat unique in that scenario, and also I don't think it was mentioned how we got there. Why do we have the law that says that? And the reason we have it is because there was a maverick board back in 1991, and the maverick board happened to be Southeast Community College. It was not Metro, not Northeast, not the other ones who have had trouble with the association. But it was Southeast, and what was happening was, is that the association was in working with senators on issues, and they had a position that they were espousing to senators, and the Southeast board members came in and lobbied Senator Warner in the opposite direction. And Senator Warner said, well, we'll fix that, and said, we need them speaking with one voice. And so that's how the law was put into place, and I'm guessing...I don't remember specifically, but I'm guessing I probably voted for that law as it went into place in 1991. [LB655]

SENATOR ADAMS: Other questions for Dennis? Senator Giese. [LB655]

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SENATOR GIESE: Thank you, Chairman Adams. Mr. Baack, I will defer to your knowledge on this and then so given the situation where we're in today and the problems that we have not only with this bill, but where we're at, what is the solution, what is your best recommendation for a solution to the problem at hand? [LB655]

DENNIS BAACK: Wow, I wished I had that magic bullet to know what the solution is. I'm not sure what the solution is. I will tell you that over the years as we've had disagreements, we've been able to find solutions for those kind of things, but so far we have not been able to do that. And one of the reasons I will tell you that we have not been able to do that is because we have consistently, the NCCA board, the Council of Presidents, have consistently asked Metro in a number of ways, what is it that you want changed to fix the formula? And we have yet to have an answer yet. We don't know for sure what it is that they want to fix the formula. And I think if we knew and we knew exactly what they were trying to do, then we've got a point to start negotiating from. But we have not had that point to start negotiating from so far. [LB655]

SENATOR GIESE: Thank you. [LB655]

SENATOR ADAMS: Other questions for Dennis? Thank you, sir. Any other neutral testimony? Seeing none, Senator Harms waives closing. That will end the hearing on LB655. And Senator Price will begin with LB673. You're up. [LB655]

SENATOR PRICE: Warm chair. Chairman Adams, members of the Education Committee, my name is Scott Price, P-r-i-c-e, and I represent the 3rd Legislative District. I'm here to introduce LB673. This is a simple bill, so I will keep my remarks brief. LB673 would freeze funding for community colleges for the next biennium at the same level that was provided in the current biennium. I introduced this bill at the request of Metro Community College after learning about the concerns Metro Community College had about the state funding formula. A representative of Metro Community College is here to testify in greater detail about their concerns with the new funding formula, so I'll spare the committee my interpretation of the new formula. However, I would like to echo the concerns you will hear from Metro Community College. I urge the committee to carefully consider the impact of the funding formula and what it will have on access to quality education in the Sarpy County and Greater Omaha area. I look forward to working with you to ensure that the formula achieves the policy goals of the Legislature and meets the educational needs of individuals across the state. Thank you for your consideration, and I'll be happy to answer any questions you have but, again, the experts stand behind me or sit behind me. [LB673]

SENATOR ADAMS: Thank you, Senator Price. Are there questions for the senator? Are you going to stay around and close? [LB673]

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SENATOR PRICE: I'll waive. [LB673]

SENATOR ADAMS: You're going to waive closing? All right. Then we will proceed to the first proponent to the bill. Thank you, Senator. [LB673]

SENATOR PRICE: Thank you. [LB673]

DAVID NEWELL: (Exhibits 5, 6) Chairman Adams, members of the committee, my name is David Newell. I am the chairman of the Metropolitan Community College board of governors. Newell is spelled N-e-w-e-l-l. I am passing out a couple of handouts which talk a little bit about what we see as the problem. I decided to save you from my commenting on the previous bill, because other folks have done that. But there are some issues that ought to come up at this time, and I think I ought to start out by pointing out something that I think the committee is well aware of, but I want to help them remember this. Unlike the TEEOSA or the formula that we have for K-12 schools, colleges...students...the K-12 students are bound generally by family and parental guidance and so forth, to any specific area. Your sons and daughters as my son and daughter are not bound to go to the community college in their area. They can go to community college in any area or any state. They can go to the University of Nebraska, state colleges, they can go anywhere. They are not limited by where they're from, and so, therefore, that tie directly to a community is not there. We created, and I know a little bit about the creation of community colleges. I once served in this body, and I have served on a community college board for a long time. I also graduated from Norfolk Junior College at that time before it became...folded in as so many other schools, to the community college system which we created in '74. And I want to just say real quickly, and I probably ought not do this that the Duis Amendment is sort of a confusing little thing that people don't totally understand, but if you really want me to go and explain the history of the community college system, I'd be more than happy to do that, because I think I am pretty familiar with it. But let me just say this, that when you look at the information I provided, and you should have it in front of you, the thing that I want to show you most importantly is, you know, the role mission is not all that dissimilar. There is a difference in terms of who does what and to what degree and what they specialize in. As many of you know, Metropolitan Community College has a program for culinary arts. We have the largest culinary program, and we have a unique need in the metropolitan area to provide that sort of service. That doesn't mean we're exclusive. Other schools do it. But we do it bigger and better, and people from all over the country come to our school. Now whether that's a good idea or bad idea, that's something that we've decided as a board, because when the community colleges were created, they were created to service the needs of those communities. They were political subdivisions with those specific needs and state aid. When you locked in those districts, you locked in those districts and the unfortunate thing is, is that the population changes. Western Community College is losing the population. They're not serving as many people as they used to. We're in the growth end. Now that's not necessarily a good

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thing or a bad thing, it's a reality. If you think that there's an injustice here, then maybe you ought to reorganize the districts which can be done or maybe you have a state control which can be done. All these things are possible. You are the coordinating commission for higher education. Now the problem is, is that when you look at this chart here, and this is the chart that I think explains the problem with the money. People... [LB673]

SENATOR ADAMS: Excuse me. No, just a moment. We've got a red light, so I'm going to let you kind of sum up. [LB673]

DAVID NEWELL: The red light. I guess I'm not familiar with the red light. It's good that I'll be able to sum up. [LB673]

SENATOR ADAMS: Three minutes per person, so. [LB673]

DAVID NEWELL: Oh, I see. I... [LB673]

SENATOR ADAMS: Take another...I'll give you another minute. [LB673]

DAVID NEWELL: Well, then I'll sum up briefly then. The bottom line here is, is that if you look at...if equalization which I've not got a clear idea what equalization means. If that means that you're trying to equalize tax levies, I want to show you that the tax levies in the last four years have all gone up. Ours went up not because our taxes went up, but because your formula created...forced us to move money from the capital to General Fund, so our tax levy actually stayed the same, but the other schools have all gone up. When you look at the expenses per student on an FTE basis, ours have gone up on average 1.5 percent a year or 5.91 total. All the other schools are double digit. Some of them are substantially larger. If you're buying property tax relief with your equalization formula, you're getting a bad deal. You're getting a bad deal because it ain't happening. Taxes are going up and, in fact, the way this formula is written, it won't produce the result that I think you intended, because it doesn't have anything in there that says levies have to go down. What it says is, is that we have a rolling average. And as the levies go up, you get more money. You get a greater call on that qualifying levy. So in simple terms, if you look at this, I don't know why Western gets three times as much state aid as Metro, but if you want to equalize something, I think you ought to equalize funding, not property taxes, because you can't get them with the bill you have today. [LB673]

SENATOR ADAMS: Thank you, Mr. Newell. Are there questions? Senator Haar. [LB673]

SENATOR HAAR: Yes. Thank you. Just go into a little bit more detail on this state aid for FTE student chart. Does this show anywhere what actually is being spent per

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student or this is just the state aid? [LB673]

DAVID NEWELL: Yes. No, this chart here....now the chart...there's two charts. [LB673]

SENATOR HAAR: Right. [LB673]

DAVID NEWELL: One does what's actually being spent, okay? And actually, expanded growth...growth in the last four years. So it doesn't show a total, and so I apologize for that, but we could provide that for you. [LB673]

SENATOR HAAR: I'd like to see that. [LB673]

DAVID NEWELL: Yeah, and I think that it still would show that Metro is getting less on an FTE basis. This chart, however, looks at state aid. It basically shows that there's been dramatic increases in state aid, and that over a long period of time, even before this bill, the community colleges in the last...got substantially more money. I could go through a history of that, and it's about Metro Community College acquiescing, acquiescing, acquiescing. We finally stood up and said, enough is enough. And that's exactly where we are today. That history would be interesting, but probably another time. [LB673]

SENATOR HAAR: What year was this formula put into place? [LB673]

DAVID NEWELL: The formula is two years old. The big change is going to happen next year, because the original formula was FTE--Full Time Equivalence. Then last year, at the very last moment, after we agreed to try to get along with the rest of the association, there was this bait and switch. The bait and switch was, we agreed to FTE, that's the way the bill was written. We said if you give us a couple of changes, we might work with you, and then the bill came back from the Legislature with REUs in it. You see, the association used to get along, but the Legislature took this whole issue away from Community College Association, and it imposed its own will, and we were faced, as a community college, with either accepting it or being, you know, unpopular kid in the class. But after awhile when you keep getting beat up as we did with the bait and switch, we decided we would be the most unpopular kid in the class, because it's not only unfair, it doesn't do what was intended. And it can't do what's intended, and we thought we ought to tell somebody about it. [LB673]

SENATOR ADAMS: Other questions? Senator Avery. [LB673]

SENATOR AVERY: Very quickly, Mr. Newell, when Dr. Schmailzl was at that table, he suggested that there really...the issue was about governance, and Mr. Thibodeau said that two 10 to 2 votes we didn't like, so we're going to withdraw. And I suggested it might be really about the money. Isn't that what you're saying? It's about the money.

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[LB673]

DAVID NEWELL: Senator, I want you to know that it is about the money, and let me also add to that, though, that they're not wrong. They're basically saying that, what's happened here is that the Legislature could and...the association probably wouldn't have went down this road if it was left to the association. We were asked repeatedly if we would support the association in the past, and we said we would. We said we would right up until the last bait and switch which was one bait and switch too many. So in simple terms, it's not only about the money, it's about a bad policy, a policy that, frankly, you want to think about, because it doesn't do what you stated that you wanted it done. Or what we thought you wanted done. Maybe you do want to send the money west; maybe you do think that their needs are twice as great as ours. Maybe you think that we're not providing enough vocational education. And let me say this, the problem with vocational education is, maybe the formulas that you have now which have changed over the years, gotten bigger because we went along with them. We went along with them, because it would give the rural areas more money. Well, now you've added this equalization, this property tax equalization thing even though there's nothing equal about the base. Your farm values here at 75 percent. Business equipment is still on the tax rolls, but farm equipment isn't. In rural Nebraska, we have dramatically narrowed the tax base, and now we've had people say, well, but our tax has to be higher because we don't have the tax base. Sort of like the young man who shot his parents and then asked the court to have mercy because he was an orphan. I mean, the narrowing of the tax base is not something we did. It's something the Legislature did. [LB673]

SENATOR ADAMS: Question? Senator Ashford. [LB673]

SENATOR ASHFORD: Maybe this has been asked. Yes, sorry, David. Is it objectionable that there's a cap on property tax theoretically? Is there... [LB673]

DAVID NEWELL: You know, actually to be honest with you, my first...earlier in the statement I said there isn't a cap on price. I wish there was, because if you look at this statement here, if you look at this General Fund levy change, what's happening is, is that we're throwing a lot...we're, meaning the state...you're throwing lots of money at the community colleges, mostly at the rural community colleges, and you're not getting any property tax relief. So if you wanted property tax relief was what I always thought equalization was about, you should have put a cap in there. You should have said, you know, we won't have any expenditures over this. I mean, if you want property tax relief, you got to ask for property tax relief. [LB673]

SENATOR ASHFORD: Is equalization a property tax concept or is it a funding concept that gets adequate funding to meet the needs that are being addressed? [LB673]

DAVID NEWELL: Well, in the TEEOSA...now I want to tell you, I watched...this all came

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about when Jerry Warner...after I left the Legislature, when Jerry Warner did the cram down, right after the constitutional amendment, there was a constitutional amendment supported by the business community in Omaha that would have capped spending. And Senator Warner decided that we needed to cram down on the levy rates. Now rates have never been a factor before. We did all that exempting of property and that sort of stuff, because we figured rates were all about local control. Then all of a sudden, we got this cram down. Now the cram down still didn't mean anything. The cram down didn't mean anything until a senator within the Education Committee at the time created TEEOSA. [LB673]

SENATOR ASHFORD: Well, I was going to ask you whether 1059...was that 1059, was that the proper approach? I mean, you...when 1059... [LB673]

DAVID NEWELL: That's K-12. [LB673]

SENATOR ASHFORD: ...passed, there wasn't a cap I don't believe. [LB673]

DAVID NEWELL: There wasn't a cap, no. And let me say this, that it was just a minor factor. I mean, it's become a bigger factor over the years. This is...you know, you don't do anything all by itself. The Legislature traditionally patches and patches and patches and patches. And it fixes the last problem somebody points to. Now, I'm not saying that's a bad thing, it's a human thing, and that's a legislative thing. If you wanted property tax relief, we're not K-12. Our students can go anywhere. My daughter and son didn't go to junior college. They went to the university. The bottom line is, is that...to try to... [LB673]

SENATOR ASHFORD: So we ignore the property values as a resource or should the property value not be part of the formula then? [LB673]

DAVID NEWELL: Well, I don't think so, but let me tell you this. Here's the real problem you have to have. We've compensated in other ways. We did the REUs originally to kind of give money to rural areas. This has been a patch on a patch on a patch. We did the REUs way back, and so what's happened is, is that you basically said, where subdivisions have government with local control and we should have local control. But then people say, well, we want more spending and more spending. Metro basically acquiesced. We have never stood up for ourselves until recently, and that's only because we're really getting a terrible deal. And we also want you to know that you're not buying what you said you were trying to buy or what we thought you said you were trying to buy. [LB673]

SENATOR ASHFORD: But we are getting \$23 million in state aid or whatever. [LB673]

DAVID NEWELL: Oh, we're getting \$23 million in state aid. You know that's

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what...Dennis said that and I got to tell you... [LB673]

SENATOR ASHFORD: No, I'm just saying, we are...I mean, we're not getting nothing is all I'm... [LB673]

DAVID NEWELL: No, no, no, no. But, listen, let me just say this and this is my opinion. If you want to go back to straight local control, no state aid, our taxpayers will do better. Okay? Right now, the tax dollars come from the urban areas, sales and income tax dollars tend to be generated from that, at about 50 percent. We got 30-some percent of the students and population, and when it gets right down to it, we get just a fraction of the taxes back. I mean, this whole thing is not equitable, and... [LB673]

SENATOR ASHFORD: To make it equitable, do we throw the property tax portion of it out then? [LB673]

DAVID NEWELL: I think that would help. I think that would help a lot. [LB673]

SENATOR ASHFORD: And what you're suggesting is that we go to a...I'm just asking because I want to know... [LB673]

DAVID NEWELL: No, no, I appreciate that. [LB673]

SENATOR ASHFORD: Are we asking for a...should the state base their state aid on the number of students period just as... [LB673]

DAVID NEWELL: You know, I got to tell you, I really have never had a problem with REUs if you kept it up to date, but you don't. [LB673]

SENATOR ASHFORD: REUs or FTEs, but based on some formula,... [LB673]

DAVID NEWELL: Yeah, student...tie it back to the education of students. That's what a college is about. Our colleges are about educating students. [LB673]

SENATOR ASHFORD: So we fund...and I'm not arguing, but we fund, we fund Metro like we fund UNO. [LB673]

DAVID NEWELL: Well,... [LB673]

SENATOR ASHFORD: Is that...I mean theoretically...I'm not saying that's bad. Is that what you think we should do? [LB673]

DAVID NEWELL: Well, you know, if you want to stay...I mean, it would...the way you fund UNO is you give it to the state university, and the university sort of divides it up to

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every Board of Regents. You know, if you want to stay...I introduced one time a bill that would have created a state system, a state system, a real state system, not a state system where you take all the money and you move it someplace else. A state system that would be...and I thought it was going to be the most economical and would provide property tax relief. Now, the positives aren't all that great, but I'll tell you one thing it would do. It would stop (a) it would stop the fighting over money. That's a goal. I mean, that's not a bad goal. But it would also basically...because you'd be competing with everybody else in state government in a real ethereal way, you probably wouldn't have the overfunding that you have right now of certain areas. And I'm not saying that those areas are Omaha. We're the most efficient institution of higher learning in the state. And we get less money, and we're going to continue to get less money because of this formula. [LB673]

SENATOR ADAMS: Are there other questions? Thank you. [LB673]

DAVID NEWELL: Thank you, Senator. [LB673]

SENATOR ADAMS: Other proponents? Are there opponents to the bill? [LB673]

DENNIS BAACK: Senator Adams and members of the Education Committee, for the record, my name is Dennis Baack, D-e-n-n-i-s B-a-a-c-k. I'm executive director of the Nebraska Community College Association here in opposition to LB673. We pretty much had this discussion yesterday with the Appropriations Committee which is probably the place that these discussions need to take place, because this is what we're talking about is appropriations of dollars to community colleges. I just want to mention a couple of things. And one is, is that when Mr. Newell talks about students can go anywhere for higher education and stuff, I guess that's an argument to say that there's parts of the state that don't need to be served by higher education, because they can go someplace else. I got to tell you, that doesn't really fit very well with community college students that go to community college, because a lot of those people who go to a community college are place bound; they have work; they have families. They can't just go someplace else for a community college education. I think there is a need for a community college education all across the state and all citizens ought to have access to community colleges. And I think that's what the Community College Association promotes. The other thing I want to mention is the REUs. This has come up a number of times. REUs have been in existence in the formula for a long, long time. This isn't something new, and it wasn't something new when it came up when Senator Raikes put it in. REUs came into place because the Legislature decided they wanted the community colleges to stick to their role and mission, and they wanted them to do technical and vocational education. That's why REUs came into place because it was weighted FTE. And if you don't have that weighting in there, all you look at is FTE, then there's no incentive for community college...no incentive for a community college to offer vocational technical education. And I think the Legislature intended there to be, that to

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be their number one role and mission, and that's the way it stayed over the last few years. So we've always had that in place, that's not something that's new. And equalization is not something that's new to the formula. That's been in the formula for very many, many years. It's not something that's new. It was in a different form, but it's been there for many years. With that, I'd be happy to answer any questions. Sorry. [LB673]

SENATOR ADAMS: Senator Ashford. [LB673]

SENATOR ASHFORD: Mr. Chairman. Dennis, should we have had a hearing on that change from FTEs to REUs in the formula? We never had a hearing, a legislative hearing on that issue. [LB673]

DENNIS BAACK: No, and I don't know that there needed to be a hearing on that, quite frankly. [LB673]

SENATOR ASHFORD: Well, it seems like it's become...it has become such an issue that it is destroying the community college system, at least from Metro's perspective. [LB673]

DENNIS BAACK: Right. [LB673]

SENATOR ASHFORD: From Metro's perspective, it is...where I'm having difficulty and, again, I want to...if we had had a hearing like if we had...I think if this committee had understood the deep-seated opposition that Metro had to this shift, I can't imagine that Senator Howard and myself and Senator Kopplin, we would not have at least asked some questions about it. Because I think we're...and I'll tell you, and this is not about any defalcation on your part, because I absolutely believe that this is not about anybody being bad or good, and the sooner we get over that, the sooner we're going to get this resolved. But I do...and I need to say it now, I've been...this has been months now. This is bothersome that we did not have a hearing on the issue of the REUs, because when I say to my friends at Metro...and some of them are my very close friends at Metro, when I say I didn't realize what this was going to do, I sound pretty damn stupid for not knowing that. And I do that enough as it is, as you know, (laugh) not to have it forced upon me. And I think that's one of the big problems we've got here, had we had a hearing on the REU issue, at least we would have been able to ask questions, and would have been able to...you know, Randy could have come in and said, you know, here's where this gives us an issue. [LB673]

DENNIS BAACK: Quite frankly, I mean, you know, that may have helped at that point, but I will tell you that the amount of money that shifted because we switched from FTE to REUs was not all that dramatic. It didn't shift that many dollars. It did shift some dollars. [LB673]

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SENATOR ASHFORD: I understand, but just so we all know what I think is happening here, one of the elements, and I know it's deeper than this is that this REU shift... [LB673]

DENNIS BAACK: Um-hum. [LB673]

SENATOR ASHFORD: ...has created a trust cavern, maybe far bigger than the REU issue as far as actual dollars. And as David suggests, and he supports a new formula without property tax as part of it, that's a theoretical...that's an argument that one could make. But when it gets down to trust, then we...the whole thing gets screwed up. [LB673]

DENNIS BAACK: Oh, I don't disagree with you, and the trust issue goes both ways. [LB673]

SENATOR ASHFORD: I know, I'm not saying it's your trust... [LB673]

DENNIS BAACK: You know, I mean, it's just...yeah. [LB673]

SENATOR ASHFORD: ...I'm not saying it's you or them, and I think it is going both ways... [LB673]

DENNIS BAACK: Right. Right. Um-hum. [LB673]

SENATOR ASHFORD: ...and for the public's edification, when something like a misunderstanding, if we put it that way, over the REUs, we are now months, we are a year, almost a year after that happened, and the trust isn't here. And nobody's paying, and they're not...and Metro's not in the association and, wow, that's a lot of mess-up... [LB673]

DENNIS BAACK: Yeah. [LB673]

SENATOR ASHFORD: ...for something we could have had a hearing on, I guess. [LB673]

DENNIS BAACK: Yeah, I mean, I don't disagree that you could have one on that. I mean, you know, I mean, and probably in retrospect, would have been a good idea, you know, but...yeah. [LB673]

SENATOR ASHFORD: (Laugh) At least we would have known what was happening. [LB673]

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DENNIS BAACK: That's true, that's true. [LB673]

SENATOR ASHFORD: Okay. [LB673]

DENNIS BAACK: And it's only been two years. It seems longer than that. [LB673]

SENATOR ASHFORD: Was it...no, it was last year. Was it two years ago? [LB673]

DENNIS BAACK: Yeah, it was two years ago. [LB673]

SENATOR ASHFORD: Was it really? [LB673]

DENNIS BAACK: Yeah (laugh), seems longer than that. [LB673]

SENATOR ASHFORD: We could have had a hearing... [LB673]

SENATOR ADAMS: Senator Haar. [LB673]

SENATOR HAAR: Thank you. Now is that the big change in the formula that's occurred fairly recently is going from FTEs to REUs? [LB673]

DENNIS BAACK: That was one of the changes that occurred. There were a number of changes that occurred, but that was one of them. [LB673]

SENATOR HAAR: What were some of the other things? [LB673]

DENNIS BAACK: Well, some of...one of the other ones was...it went from a 2 percent growth factor to a 3 percent growth factor plus your growth in your REUs, your three-year average of REUs. That was added into it. It did more as far as bringing the levies in a much closer range by creating the local effort rate, and then a board has a decision to make whether they want to go 20 percent over or 20 percent below that local effort rate, so it puts the range of property tax levies across the state into a much tighter range. That was part of the goals of Senator Raikes when he proposed it was to put those in a much tighter range. We were starting to get a very broad, you know, a very wide range again. We were starting to get to the range when I was first in the Legislature, carrying bills for Western Community College because they seemed to always be in financial trouble, and they were always having to add ability to have tax levy out there, and we started getting a range of like 3 cents to 13. And then Senator Warner contracted those, and then we worked in a fairly close range for a number of years. And we got into tough economic times, and they started to spread out again, and this kind of brings it back together again. The reason that, you know, the other colleges are so supportive of this formula is a whole different reason than anybody's ever even talked about. And I was going to talk about that a little bit on LB400, but it's that access

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to resources that's important to them, that bottom line of access to resources. And this formula gives them access to the resources they need to run their college. Now, those resources are property tax, tuition, and state aid. And as state aid goes down, their ability to have property tax goes up. And if they raise a lot of tuition, then they might not have to raise property tax, but that's the way it works. It's based on those three sources of revenue. And so they do always have the resources to run their college. That's why you see...well, you will see when I pass out some stuff on LB400, why there's some colleges that lose for a year or two, but they're very comfortable, because they know that in long range they're going to be okay, plus they always still have access to the resources to keep their college going. [LB673]

SENATOR HAAR: Now, is there some talk about redefining what the REUs mean, for example, that maybe some science courses require bigger ones and so on? [LB673]

DENNIS BAACK: Absolutely. The CEOs have already given the word to the instructional officers who are the first...all the chief instructional officers in a community college review all the course weightings and stuff every year. They do that usually in May, and they've already given them the assignment of saying, okay, let's take a really close look at that, and see if we need to change that weighting system. We'll have to come back with a bill to do that, because statutorily we can't do it, but we would have to come back with a bill then, probably in another year to say, yeah, we probably do need to have...we've only got three categories of courses right now. Maybe we need to have five or six so that we can start dealing with some of these things like ESL and with the special needs students and those kind of things, because all the colleges are dealing with those. So those are kinds of things that we are definitely willing to look at, and are starting to look at now. [LB673]

SENATOR HAAR: Okay, thank you. [LB673]

SENATOR ADAMS: Senator Howard. [LB673]

SENATOR HOWARD: Thank you, Mr. Chairman. I've just been listening to this for the last two hours now (laugh). It seems to me like, you know, as long as a farm property wants to be taxed at 70 percent and, obviously, in Omaha we have property tax at a higher percent. I mean, we're charging folks more to live in their homes. It's almost a matter of have your cake and eat it too. I mean, pay the lower property tax rate and then look to the urban area where we're charging a higher property tax rate and say, let's equalize that all out so that we have what we need out here. I don't know. It's kind of what it starts to feel like after awhile. [LB673]

DENNIS BAACK: Well, quite frankly, that's not a decision we can make. I mean (laugh) the Legislature is the one that made those decisions as to what level they ought to have property tax at, whether the ag land...but also, you know, homes and stuff on farms and

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stuff are at 100 percent. They're not at 70 percent. So there are some variations there. [LB673]

SENATOR HOWARD: I don't think there's as many homes as there is farmland out there (laugh). [LB673]

DENNIS BAACK: Oh, no, there certainly is not. There certainly is not. [LB673]

SENATOR HOWARD: (Laugh) I mean, we really don't have much farmland in my district, but... [LB673]

DENNIS BAACK: But quite frankly, if you live in a very rural area, and you lower the ag land valuation, you don't change people's taxes very much because there's no place else to put it. What you do is, you know, the rate is just going to be that much higher because there's no place else to put it. [LB673]

SENATOR HOWARD: Yeah, I'm just wondering though... [LB673]

DENNIS BAACK: They can't put it on urban property because they don't have any, so. [LB673]

SENATOR HOWARD: Well, it really does look like a matter of, you know, we have this income coming in because of the high property tax that we have in Omaha, and you need it in western Nebraska, so why not have everything equaled out? I just...I have some real concerns about that. [LB673]

SENATOR ADAMS: Other questions? Well, Dennis, also in response maybe to what Senator Howard is getting at, urban areas unlike ag, have TIF designated areas... [LB673]

DENNIS BAACK: Um-hum. [LB673]

SENATOR ADAMS: ...that, you know, a political subdivision, municipalities have, in effect, robbed tax base away, using TIF,... [LB673]

DENNIS BAACK: Oh, sure. [LB673]

SENATOR ADAMS: ...which exasperates I suspect, to some extent, the amount of tax that are on individual properties. Let me go to this. The issue of REUs, the CEOs are willing to continue to look at that. In your opinion, if we do that and on a needs-based formula, we ought to, why do I have the sense that it does not terminate this battle? [LB673]

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DENNIS BAACK: Well, I don't think it does, because I mean, in my conversations with Metro and with Metro board members, I don't think it terminates it, because you've still got to deal with the equalization issue. And I don't know that they're willing to accept an equalization kind of formula, and that's the crux of the problem, I think. But that doesn't mean that we're not going to continue to work on it, because I think they've brought up some very, very good points, and we're still going to work on that whether they're a member of our association or not. We're still going to continue to work on that, because I think it's an issue. Had this been better economic times, I can tell you right now that one of the things that we would have been talking to the Appropriations Committee about yesterday was setting aside funding for those kinds of students, because a number of years ago, we were giving those students as part of our role and mission by the Legislature, and never any funding to go with it. And we would have been back there saying, look, we need to have some funding for these because they are expensive, they're very expensive. What they said about those courses is absolutely true. [LB673]

SENATOR ADAMS: The specific bill that we're dealing with here,... [LB673]

DENNIS BAACK: Um-hum. [LB673]

SENATOR ADAMS: ...to freeze the appropriation into the ongoing biennium, who gets hurt most by that? I mean, is it spread out? [LB673]

DENNIS BAACK: Yeah, it will be spread out because of the way the formula works. It will be spread out. Sure, it will be spread out across the areas, but I think who suffers the most are students from the standpoint of I would guess that if you freeze our formula and freeze the state aid at a certain level, that's going to certainly cause some areas to raise tuition more than they probably wanted to, to keep things going. If you freeze the state aid at a certain level, it's also going to probably increase property taxes to a certain extent. [LB673]

SENATOR ADAMS: Are there any individual colleges that hurt more than another as we move into the second phase if we freeze this? [LB673]

DENNIS BAACK: If you freeze the funding? [LB673]

SENATOR ADAMS: Which is the point of this particular bill in front of us. [LB673]

DENNIS BAACK: Right. Yeah, I think there are some, and I'm looking to here to see if this one has that in it. I do not have the one that shows up, but I did give one to the Appropriations Committee yesterday, so that they could see what would happen if you freeze it, you know, freeze it at the current level and what happens to the funding for each of the community colleges, and I can certainly get you a copy of that. [LB673]

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SENATOR ADAMS: That's all right. [LB673]

DENNIS BAACK: I've got that... [LB673]

SENATOR ADAMS: Okay. [LB673]

DENNIS BAACK: ...over in my office. I just don't have it with me. [LB673]

SENATOR ADAMS: Thank you, Dennis. Are there other questions for Dennis? Thank you then. Other opponents? Neutral testimony? If not, we'll close the hearing on LB673, and we'll move on to LB400. Is Senator Lautenbaugh present so that we can have that bill introduced? You are up, Senator Lautenbaugh. [LB673]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman, members of the committee. My name is Scott Lautenbaugh, and I'm the introducer of LB400. I believe in some respects it's very similar to Senator Price's bill. It freezes the current funding formula for community colleges. We believe this is necessary because of flaws in the current policy regarding funding. The current formula requires roughly a 10 percent increase in funding or \$12 million more to fund the formula. Since the current formula cannot be funded in appropriate levels, the formula should be frozen so there's time for action to be taken to address the issue driving the costs before the hole in the current system that we're digging now gets deeper. I believe you've heard a lot of testimony on this already from other witnesses. I'd be happy to take any questions you might have. I know there are others following me who will probably testify as proponents as well. [LB400]

SENATOR ADAMS: Are there questions for Senator Lautenbaugh? Are you going to close? [LB400]

SENATOR LAUTENBAUGH: Yes. [LB400]

SENATOR ADAMS: Okay. Then we will begin with proponent testimony. [LB400]

RANDY SCHMAILZL: (Exhibit 7) Randy Schmailzl, R-a-n-d-y S-c-h-m-a-i-l-z-l, interim president Metro Community College. In addition to my testimony today, I'm submitting a letter from Keith Edquist in support of the LB400 for the committee's information. LB400 is one of four legislative bills that Metro is supporting. The potential solution to the funding formula and concerns that Metro has brought to the table began this summer with the attempted negotiations and discussion of whether or not there would be a solution or not a solution with the NCCA. And you've heard earlier today the word "solution." Metro brings forth these four bills as a solution to, hopefully, start discussion again on funding formula tweaks. LB400, by no means, is the platform for single, this is it, this solves everything. This, hopefully, is a vehicle for discussion, and its attempt to

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freeze the funding formula this year would stop three changes in the formula that would start next year, and that is the 2 percent...2 percent would increase to 3 percent which is a change in base revenue, the increase in the automatic adjustment that schools receive for being a community college. It would stop the use of REUs in the revenue sharing portion of the funding formula until studied, and it would stop revenue sharing because the...after foundation aid, property tax, state aid, and tuition fees are shared based on REUs. And that's a significant change in the next year. Metro supports funding formulas due to the fact that it is an equitable way to distribute money in a known fashion. The current formula does not allow for sustainability and planning even though it is mentioned a number of times today that the need...the revenue needed to run the community colleges is in place. Metro is saying that there is revenue, but it's not distributed appropriately, so there is a question as to when you say the amount of revenue in place is adequate, whether that's the truth. With that, I'd stop. [LB400]

SENATOR ADAMS: All right, thank you, Randy. Questions? Senator Ashford. [LB400]

SENATOR ASHFORD: Is there any part of the formula that we all kind of agreed to a couple of years ago, is there any part of it that you would retain? [LB400]

RANDY SCHMAILZL: Yes. [LB400]

SENATOR ASHFORD: What parts of it...so we can have a building block, what part of it is, in your opinion, should we keep? [LB400]

RANDY SCHMAILZL: I start with the base aid to community colleges. The concept of a base aid number... [LB400]

SENATOR ASHFORD: Everybody gets the same amount. [LB400]

RANDY SCHMAILZL: ...is a good concept. [LB400]

SENATOR ASHFORD: Is that what the \$7 million or whatever? [LB400]

RANDY SCHMAILZL: But the amount of, you know, how that was determined, the \$7 million that each community college receives and why that number was created is the subject of debate, not the fact of base aid for community colleges because it's true we all are...the six of us are community colleges. You could start with a base funding formula. The FTE portion of the funding formula we agree to. [LB400]

SENATOR ASHFORD: And that means? [LB400]

RANDY SCHMAILZL: Full-time equivalencies and the awarding of education based on students you serve. [LB400]

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SENATOR ASHFORD: That's on top of the \$7 million. That goes into the funding formula portion of it or the equalization portion. [LB400]

RANDY SCHMAILZL: Correct. [LB400]

SENATOR ASHFORD: The \$7 million is not an equalization... [LB400]

RANDY SCHMAILZL: No. [LB400]

SENATOR ASHFORD: ...concept. That... [LB400]

RANDY SCHMAILZL: Well, you know, it depends on the definition of equalization, and I think that's what... [LB400]

SENATOR ASHFORD: Can you tell us in your words, what does equalization mean? What do you feel comfortable... [LB400]

RANDY SCHMAILZL: I'm not sure what it means anymore. [LB400]

SENATOR ASHFORD: But what do you feel comfortable with as a definition of... [LB400]

RANDY SCHMAILZL: I think equalization in this funding formula means equalization of property tax levies across the state for the community colleges. [LB400]

SENATOR ASHFORD: Trying to get everybody at about the same range, between 20 percent below and 20 percent above? [LB400]

RANDY SCHMAILZL: Between a range. You know, instead of having it from 5 to 13, the range is shortened between 6 and 9. [LB400]

SENATOR ASHFORD: Okay, and that equalization concept where you...the Jerry Warner idea where you start bringing those property tax levies into some sort of range that's closer together was something that everybody seemed to agree on a couple of years ago. [LB400]

RANDY SCHMAILZL: I don't know if that was an agreed-upon... [LB400]

SENATOR ASHFORD: Well, I mean, that was in the bill that... [LB400]

RANDY SCHMAILZL: That's what the Legislature passed, so... [LB400]

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SENATOR ASHFORD: Well, no one said Metro was opposed to it when we did. [LB400]

RANDY SCHMAILZL: Okay. [LB400]

SENATOR ASHFORD: Well, I mean...or maybe they did. When we passed the bill,... [LB400]

RANDY SCHMAILZL: Well, I don't think it's ever been said that Metro supports equalization overall. I haven't heard that from our board of governors ever that they totally support equalization, but I always worry that the word "equalization" is thrown around, and that it doesn't always mean the same thing. [LB400]

SENATOR ASHFORD: Let me ask this. Let's take the definition, and I'll try to be short here, Mr. Chairman, I'm sorry, but let's take the concept that we try to...which is I think it's been said earlier, Jerry Warner advocated which was to get property taxes within a range, a closer range within a community of schools. If that...is that equalization definition what you would concur with as an appropriate definition? Does that make sense to you? [LB400]

RANDY SCHMAILZL: I think in reading past history on this, that seems what equalization was designed to do initially. [LB400]

SENATOR ASHFORD: Is that something you...this is not again...not a...this is not a trick question. Is that something that you would, in principle, think is a good concept if you're dealing with the community's goals whether it's... [LB400]

RANDY SCHMAILZL: Not as it relates to the other variables in this formula, and how the end result pops out a number. When each local district gets to set their own property tax levy and... [LB400]

SENATOR ASHFORD: Okay, so it's that...it's the old Sarpy versus Douglas County metro issue which is Sarpy assesses its property tax differently than Douglas. Therefore, we should not have an equalization formula or a shared tax base and that kind of stuff. Is that what you...is that the...because if that is an issue, if it's the calculation of the tax or the assessment of the property values,... [LB400]

RANDY SCHMAILZL: Um-hum. [LB400]

SENATOR ASHFORD: ...it would seem to me that would be something we could address in the formula. [LB400]

RANDY SCHMAILZL: It sure could be addressed in the formula. [LB400]

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SENATOR ASHFORD: Somehow. [LB400]

RANDY SCHMAILZL: Somehow. [LB400]

SENATOR ASHFORD: Let me just...is there anything else...there's the 2 percent to 3 percent growth range. [LB400]

RANDY SCHMAILZL: Correct. [LB400]

SENATOR ASHFORD: How does that hurt Metro and maybe I'm... [LB400]

RANDY SCHMAILZL: It's...when we're looking at freezing the formula, I wanted to make sure the committee knew exactly what it means when we say freezing the formula. [LB400]

SENATOR ASHFORD: Okay, so 3 percent...going from 2 to 3 percent doesn't hurt Metro necessarily. [LB400]

RANDY SCHMAILZL: I'm not saying it's going to hurt Metro because everyone gets the same. [LB400]

SENATOR ASHFORD: Okay, so what hurts Metro is the foundation aid being... [LB400]

RANDY SCHMAILZL: That can hurt Metro. [LB400]

SENATOR ASHFORD: The same for everybody essentially, and the different...I'm sorry, go ahead. [LB400]

RANDY SCHMAILZL: Okay. The coordinator of budgets is going to come up behind me, and he's going to be a much better person to ask about that. [LB400]

SENATOR ASHFORD: Okay, and I'm not trying...I'm just trying to get the broad picture. Are there parts of an equalization formula that you can support? [LB400]

RANDY SCHMAILZL: I'm going to defer to Gordon on that one. He's going to be much better on that than I am. [LB400]

SENATOR ASHFORD: Okay, okay. [LB400]

SENATOR ADAMS: Senator Cornett. [LB400]

SENATOR CORNETT: Were you working with this issue two years ago? [LB400]

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RANDY SCHMAILZL: Pardon? [LB400]

SENATOR CORNETT: Were you working with this issue two years ago, the formula that was devised? [LB400]

RANDY SCHMAILZL: Yes. [LB400]

SENATOR CORNETT: Were you down in the lobby when Jim Grotrian was working on the issue? [LB400]

RANDY SCHMAILZL: Normally I'm the daily operations officer for the college, so I usually stay at the campuses and work on the running of the college, so no, I was not. [LB400]

SENATOR CORNETT: The only reason I bring this up is for the record to clarify something for Senator Ashford. I specifically remember being called out to the lobby with Senator White, and being told that...when the change was made to the formula that Metro didn't know if it was going to work for them. But in the spirit of working together with the other community colleges that they were going to go along with it at that time, but they would probably be coming back if they needed to. [LB400]

RANDY SCHMAILZL: Yes. [LB400]

SENATOR CORNETT: And that was a direct conversation that it was in the spirit of cooperation that they didn't know if it was going to work for them or not at that time. [LB400]

RANDY SCHMAILZL: But at that time it was for the good of the cause, to go ahead and support it. [LB400]

SENATOR CORNETT: That's what I was told. [LB400]

RANDY SCHMAILZL: That was the words that I had heard too. [LB400]

SENATOR ADAMS: Was that for phase 1, Randy, of the formula, the immediate implementation or this REU phase? [LB400]

RANDY SCHMAILZL: When they...that was for phase 1. When they started the formula and the debate was going on, there was \$12 million being batted around and, you know, of that \$12 million, Metro received \$1 million of that \$12 million, and the rest went to everyone else. But our two NCCA representatives decided to vote with the NCCA board in support of the fact that let's get this started. We can support it the first year, but it needs some tweaks the second year, and then the third...the out-years, it starts to run

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counter to what Metro wants to do. But in order not to lose the \$12 million, and it looked like a good thing for the community college system, our two delegates voted to support that. And then that was the message sent to Jim Grotrian that... [LB400]

SENATOR CORNETT: And that was the message that I received, and the reason I distinctly remember it is because Senator White told Jim Grotrian at the time, this doesn't do you any good. And he said, we're doing it to support the community colleges... [LB400]

RANDY SCHMAILZL: With the... [LB400]

SENATOR CORNETT: ...with...but we are going to come back, and we may need help. [LB400]

RANDY SCHMAILZL: That's correct. That's correct. That is correct. [LB400]

SENATOR ADAMS: Other questions? Thank you, Randy. [LB400]

GORDON JENSEN: (Exhibits 8, 9) I am Gordon Jensen, G-o-r-d-o-n J-e-n-s-e-n, Metropolitan Community College, coordinator of budget and projects, and have had extensive experience working with the formula. And I'm as anxious for some resolution to this as anybody. I basically...there are some handouts going around. One is...and this bill simply wants to freeze the provisions as they are currently, and not make the changes Randy referred to. What the...one handout is, is it shows you the current formula projections. We've been told we have to wait for this to be fully implemented and see if it works. Well, this can be modeled and this actually was modeled by the NCCA. I'd carry it out a couple more years just to see how it runs out, but the main thing we want to touch on on this very quickly is the local effort rate, because that's a big concern for Metro is the effect or the forcing of us to increase tax rates. And you can see in the yellow, basically going across what the impact is, and very significant escalation between the years. The other, and another reason for freezing the provisions, in the column that is boxed for the 6-30-10 which is when the new provisions would go into play, there are significant reallocations between a couple schools, one being Southeast getting additional \$4 million, and one being Central that loses \$3 million. We think before there's anything this radically moving between the schools, we want to make sure that the provisions going into place best serve Nebraska and all the service areas, not just looking at available resources, because we don't want undue, I guess, pressure on taxpayers in one area versus another. That's basically I wanted to touch on there. The other thing I would ask you to do is just ask yourself the question, why make the changes scheduled to begin in FYE 2009 and '10? How will each change help maximize the use of resources to enrich personal, social, and economic outcomes in Nebraska? You know, one claim...in fact, the only reason I have for the changes to be implemented that I've heard is that well, it's not fully implemented, and we got to see if it

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works so we can't stop it. I certainly would just ask you to ask why these changes are good for Nebraska. The others, as far as listing why should these changes not be implemented? Frankly, the changes don't fix the flaws in the current formula and move us closer...or move us closer to a long-term funding solution. They make matters worse due to a number of factors. Other considerations, community colleges are very different from K-12, and you've heard that testimony today, so the funding formula should support really community colleges' expansive local mission. Also, given the challenging economic times, should we pause and make sure resources are being targeted where they can yield the greatest outcomes for Nebraska? [LB400]

SENATOR ADAMS: Senator Ashford. [LB400]

SENATOR ASHFORD: Yeah, Gordon, and I know we've gone over this...this is probably the fifth time, I suppose, but the projections that...and these are the projections I've seen two or three times. Assuming a 1 percent budget growth statewide, does it assume current level...what sort of growth and FTE or growth does that assume? [LB400]

GORDON JENSEN: Basically, this assumes about a 2 percent growth, and actually if I... [LB400]

SENATOR ASHFORD: Is that...okay. Go ahead. [LB400]

GORDON JENSEN: ...if I can take you to page 5 in the supporting documents I gave you, the FTE percent increase is shown there in red in the bars. So it's right around 2 percent for the total system. [LB400]

SENATOR ASHFORD: Is that a...is that a realistic number for Metro? Won't Metro grow at a higher rate than that? [LB400]

GORDON JENSEN: Well, normally, in bad economic times, we do get more business. So right now our estimates have run around 3 percent. [LB400]

SENATOR ASHFORD: Okay. [LB400]

GORDON JENSEN: Also in here on page...this might be helpful to you also, to answer your question, on page 2, because what this shows is the 3 or average FTE student percent change. This is for the last two years, but it gives you an idea the growth has been with Metro. [LB400]

SENATOR ASHFORD: Right. If the growth remains...again, these are simplistic, you know the system, and you've modeled this out through '11-'12. If you...to model this out with that growth, you know, almost 6 percent. Am I reading it right? Yeah. No, 4 percent

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in the last year anyway; 5 percent...what's the average growth over the last two years, 5 percent? [LB400]

GORDON JENSEN: Oh, you're talking about for the whole system? [LB400]

SENATOR ASHFORD: FTE student percent change. [LB400]

GORDON JENSEN: Well, for Metro? [LB400]

SENATOR ASHFORD: Um-hum. [LB400]

GORDON JENSEN: Yeah, it...and this is a three-year average, so it's spread. [LB400]

SENATOR ASHFORD: Okay. [LB400]

GORDON JENSEN: But the reason I give you the three-year average is that is what is used in the formula. [LB400]

SENATOR ASHFORD: That's a formalistic number. [LB400]

GORDON JENSEN: So it drives the formula. [LB400]

SENATOR ASHFORD: But if we use...is that the number you use going forward? [LB400]

GORDON JENSEN: Well, 3 percent is what we've used, so you're going to see this scaled down to 3 percent eventually... [LB400]

SENATOR ASHFORD: Okay, so... [LB400]

GORDON JENSEN: ...unless we exceed those numbers, of course. [LB400]

SENATOR ASHFORD: But the number is 3...but if you do exceed that 3 percent, what happens to these numbers? [LB400]

GORDON JENSEN: You would have the need in the formula increase, and if the state aid doesn't increase, you would have more pressure on the LER which means your tax levy. [LB400]

SENATOR ASHFORD: Because it's not...the allowable growth is 3 percent for the formula part, for the state aid part. [LB400]

GORDON JENSEN: Well, there's...I want to make sure I'm answering your question

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correctly... [LB400]

SENATOR ASHFORD: What happens to the numbers? [LB400]

GORDON JENSEN: There's not a...a piece of the formula allows your need to increase by your three-year average FTE percentage growth. So there's not a limit on that of 3 percent. [LB400]

SENATOR ASHFORD: Okay, so all I'm asking is if we adjust the assumptions in this yellow lined thing, data here, if we adjust those...if we adjusted state aid up and adjusted growth up, what would that...would that logically mean that the funding would increase to Metro or not? [LB400]

GORDON JENSEN: There's a lot of interconnected parts to this. [LB400]

SENATOR ASHFORD: Well, I mean, is there any way to answer that question (laugh) or can you tell me if your growth is higher in a relative sense to the other community colleges, and your state aid goes up over 1 percent, Metro will receive more state aid? [LB400]

GORDON JENSEN: Yes. [LB400]

SENATOR ASHFORD: Logically. It may vary if something else changes, but. [LB400]

GORDON JENSEN: Well, because it increases the need. [LB400]

SENATOR ASHFORD: The need goes up, and the resources remain relatively constant. [LB400]

GORDON JENSEN: Well, whatever isn't covered by state aid flows over into the property tax side. [LB400]

SENATOR ASHFORD: Or the resources side. [LB400]

GORDON JENSEN: That's correct. Now you have tuition in here, too, but. [LB400]

SENATOR ASHFORD: You have tuition. [LB400]

GORDON JENSEN: It's pretty much awash. [LB400]

SENATOR ASHFORD: And tuition is about 20 percent. Is that...what's your tuition relative to your total? [LB400]

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GORDON JENSEN: The target initial...you know, in the past, has been 40-40-20... [LB400]

SENATOR ASHFORD: Yeah, 40-40-20. [LB400]

GORDON JENSEN: But that might vary now given the formula in its current shape. [LB400]

SENATOR ASHFORD: It's 40 percent; 20 percent is what, state aid? I mean... [LB400]

GORDON JENSEN: I'm just...I'm getting back to the original premise of the formula in the past? [LB400]

SENATOR ASHFORD: Like the old days when they used to just...everybody tries to get to 40-40-20. [LB400]

GORDON JENSEN: Right. [LB400]

SENATOR ASHFORD: And that's 40 percent what? [LB400]

GORDON JENSEN: 40 percent property tax, 40 percent state aid, and 20 percent...but state aid has not kept up with the 40 percent, so you've seen more in property tax and tuition and fees. [LB400]

SENATOR ASHFORD: Okay. All I'm getting at is that the situation modeled out to the out-years is not as dire if your growth is sustained at a higher level. [LB400]

GORDON JENSEN: Well, what is a little dire to respond to that to make sure it's clear, on page 5 again, the blue bar shows the base need percentage increase. And one of the flaws in the...well, there's a number of flaws that cause the need to be exaggerated, and so...and our concern is because the need is exaggerated, the property tax rates will be unnecessarily high. [LB400]

SENATOR ASHFORD: And how are the needs exaggerated? [LB400]

GORDON JENSEN: Well, one example is we use prior year valuations when they're calculating the LER instead of current year. And I believe there's some work going on to...with the Department of Revenue to consider maybe... [LB400]

SENATOR ASHFORD: Moving to a current year. [LB400]

GORDON JENSEN: A current year, yes. I don't know where that's at, and it probably would require legislation, I guess, to get that in place. [LB400]

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SENATOR ADAMS: Other questions? Senator Haar. [LB400]

SENATOR HAAR: Thank you. I like graphs, but I don't understand some of these, so I have to ask you some questions. On page 5, the unsustainable formula, is this for Metro Tech or the whole system? [LB400]

GORDON JENSEN: This is the whole system. [LB400]

SENATOR HAAR: So what is unsustainable formula? What does the title mean? [LB400]

GORDON JENSEN: Well, what it means is if you have 2 percent growth in the students you're serving, and yet around an 8 percent increase in need, that probably can't go on forever. That 6 percent gap is going to put a lot of pressure on property tax. This was where there was some conversation earlier that to keep the LER which, again, is that targeted levy in the formula level would require 12 percent state aid increases being appropriated which I think most people would agree is probably not reasonable. [LB400]

SENATOR HAAR: Okay, so according to the graph, the red bars are the...that's the number of students increasing, right? [LB400]

GORDON JENSEN: Correct. [LB400]

SENATOR HAAR: And that's...they keep increasing...that's the increase per year, so it's going up around 2 percent every year is what you're saying. [LB400]

GORDON JENSEN: You're correct. [LB400]

SENATOR HAAR: Okay. And the need, though, is going up 6, 8, 9 percent every year. [LB400]

GORDON JENSEN: Correct. [LB400]

SENATOR HAAR: And need in the formula means what? [LB400]

GORDON JENSEN: Need means the amount of total resources that the formula would say is required to fund everyone. [LB400]

SENATOR HAAR: Okay. So why is the need going up so much faster than the number of students? [LB400]

GORDON JENSEN: Well, because of flaws in the formula, I just mentioned one. But it's

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one of the reasons we think we ought to just pause and correct the problems in the current formula, make sure that the changes that are proposed for the coming year really best serve Nebraska. [LB400]

SENATOR HAAR: Okay, so the blue bars are going up faster than the red bars because of the formula? [LB400]

GORDON JENSEN: Correct. [LB400]

SENATOR HAAR: Okay, I'm not sure I understand that, but we'll...well, that will do it for now. Thank you. [LB400]

GORDON JENSEN: And I volunteer to be available to any senator or their staff to go into the details of the formula and certainly you'll want to go through it probably here. [LB400]

SENATOR ADAMS: Other questions? [LB400]

SENATOR ASHFORD: Just for the last question, if these assumptions do not bear out, if growth is higher than what you've projected and if state funds availability is higher than what you projected, and Metro continues to have a larger portion of the growth than other community colleges which seems to be the case, those numbers will not necessarily hold true. [LB400]

GORDON JENSEN: Well, the numbers here as far as the reallocation between other schools certainly is true. [LB400]

SENATOR ASHFORD: The reallocation, but the amount of state aid that Metro receives will not be that number. [LB400]

GORDON JENSEN: Well, sure, you change any of the factors in the formula... [LB400]

SENATOR ASHFORD: Well, I'm just trying to get at what was real. I mean, this is a conservative...as you should be, this is a conservative projection. But it may or may not reflect the formula needs that exist in '10 and '11 and the resources available. [LB400]

GORDON JENSEN: But the underlying flaws in the formula will exist no matter what the numbers are. [LB400]

SENATOR ASHFORD: The current year is one flaw? [LB400]

GORDON JENSEN: Current year,... [LB400]

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SENATOR ASHFORD: What are the other flaws? [LB400]

GORDON JENSEN: Well, the other flaws even relate to the redistribution, the sharing of revenues because all of a sudden, any change you have in tuition...one example I have given in the past is if we have like culinary arts that's been brought up today, they want to raise an extra \$500,000 in fees for a specific purpose, to actually upgrade their program. The following year, with what's legislated for '10, we would lose most of that \$500,000 the following year because it would have to be shared with all the community colleges. [LB400]

SENATOR ASHFORD: But other sources of revenue receive federal funds, private donations are not included in the needs or in the resources. [LB400]

GORDON JENSEN: That's correct. Correct. [LB400]

SENATOR ASHFORD: So you can raise as much money as you want. You can...from outside, from private sources, and you can receive federal grants in all of that, and that does not impact how much money you receive from the state. [LB400]

GORDON JENSEN: Correct. [LB400]

SENATOR ASHFORD: Okay. I think I understand that. Okay, thanks, Mr. Chairman. [LB400]

SENATOR ADAMS: All right. Any other questions? Thank you then. Next proponent. [LB400]

DAVE NEWELL: Mr. Chairman and members of the committee, first of all, I have a letter from Keith Edquist who is in support of LB400 and if I could just... [LB400]

SENATOR ASHFORD: We have that. [LB400]

SENATOR ADAMS: Yeah, it's already been handed out. [LB400]

DAVE NEWELL: Oh, it's already been...I'm sorry. Sometimes I try to help and I get confused. Let me just offer a perspective that I think needs to be restated. Metro has been very frustrated by the fact that we thought that there was a bait and switch. Now, the addition of REUs as a factor came at the very last minute after we had agreed to some changes the second time around, after the bill was initially passed. That's created a lot of hard feelings for us for the association, because they promised us that they would renegotiate, reevaluate, and we've got that in the minutes of the meeting which we've distributed at one time or another. That never happened, and that's been a frustration for us. If this committee wants the association to work, it needs to allow the

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association to try to work. We've stated in the past that we would support--we would come back and join the association and try to hammer this whole issue out if we froze the formula--if you froze the formula, and you sent it back to the association. And the reason we say that is is that we, frankly, thought it was improper for the Legislature to grab this without us wrestling. We brought you a solution to a funding problem we thought existed, and that was, Western was getting far too much money because of some things that had happened over a long period of time. And you're turning that around...the association voted, you know, 5 to 1, in that case, you turned that around, and you bring back the bill that turns it...that sends the money the other way. So the Legislature, if it wants the association to work, it needs to allow the association to work. If it doesn't want the association to work, the message is very clear to us, we're here, and we will have to come here because you guys are the arbitrators of policy, public policy. You are the coordinating commission. You are everything. You're the folks that make the laws. And if the association isn't relevant and basically, they haven't been relevant, or not from our perspective anyway, because this Legislature sort of made them irrelevant. LB400 would be the way to reestablish the relevance of the association. And as we said in a letter to everybody that we would join the association again, and try to work within the association if LB400 becomes law. Thank you. Oh, I'm willing to answer questions. [LB400]

SENATOR ADAMS: All right. Are there any questions? Thank you then. Next proponent? [LB400]

RON KAMINSKI: Thank you, Mr. Chairman and members of this committee. My name is Ron Kaminski, last name is K-a-m-i-n-s-k-i. I am the business manager of Labors Local, 1140 in Omaha, Nebraska, but today I'm here representing the Omaha Building and Trades Council and the Omaha Federation of Labor. Both organizations and myself support LB400. We believe it is the best for all interested parties to freeze the current formula and make changes that are fair to all parties. And I will keep it very brief because I know you have a lot of important work to do, and take any questions, if need be. [LB400]

SENATOR ADAMS: All right. Are there questions for this gentleman? Thank you for your testimony then. [LB400]

RON KAMINSKI: Thank you. [LB400]

SENATOR ADAMS: Next proponent. Proponent? All right, then we'll move on to opponent testimony. [LB400]

DENNIS BAACK: (Exhibit 10) Senator Adams and members of the Education Committee, for the record, my name is Dennis Baack, D-e-n-n-i-s B-a-a-c-k. I'm the executive director of the Nebraska Community College Association here to testify in

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opposition to LB400. There is a sheet coming around that you'll be able to see, and I do want to point out a couple of things on this sheet and point out to you why the offer of...Metro, if the association would agree to LB400, then we would be back on track to negotiating again why the other five are not willing to accept that. So if you look at...one of the things that I want you to look at is on the front page. This is...this is the...I think I got the wrong page here, just one second. I think that it says, keeping the formula to '09 method, is that the one that you have? Yeah, I think that's...okay, if you look down the column of the year that we're in right now which is 6-30-09, if you look down that column, I think one of the things that Metro never mentions at any of these meetings is the fact that this year the community college system as a whole received \$3,200,000 of additional funds, and Metro Community College got \$3,069,000 of that, so they got the majority of the funds, about 95 percent of the funds that we got as a system all went to Metro. So there was an increase in Metro this year. They were not flat. They actually went up about \$3 million. If you look at the other columns, you will see what happens, and this is under the idea that you would freeze the formula where it is today. And you look in the columns in '10, and you look at the columns in '11, and Metro continues to go up. You also see that most of the other areas either go down or have very slight increases in those years until you get the third year out. That's why the other areas are not willing to accept that. They cannot freeze in this position. Central Community College takes a pretty strong hit in the first year. They can't freeze in that position and expect to continue to operate again for another year, and that's why they do not want to do that under this scenario. And it also is a factor of...I think that the other five areas believe very strongly in the formula that was done by this committee and by Senator Raikes, and they want to see the formula fully implemented. They want to see how it actually works when it's fully implemented, and see what fully happens with the formula, and that's the bottom line for the other five areas in the community college system. With that, I'd be happy to answer any questions, if there are any. [LB400]

SENATOR ADAMS: Are there questions? Senator Ashford. [LB400]

SENATOR ASHFORD: And I'll be very brief, but Dennis, you can see a little bit of the issue. At least if you look at the numbers that Metro provides us that their state aid would go down to \$22 million in '11-'12 and here it goes up, and Southeast goes down. And then Southeast goes up and Metro goes down. There lies the rub. I mean, somebody's ox is getting gored here, and it looks maybe like it might be Metro. [LB400]

DENNIS BAACK: And this year Metro gores everybody else's ox, and that's okay. [LB400]

SENATOR ASHFORD: (Laugh) Well, but I'm going looking...you gave me the projections. [LB400]

DENNIS BAACK: Yeah, I know, but I'm... [LB400]

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SENATOR ASHFORD: I mean, all I'm saying...what I'm suggesting what might be the problem here... [LB400]

DENNIS BAACK: Yeah, I know, I understand. [LB400]

SENATOR ASHFORD: (Laugh) Is that there's a swing...there's a swing here between \$25 million and \$22 million,... [LB400]

DENNIS BAACK: Yeah, sure, correct. [LB400]

SENATOR ASHFORD: ...which is the \$3 million, not that I'm prophetic, but it's the \$3 million, I think, I've been talking about for six months is there's a \$3 million problem. [LB400]

DENNIS BAACK: Um-hum. [LB400]

SENATOR ASHFORD: And, I mean, I'm not...this isn't...again, this is not anything other than looking at what I've got here. [LB400]

DENNIS BAACK: Right. [LB400]

SENATOR ASHFORD: And there's a little difference in that the projections are 1 percent in Metro's projections, and this is 1.5 percent, state aid increase. [LB400]

DENNIS BAACK: Well, yeah. That's just the difference in the... [LB400]

SENATOR ASHFORD: State aid. [LB400]

DENNIS BAACK: ...in what the Appropriations Committee has recommended. [LB400]

SENATOR ASHFORD: Right. [LB400]

DENNIS BAACK: That's the only difference there. [LB400]

SENATOR ASHFORD: Or I mean the appropriation...the general appropriation. [LB400]

DENNIS BAACK: Right, right. That's the difference there. [LB400]

SENATOR ASHFORD: But I think that's where you're running into some friction. [LB400]

DENNIS BAACK: Sure. Sure it is. And... [LB400]

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SENATOR ASHFORD: So maybe the formula (laugh)...if Metro goes down with the formula, and Southeast goes up with the formula, and they're about the same size, if you look at it in a very simplistic way...I mean that would cause somebody some... [LB400]

DENNIS BAACK: Well, what...but what happens is, and do you want to know the reason why that happens? [LB400]

SENATOR ASHFORD: Well, sure (laugh). [LB400]

DENNIS BAACK: Yeah, well, what happens is...one of the things that Senator Raikes was trying to do was he was trying to bring those state aid numbers per FTE and stuff closer together for like colleges. And what happened...when you look at those numbers, you find that under the current scenario, Southeast is way underfunded compared to Metro. And in order to bring those closer together, Metro has to come down a little bit, and Southeast has to go up. [LB400]

SENATOR ASHFORD: And...but Metro, according to the figures that Metro has, they're the ones that are growing at a substantial... [LB400]

DENNIS BAACK: Southeast is growing also. [LB400]

SENATOR ASHFORD: Not to the degree Metro is. [LB400]

DENNIS BAACK: Not to the same degree, but now they're growing too. [LB400]

SENATOR ASHFORD: Okay. But I do see the problem. I mean, I see that there's a funding gap. [LB400]

DENNIS BAACK: Yeah. And then when you...but...and as you project that out, as you project it out... [LB400]

SENATOR ASHFORD: It gets worse (laugh). [LB400]

DENNIS BAACK: Well, it all depends on your assumptions that you make. [LB400]

SENATOR ASHFORD: I got you, though. [LB400]

DENNIS BAACK: Right. And you mentioned that earlier, and it does depend on the assumption, and there are assumptions there. [LB400]

SENATOR ASHFORD: Okay. And I'm not trying...I'm just looking at numbers that we

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can all read. I'm not... [LB400]

DENNIS BAACK: No, I know. And there are assumptions that you do have to make even in a year out, you have to make assumptions. Yeah. [LB400]

SENATOR ASHFORD: All right, all right. [LB400]

DENNIS BAACK: Yeah. [LB400]

SENATOR ASHFORD: Thank you. [LB400]

SENATOR ADAMS: Are there other questions? Thank you, Dennis. [LB400]

DENNIS BAACK: Yep. [LB400]

SENATOR ADAMS: Oh, I'm sorry, Senator Haar. I didn't see your hand up. [LB400]

SENATOR HAAR: Thank you. Well, I'm at a place, I don't know what questions to ask, (laughter) so. [LB400]

SENATOR ASHFORD: Are done (laughter). Because I'm going to get shot if I don't stop asking questions. [LB400]

SENATOR HAAR: But I can see the numbers, I can see the numbers too. And so you're saying because, obviously, looking at this, Southeast...according to the current formula, and Southeast takes an increase next year, and Metro stays about the same, but then a year later Southeast continues to increase, and Metro decreases. [LB400]

DENNIS BAACK: Um-hum. [LB400]

SENATOR HAAR: So tell me one more time about adjusting. [LB400]

DENNIS BAACK: How about if I had...I mean, and I know that Dr. Huck, the president of Southeast is going to be coming up, and he can address that very well for you. If that's okay. [LB400]

SENATOR HAAR: Okay. Sure. [LB400]

DENNIS BAACK: He's going to be coming up to testify, and he can address that very specifically. [LB400]

SENATOR HAAR: I'm struggling to ask the right questions. Okay. [LB400]

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DENNIS BAACK: Yep. [LB400]

SENATOR SULLIVAN: Senator. [LB400]

SENATOR ADAMS: Yes, Senator Sullivan. [LB400]

SENATOR SULLIVAN: Will the president of Central Community College be... [LB400]

DENNIS BAACK: Yes, he will be. [LB400]

SENATOR SULLIVAN: Okay, thank you (laughter). [LB400]

SENATOR ADAMS: All right. No other questions, thank you, Dennis. [LB400]

DENNIS BAACK: Um-hum. [LB400]

GREG SMITH: Senator Adams and members of the Education Committee, my name is Greg Smith, that's S-m-i-t-h, first name Greg, G-r-e-g. I'm the current president of Central Community College, and I'm here to testify in opposition to LB400. Obviously, if you look at the numbers, you might wonder why anyone from Central Community College might testify in opposition to this bill. Certainly, you could perceive that we may be taking the biggest hit but, you know, I think a lot of this depends on your perspective. I've heard, you know, a lot of talk about money and funding this afternoon. And I'll say one thing straight up, and you can question me about it later, but I voted from Metro Community College's perspective. This bill has absolutely nothing to do with money. Also, I think that you really have to think about a system. It's obvious that in Nebraska, we have six locally elected boards, but it's also obvious to me that the Unicameral expects community colleges at some level, in many respects, to function as a system. I also think that you do have to think about that concept of equalization, but over and beyond that, you need to talk about issues and think about issues of access and equity and what constitutes a level playing field. And I also believe that this committee and others in the Unicameral and, for that matter, all of us should be thinking about what our vision for education is in this state, and what the effects of this funding formula would be. I would just close in saying that with LB973, Senator Raikes, members of this committee, and members of the Unicameral spent a lot of time trying to put what they believed was a funding formula that had some elements of equity in it in place, and I think it would be personally an insult to the Unicameral to try to change that formula before it's been allowed to run its course. [LB400]

SENATOR ADAMS: Thank you, Dr. Smith. Are there questions? Senator Haar. [LB400]

SENATOR HAAR: Yes. You start by saying that money is not the issue. What is the issue? [LB400]

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GREG SMITH: Well, I guess I would leave that to Metro Community College to answer, but I can give you a few facts about Metro. Metro has the lowest local effort rate. They have the lowest tuition. They have the most LER excess capacity. They have the largest reserves. They have the most potential for growth. They have the greatest capacity for attaining economies of scale and delivering an education, and right now they have, as a percent of family...median family income, they have the lowest tuition payments for students in the state. Now, if it's about money, tell me why that might be? [LB400]

SENATOR ADAMS: Other questions? Senator Sullivan. [LB400]

SENATOR SULLIVAN: Thank you. In an effort to help all of us...or particularly the new senators explain or understand the formula, but also, as you said, from Central's perspective in the spirit of cooperation, you entered...you like the formula even though you're taking some big hits. Can you elaborate on why it's acceptable to you? [LB400]

GREG SMITH: Yeah. I would...maybe not to take exception, but I didn't say I like the formula (laugh). I think that any formula that the Unicameral or for that matter, any legislative body adopts is going to have flaws, and there are going to be people that take exception to certain parts of it. I do believe that if we allow institutions like Western Community College and Mid-Plains to fail, if we don't provide a level playing fields for citizens in the western part of the state, you know, Central and Northeast, you know, could be next. I did hear a statement made earlier today that the gist of it was that if those institutions did not exist, that people in that part of the state still had options for going to community college, and I would say that anybody that understands the populations that I serve would take...that we serve would take great exception to those statements. I do believe that a formula that doesn't somewhat take into consideration leveling things out a little bit in terms of what people pay in local property taxes would be an inadequate formula. So in that sense, the current formula we have is pretty good. You know, even though we're taking...Central is taking a big hit, and we will need to raise our local effort rate a bit, that does not inhibit our ability to keep our tuition in the middle of the state right now, and it doesn't inhibit our ability to provide quality services to our students. So I think, again, the current formula probably has some flaws, but it does work. There have also been, I guess, in my opinion, quite a few red herrings thrown out there today. We talk about REU versus FTE. We talk about which year of local valuation to use. We talk about possibly weighting foundations or developmental ed in a different manner, and from my understanding, taking any of those into consideration would have relatively minor effects on the distribution of funds. [LB400]

SENATOR ADAMS: Senator Cornett. [LB400]

SENATOR CORNETT: Explain to me the needs stabilization and how that affects you, because that doesn't apply to Metro, correct? [LB400]

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GREG SMITH: Excuse me? [LB400]

SENATOR CORNETT: The needs stabilization formula. I was just going over that with... [LB400]

GREG SMITH: Are you holding a document that I'm not? [LB400]

SENATOR CORNETT: Do you...are you receiving needs stabilization that would be equivalent 98 percent of what your last year's budget was under the formula which Metro does not qualify for? [LB400]

GREG SMITH: I can't answer that question. I've only been in the state three years, so I'm not quite sure what needs stabilization is. [LB400]

SENATOR CORNETT: Okay. I guess the only comment I have is when you said it's insulting that we come back and look at a formula. If you look at all the bills introduced in Education and Revenue are changing formulas based on something we did the prior year or the year before, a lot of times, without having let the formula work its way out because we found that there's a problem with that formula for one specific industry, college, group. Is that true? We have multiple bills in front of us now on the learning community because of that. [LB400]

GREG SMITH: I'm not that...well, I think it's, you know, that's up for this committee to decide. I think that you did a good job the first time around. If you don't believe you did for one reason or another, then certainly, you're going to take action. [LB400]

SENATOR ADAMS: Dr. Smith, if I were to ask you what equalization means, how would you define it? If you have an equalization formula, how do you interpret that? [LB400]

GREG SMITH: As I read LB973, it seems to me that what the legislative intent most likely was, was that, and I think the formula does allow for growth, and it does consider growth. But I think the legislative intent was probably to allow community colleges to deliver a similar quality of services across the state while having a similar local effort rate, but still some flexibility there, and also to be able to keep tuition within a fairly narrow range. There was some testimony a few minutes ago about how, in the Metro case, raising the tuition in the culinary arts program would result in most of that money going to the rest of the state. That would only be the case if Metro raised that tuition and nobody else did anything, and that never happens. [LB400]

SENATOR ADAMS: Okay. Are there other questions for this testifier? [LB400]

SENATOR ASHFORD: Only other to say, I think that in order to achieve the goal of

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equalization, certain campuses are going to receive more state aid per student than other campuses. Correct? I mean obviously. If you have fewer students, and Western gets \$7,000 a student and Metro gets \$2,500 a student. [LB400]

GREG SMITH: I believe that you're only talking about state aid, though. [LB400]

SENATOR ASHFORD: Right. I'm just asking...I mean, we're talking about how many state dollars, how state dollars (inaudible). [LB400]

GREG SMITH: And I don't think that was the intent of the formula as it was passed. I think the intent was to somewhat equalize the revenue for if...per REU considering state aid, local ability, and tuition. [LB400]

SENATOR ASHFORD: No, all I'm saying is that where there may be a concern and question is that at what cost do you get to equalization? I mean, do you allow...do you allow or permit, you know, three times per student of state aid to one campus than you do another campus in order to achieve the narrowing that we're talking about? That's what happens when you.... [LB400]

GREG SMITH: Yeah. Well, that's...you know, that's a legislative decision. You know, one thing that we've not talked about much today is... [LB400]

SENATOR ASHFORD: Oh, that's fine, that's fine. I don't want to...we've got people waiting. I'm not trying to cut you off. I just...that's a question I need to answer for myself, and it's not necessarily fair to ask you that. Thanks. [LB400]

SENATOR ADAMS: All right. Are there other questions for this testifier? Thank you then. [LB400]

GREG SMITH: Thank you. [LB400]

SENATOR ADAMS: Next opponent? [LB400]

JACK HUCK: (Exhibit 11) Senator Adams, members of the committee, my name is Jack Huck, J-a-c-k H-u-c-k. I'm president of Southeast Community College, and here on behalf of Southeast Community College in front of you today. You've heard me say this previously, but I want to share it with you again today, and that is, I've had the privilege of working at Southeast Community College for 33 years, and being in this position for 15 years. I'm the only chief executive officer in the state who's been through 15 years of discussions about state aid formulas for community colleges at this point. I'm sorry to have to say that because that means I'm also the longest of tooth of the CEOs, but that is a reality. And that's a perspective I want to bring you today to some degree in this testimony. I also want to deal with testimony that you've heard previously, and at least

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from my perspective, share some what I consider to be some factual information with you. You've heard earlier today about differences between the community colleges across the state and how important those differences are. I want to share with you again some testimony that was at least shared with you previously I think to some degree, and that is we basically have three clusters of community colleges across the state. Southeast and Metro are very similar. Central and Northeast are very similar, and Mid-Plains and Western are very similar. That was a factor that was taken into consideration by this committee when you put the current state aid formula in place. When it comes to numbers, just to show you how similar we are, Metro is just a little over 10,000 FTE, we're just a little under 10,000 FTE. We're very similar in terms of the number of students we serve. You've heard earlier today about remedial education and foundations education. Sixty-five percent of our students at Southeast Community College come to us requiring remedial education. You heard from Senator Harms in earlier testimony today that 70 percent of the students at Western Community College come to that college needing remedial education. There are not that many differences enroll admission, in students served, and in terms of the outcomes at community colleges across the state. Southeast Community College has traditionally received the lowest reimbursement per student in the state. We are the most...you heard earlier that Metro theoretically was the most effective and efficient community college in the state. I would again say to you, there are many similarities and traditionally the data would show we are lower. We would encourage you to put the formula fully in place before you start making considerations about changes to the formula. The fiscal note attached to your LB400 information today that you received, that fiscal note, if you look in the year 2009-'10 suggests that Metro and Southeast move very close together in terms of the percentage of state aid they receive as the formula moves into place. What that says to you is that the intentions of the state aid formula that were created by this committee two years ago are starting to show up. And that if you look at the issue of equalizing taxes across the state, the range has narrowed considerably, and I can give you that history of tax equalization if you wanted it because I was here when the first equalization efforts occurred. I can also tell you that dollars per REU or FTE, and it doesn't make a lot of difference to me whether you talk FTEs or REUs because my reimbursement is going to be about the same no matter which measure you use, and that's true, likewise for the other community colleges. But no matter which measure you use, I can tell you, that through the full implementation of the formula, we move from a difference of more than \$1,200 per unit across the state that existed previously to less than \$200 per unit difference upon full implementation of the formula. The formula that you devised and passed two years ago is working, it's in the process of working, and it needs to be implemented to give it a chance to work before we talk about freezing it, changing it, or whatever else we might want to do with it. I've always been committed to making changes that are effective and need to be made for the good of the system across the state. As a community college, we remain committed to those principles, and if there are changes needed in the future, certainly we will be the first ones as an association here talking with you about those. Red light's on. I'll quit. I'd be happy to

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answer any questions that you have. [LB400]

SENATOR ADAMS: Thank you, Jack. Are there questions? Jack, let me ask you the question. When we talk...I think you've already answered it, but when we talk equalization formula for community colleges, what does that mean to you? [LB400]

JACK HUCK: A little over ten years ago, the community college system was approached by the then Legislature, leaders of the then Legislature and the then Education Committee who said to us, if you look at the property tax range that's currently in place to support community colleges across the state--and the range at that time was a low of about 4 cents to a high of 20 cents--the message that was delivered to us by the then committee and the then Legislature was that range is too great. That is not an acceptable policy for property tax ranges for the state of Nebraska. We need to work on bringing that range closer together. We put together a formula 11 years ago now, the first one that created equalization, and it was...I would say to you, it was a lighthouse for equalization formulas unlike anything any political subdivision had done before, because it was built to be responsive to the amount of state aid that was contributed by the state, by the Legislature and the Governor's decisions. And, in fact, there were two years, almost three years under that formula, where the state put in extra state aid from the Legislature, and the Governor, and it drove down property tax rates equally across the whole state of Nebraska. So equalization to me from that day on has meant the narrowing of property tax range to support community colleges and make them and still make them accessible across the state of Nebraska. I believe that same definition was kept in place as this formula came to be two years ago, and that is, narrowing the range of property taxes to support community colleges across the state of Nebraska. I'm very clear about what that definition is, at least in my history. [LB400]

SENATOR ADAMS: Okay. Thank you, Jack. Are there other questions? Senator Haar. [LB400]

SENATOR HAAR: Yes, thank you. The graph that was handed out by a number of people shows that like in '98-'99 actually, Southeast got less than Metro in state aid per FTE, and then by about 2004-'05, it's almost the same. And then if the formula is left in place, Southeast gets more than Metro. Could you explain to me why that is? Again, I'm trying to understand this, if you and Metro are in the same cluster. [LB400]

JACK HUCK: And I'm sorry, I don't have that chart nor have I seen that chart, so it's tough for me to explain somebody else's chart. [LB400]

SENATOR HAAR: Okay. Well, maybe I can ask that another time then. Thank you. [LB400]

SENATOR ADAMS: Senator Ashford. [LB400]

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SENATOR ASHFORD: To that point, I mean I think...would you agree that the state aid to Southeast or if you model it out two or three years goes...is far greater than it is to Metro under this formula? It's \$3 million or \$4 million greater in state aid than what Metro gets under this formula. And maybe there's a reason for that, that it's legitimate and...but I just... [LB400]

JACK HUCK: In gross dollars... [LB400]

SENATOR ASHFORD: Gross dollars. [LB400]

JACK HUCK: ...or per some unit? [LB400]

SENATOR ASHFORD: Gross dollars, just gross dollars. State aid to Southeast goes up; state aid to Metro goes down. [LB400]

JACK HUCK: You know, Senator Ashford, I know that last year Metro got a \$3 million put. I know that in the next implementations phase, we're scheduled for a \$4 million put. I can't go on much beyond that for you because, again, I don't have the information you're looking at. [LB400]

SENATOR ASHFORD: Okay, so you haven't modeled it out through two or three years in the future? [LB400]

JACK HUCK: Well, when I spoke earlier, we have modeled it out to the extent that we looked at the dollars per unit differential that would exist, and as I mentioned earlier, that goes from what was more than \$1,200 about three years ago per unit down to \$200 when the formula is implemented. That would say to me that there may be some differential... [LB400]

SENATOR ASHFORD: And it's not fair to ask you because you don't have it, and the numbers are what the numbers are. I just think...I mean, of all the things we've gotten today, there does seem to be an increase in the difference between what Metro gets in the out-years in absolute dollars than Southeast. And that may be a...there may be a legitimate reason for that, but it seems... [LB400]

JACK HUCK: I think there is. I think I can speak to the reason without seeing... [LB400]

SENATOR ASHFORD: What's the reason? [LB400]

JACK HUCK: ...without seeing the numbers that you're looking at. [LB400]

SENATOR ASHFORD: Okay, okay. [LB400]

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JACK HUCK: Because, again, of my history and because I know something about how this formula was built, and the principles that are built into it. Equalization has been, as I say, around for us about...purposely, about the last 11 years or so. REUs have been around for us longer than my tenure. When I came to this position 15 years ago, the formula that was in place then also had REUs in it. So the notion that REUs are a new phenomenon, I would have to say to you is absolutely not correct. REUs have been a part of our history more than 15 years. How many more, I can't tell you. I say all of that to get to the point that I'd like to make, I think, that speaks to your question, and that is, if you look at REUs, they are intended to recognize the efforts that any local community college makes in relationship to the designated role and mission. The more vocational technical programs you do, the "heavier" those vocational technical programs are, the more you are rewarded in REU value. Our REU value at Southeast Community College is significantly higher than Metro's REU value. And I would suggest to you that that relationship to role and mission in our choices that we've made about emphasizing the vocational technical mission that we have and have had for many, many years gives us a higher REU value, and that higher value would drive a differential in the total dollars that you're seeing there. [LB400]

SENATOR ASHFORD: Okay. [LB400]

JACK HUCK: I cannot tell you that's the entire amount, but I think it is a significant event. [LB400]

SENATOR ASHFORD: Okay, and I appreciate that answer, because all day that's just what I've been trying to get an answer to, and you have been around a long time, and you've done a great job. And...but that's what I think is one of the big problems is, at least from Metro's perspective is they see that divergence because their role and mission has changed, yours has been more consistent, arguably, with the statutory role and mission, and then there's a gap, and that seems to be an issue. [LB400]

JACK HUCK: I think that's a very correct analysis, Senator Ashford. [LB400]

SENATOR ASHFORD: Okay. And is there any way that we can get that resolved without civil war? [LB400]

JACK HUCK: Well, I think that's an important policy question for this committee, for the Legislature, and for the state of Nebraska... [LB400]

SENATOR ASHFORD: Could you guys do it and tell us how you did (laugh), so we don't have to do this again (laugh). [LB400]

JACK HUCK: Well, I would tell you we have traditionally concurred that the role and

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mission and its reflection in REU values has been very appropriate for the community colleges as intensioned by the state of Nebraska. Now if you as a committee and you as a Legislature and the Governor agrees, if you all want to change that role and mission and see that differently, I will tell you, we can adjust. One of our beauties as a community college is we are adaptable, and if you tell me vocational technical education is no longer as important as it once was to the state of Nebraska... [LB400]

SENATOR ASHFORD: Or modify it to reflect weighting, so I don't know if it's not as important, but. [LB400]

JACK HUCK: Well, I think modifying weighting is a little different issue, because we do have some ability to do that within what we call our FTE/REU audit committee which Dennis told you about earlier. [LB400]

SENATOR ASHFORD: Okay. [LB400]

JACK HUCK: Can we make some suggested adjustments within there that would speak to some of the new occurrences that are important for community colleges--developmental education, ESL,... [LB400]

SENATOR ASHFORD: Right, can you do that? [LB400]

JACK HUCK: ...those kinds of things, I think the answer is yes, we can, and, in fact, as Dennis told you, we've already issued directives that move us in that direction. [LB400]

SENATOR ASHFORD: Can we do that soon? Like in another week or (laughter)... [LB400]

JACK HUCK: So I think the answer is yes. You know, we're fast, but I don't know that we're that fast. [LB400]

SENATOR ASHFORD: Oh, yes, you could do that. I know you can. [LB400]

JACK HUCK: Yes, we can do it soon. I don't think a week or two (laugh). [LB400]

SENATOR ASHFORD: All right, thank you. Three then. Thanks, Mr. Chair. [LB400]

SENATOR ADAMS: Senator Haar. [LB400]

SENATOR HAAR: Thank you. Putting together that idea of cluster and what you've just said, that's what I was trying to get at, so that helps focus my understanding of the issue as well. [LB400]

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JACK HUCK: Oh, good. Thank you, Senator Ashford, because I didn't quite know how to answer Senator Haar either so (laugh) thanks to both of you. [LB400]

SENATOR HAAR: Okay. Thank you. [LB400]

SENATOR ADAMS: Are there other questions for Mr. Huck? Seeing none, thank you. [LB400]

JACK HUCK: Thank you very much. [LB400]

SENATOR ADAMS: Other opponent testimony? Neutral testimony? Okay. This is opponent testimony now? [LB400]

TOM PERKINS: I am opponent. [LB400]

SENATOR ADAMS: Opponent testimony, okay. [LB400]

TOM PERKINS: I like to view life with a little bit of a positive attitude, so it's hard to say no. I'm Tom Perkins, P-e-r-k-i-n-s. Members of the Education Committee, Mr. Chair, I am here to oppose LB400. As stated earlier, I am not representing the opinion of my community college board nor the Association of Community Colleges nor ACCT. This amendment is designed to freeze the formula. The amendment is primarily, from my opinion, designed to benefit one community college to the exclusion of five others. But really it's more than an issue of money, in my opinion. We need to reframe the discussion based upon the resolution that you have in front of you which the Metro board approved July 22, 2008. The formula of discussion which Metro initiated is, in reality, a challenge to Nebraska tax policy and distribution of tax funds. MCCA decries the fact that the area provides 49 percent of state income tax and 47 percent of state sales tax, but will receive 24.3 percent of the community's college state aid. Further, it believes that the state should return property tax control to the locally-elected community college board of governors, implying that the board of governors would take such control from the state, and from my point of view, that's kind of frightening. What we have here is a difference of opinion in regards to state policy and right to provide equal opportunity for education to all Nebraska students through state aid. The metro board calls into question the state's authority and responsibility to distribute funds for education. To pass LB400 and eventually alter the formula to suit Metro's needs will take the state down a slippery slope whereby state students in middle and western Nebraska will not have the same access to an education as those in the Metro district. This is not an east-west issue, we need to be clear about that. It's deeper than that. It's a difference of opinion over tax policy, who owns and is responsible for distributing Nebraska income and sales taxes, who sets the limits on property tax. Shall it be the board of governors of a community college or shall it be the state? I would suggest that we vote no on LB400 and let the formula run its course, and then let's revise it based

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upon its history of use. Thank you. [LB400]

SENATOR ADAMS: Thank you, sir. Questions for this testifier? Seeing none, thank you. [LB400]

TOM PERKINS: Thank you. [LB400]

SENATOR ADAMS: Is there any more opponent testimony? If not, we'll take neutral testimony now. Seeing none, Senator Lautenbaugh has indicated to me that he's tied up in committee and won't be able to close, so that will end the hearing on LB400. And we will proceed on to LB607 now, Senator Gay. I know we had him for awhile. [LB400]

LISA JOHNS: I think he had an Executive Session in Transportation. Sorry about that, so you're stuck with me. Good afternoon, Senator Howard, members of the Education Committee. For the record, my name is Lisa Johns, L-i-s-a J-o-h-n-s, and I am Senator Gay's legislative aide. Senator Gay represents the 14th legislative district in Papillion, and I'm here today to introduce LB607. LB607 establishes the Higher Education Academic Scholarship Program Act which is a merit-based scholarship program. The program would provide a \$1,500 scholarship for any Nebraska student that scores a 28 or higher on his or her ACT, and who has not already earned a baccalaureate degree. Senator Gay originally sought to have the scholarship awarded to those who scored in the top 15 percent, but after receiving quite a bit of input, he was convinced that a special target score would be easier and better to administer. It would also make it more fair to students who receive the same score regardless of the year in which they take the test. Nebraska scores have been pretty steady throughout the years, and a 28 on an ACT represents the top 15 percent. The scholarships would be allocated on a first-come first-served basis. The bill requires that the institution in which the student is enrolled provide a scholarship that is equal in value, so \$1,500 scholarship from the school as well or a tuition waiver, something of that nature. The qualified institution would be any in-state, nonprofit, public or private postsecondary educational institution. After the initial award, the scholarship would be renewable annually for three additional years, provided that the individual remains a full-time student and maintains a 3.25 GPA. Now, you might note that a Regents scholarship requires a 3.5, but Senator Gay did have an opportunity to tour UNL this summer, and we found out that the average in the engineering college GPA is about a 3.3, so we do...the goal is to keep the best and brightest here. The student may transfer from one eligible institution to another without losing the state portion of the scholarships or the \$1,500. However, the institution to which the student transferred would not then be required to provide a match. The scholarship would be administered by the Coordinating Commission for Postsecondary Education, and the bill would create the Higher Education Academic Scholarship Program Fund. The bill calls for the Legislature to appropriate \$2.5 million in fiscal year 2010 and '11 and then \$5 million in '11-'12, and, of course, that would increase to up to \$10 million as the students go through the cycle that get the 28 on the ACT. LB607 is

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similar to a merit-based scholarship bill that Senator Gay introduced last year. That bill did not pass, obviously, but he did do quite a bit of work over the interim to address some of the technical issues that were brought up and some of the concerns. But he really brought it up again, because he thinks it's a necessary tool to keep our state and economy flourishing. Our state provides incentives to attract new businesses and to retain existing businesses, and we need to look seriously at legislation that would provide the work force for those businesses by retaining our best and brightest young Nebraskans. Nebraskans, our people are the most valuable resource, yet our state has the tenth highest out-migrated state for young, single, college-educated people. College students generally are going through life changes, and they decide where they're going to work. They get married, they start a family, and research shows that graduates who are residents of a state where they attend college are more likely to stay in that state after graduating. Other states have recognized this and offer merit-based scholarships; there are at least 15. And, in fact, according to the University of South Carolina Alumni Association, there's a dramatic increase in the number of students who said they would stay in that state for college after their Legislature did establish a merit-based scholarship program. We have heard from people that these scholarships would take away from the need-based scholarship; that is definitely not the intention. There are very many need-based scholarships out there that are worthy and like to keep intact. There are also arguments that there are already scholarships that are merit-based such as the Regents. However, we'd like to point out that a lot of those scholarships pay for tuition only. I did a check of the university Web site today, and in addition to tuition for somebody to go to the University of Nebraska--books, fees, supplies, room and board--estimated cost over \$9,000 a year. With the economy as it is now, student loans are getting harder to come by. So eventually what will happen is you will see a middle class that do not qualify for the need-based scholarships, but can no longer afford to go to college, and this, of course, will be detrimental in the long run. Senator Gay has discussed this issue with many parents who are involved with the education of their children and look at all aspects of a financial package that is being offered. A \$3,000 annual scholarship does not seem like a large amount, but when you look at the total cost of higher education, it is important, and it sends an important message to parents and students that we value you and your efforts to succeed, and we would like you to succeed here. And that is all. I would answer any questions, if you have any. [LB607]

SENATOR HOWARD: Good delivery, thank you. Do we have questions for this presenter? [LB607]

LISA JOHNS: Thanks. [LB607]

SENATOR HOWARD: You're welcome (laugh). First proponent. [LB607]

TIP O'NEILL: Senator Howard, members of the Education Committee, I'm Tip O'Neill, that's O'-N-e-i-l-l. I'm president of the Association of Independent Colleges and

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Universities of Nebraska. This is not the last bill of the day, so I will just say that we support this bill. We believe in the concept of all sorts of student aid including categorical scholarships, need-based programs, and merit aid, and we have supported, historically, merit-based programs for Nebraska. I'd be happy to answer any of your questions. [LB607]

SENATOR HOWARD: All right, thank you. You want to take it back? [LB607]

SENATOR ADAMS: Sure. [LB607]

SENATOR HOWARD: Do we have questions? (Laugh) [LB607]

SENATOR ADAMS: Trying to get my head back in this game now. Are there questions? Senator Sullivan. [LB607]

SENATOR SULLIVAN: Thank you. What's the breakdown typically of availability of scholarships that are need-based or merit-based? And...go ahead. [LB607]

TIP O'NEILL: Well, it depends...I guess, if you're talking federal, they're almost all need-based--the Pell Grants, the student loans--they're all need-based, basically. [LB607]

SENATOR SULLIVAN: And then with the institutions that you represent, typically, are the merit-based scholarships usually funded from your endowment? [LB607]

TIP O'NEILL: They are a combination of funded for endowment. There are a lot of times specific endowments set up for specific scholarships. They're also funded by discounts from the posted tuition. [LB607]

SENATOR SULLIVAN: Okay. [LB607]

TIP O'NEILL: And that's fairly typical in the public sector too. I mean, the...so. [LB607]

SENATOR ADAMS: Other questions right now? Yes, Senator Haar. [LB607]

SENATOR HAAR: Thank you. And this is new money, right? [LB607]

TIP O'NEILL: That's correct. [LB607]

SENATOR HAAR: Yeah, thanks. [LB607]

SENATOR ADAMS: Tip, if I might ask, and I spoke just briefly with Senator Gay this morning about this before we got interrupted on other issues. This particular piece of

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legislation is focused on the high-achieving student. [LB607]

TIP O'NEILL: That's correct. [LB607]

SENATOR ADAMS: And so one of my concerns, and maybe I'm venting more than asking a question, but you certainly can respond to it, we have all kinds of grant and aid and scholarships that are need-based, and then we've got Regents scholars and all of this money for the high end. [LB607]

TIP O'NEILL: Um-hum. [LB607]

SENATOR ADAMS: I continue to be concerned about the mid-range student. [LB607]

TIP O'NEILL: Um-hum. [LB607]

SENATOR ADAMS: The student that goes in there, and they pull down a 21 on their ACT, and mom and dad say, take it again, and they prepare, and they take it again, and they get a 22, and then they take it again and they get another 22. If the test is reliable and valid, that's the way it ought to work,... [LB607]

TIP O'NEILL: Um-hum. [LB607]

SENATOR ADAMS: ...and they get left in the dust. Would you agree? [LB607]

TIP O'NEILL: I would agree with that. I would agree... [LB607]

SENATOR ADAMS: And this is not going to... [LB607]

TIP O'NEILL: ...there's a cohort of students that this program doesn't, you know, doesn't give any money to,... [LB607]

SENATOR ADAMS: Just doesn't help that. [LB607]

TIP O'NEILL: ...and also the need-based, it's limited to Pell Grant students, it doesn't give any money to. [LB607]

SENATOR ADAMS: Right. [LB607]

TIP O'NEILL: Yeah, there is a group of students out there. Now, we enroll a lot of those students in the independent college and university sector, we really do. And we... [LB607]

SENATOR ADAMS: And then you try to work your magic with whatever monies you

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have... [LB607]

TIP O'NEILL: Yeah, well, with...yeah, right, right. [LB607]

SENATOR ADAMS: Okay. [LB607]

TIP O'NEILL: But I think what you see are students in that particular cohort who have to borrow a lot more money to go to college because the grant aid just isn't there either from the need-based programs or from the merit programs. [LB607]

SENATOR ADAMS: Okay, thank you for your candor. [LB607]

TIP O'NEILL: Sure. [LB607]

SENATOR ADAMS: Next testifier? [LB607]

JAMES CAVANAUGH: Senator Adams, members of the Education Committee, my name is James Cavanaugh. I'm an attorney and registered lobbyist for Creighton University, appearing today in favor of LB607. We commend Senator Gay and Senator Avery for cosponsoring this bill and bringing it before you. The long and short of it is that Nebraska's main export isn't livestock or grain or anything else. It's young, educated human beings. And over the last decade, what we've seen in the private sector of higher education in Nebraska is a 36 percent decrease in state funding for our sector of higher education, our sector that produces half of the lawyers produced in Nebraska, half of the doctors produced in Nebraska, on and on and on, and I think roughly 40 percent of the undergrads. You can't do that to yourself in the long term without exporting, essentially, the entirety of the best and the brightest. Look at the fiscal note in this bill and you'll see even under the current standard about 15 percent of the people that we're talking about, the best and the brightest making high scores on ACTs, elect to go elsewhere, you know, currently, and there's a large cohort of people in this category. I think, you know, well into four figures, that we're going to lose to somebody who's offering a better deal. So in the multibillion dollar scheme of the state budget, the monies that we're talking about here are .000, bunch of zeros 1 percent, and if we don't do it, the next generation is going to have that fewer doctors and lawyers and pharmacists and dentists around Nebraska to provide needed infrastructure for our state. So we can continue down this path. We can go another 36 percent down or we can, you know, draw a little bit of a line in the sand and say, here's where we turn things around. And I agree with Senator Adams. I mean, we need to turn them around for our highest performing students, for those in the middle who are deserving, but have modest means, and for those neediest at the bottom, but we have to start somewhere, and this is a good start. I'd be happy to answer any questions you might have. [LB607]

SENATOR ADAMS: Thank you, Jim. Are there questions? Thank you, sir. [LB607]

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JAMES CAVANAUGH: Thank you. [LB607]

SENATOR ADAMS: Other proponents? Are there opponents to the bill? Any neutral testimony? [LB607]

KRISTIN PETERSEN: (Exhibit 12) Good afternoon. My name is Kristin Petersen, K-r-i-s-t-i-n Petersen, P-e-t-e-r-s-e-n. Chancellor Stan Carpenter was unable to be here today, and so I'm here on his behalf for the Nebraska State Colleges. The State Colleges are here to testify in a neutral capacity on LB607. We did want the committee to be aware that the state colleges do provide merit-based awards, part of our tuition remission plan. Among those would be the Board of Trustees Scholarship which requires an ACT score of at least 25. The pool of resources for those types of awards is obviously very limited, and we also appreciate Senator Gay and Senator Avery's efforts to increase that pool of funding. We also are trying to use our available remissions funding for the Nebraska State College System Advantage Program. That's a program that the board of trustees voted on last Friday. That will be for freshmen, beginning in the fall of '09. The pilot program will provide a tuition waiver for federal Pell Grant recipients, and this program will also continue to challenge our already tight tuition remission budget. If LB607 advances and funding is provided, we will certainly work to incorporate this program into our tuition remission plans. However, we are concerned about the potential of diverting funds away from our already existing remission programs, especially those that are need-based to accommodate this increase. And with that, I'll answer any questions. [LB607]

SENATOR ADAMS: Are there questions? Thank you for waiting around today so long. [LB607]

KRISTIN PETERSEN: Thank you. [LB607]

MARSHALL HILL: (Exhibit 13) Good afternoon, Senator Adams, members of the committee. I'm Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l, executive director of the Coordinating Commission for Postsecondary Education. I'll be very brief. Generally, the coordinating commission is pleased to support any program that would provide additional money to Nebraska students, but we would have some concerns about this bill. Basically, the concern is that if it's a zero-sum gain to support Nebraska students through state funds, that we would be concerned about any provision that would remove the need base for that. Right now, all of our funds go to the students who, by federal definition, are our most needy students. Since we still rank about 37th in the nation on the amount of aid we provide for our most needy students, to direct some of those funds to other activities without addressing that, I think we would have some concern about. Many states have a program similar to this, and a number of states have difficulty in supporting it when times get difficult. Right now, at least four states this year, are considering the reduction

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or elimination of funding for a program such as this in their states--Florida, Michigan, Nevada, and New Jersey, so sustainability on the long term. We have a couple of technical concerns on the bill, questions about how the matching program would operate. For example, we suspect that perhaps state institutions might just request matching dollars as part of their state appropriation, in which case the state would provide both sides of that. Second, some clarification about whether the scholarship would be limited to undergraduate students. There's not any particular reference to that nor reference as to whether students who were pursuing certificates or diplomas would be eligible rather than degree seeking students. Lastly, because it would provide scholarships on a first-come, first-served basis, you have a fiscal note which shows the referenced amount falling far short of what we calculate the need to be. We would be in a sort of a gold rush kind of environment to sort out those students as they came in. That's all that I have to comment upon. Be pleased to respond to questions. [LB607]

SENATOR ADAMS: Are there questions for Marshall? Senator Sullivan. [LB607]

SENATOR SULLIVAN: Just a point of information. Is the commission typically the conduit for state-funded scholarship programs to be sent out then to the... [LB607]

MARSHALL HILL: Yes, Senator. All of the Legislature's provision of need-based financial aid comes from the state, comes through the coordinating commission. [LB607]

SENATOR SULLIVAN: Okay. All right. [LB607]

MARSHALL HILL: And we work with the institutions, and we also audit those institutions to ensure that the funds are spent as stated. [LB607]

SENATOR SULLIVAN: Thank you. [LB607]

SENATOR ADAMS: Other questions? Thank you, Marshall. Any other testimony? Senator Gay, to close. Waives closing. That will conclude the hearing on LB607. And we'll move on to the final bill of the day, LB413. Senator Ashford. [LB607]

SENATOR ASHFORD: Thanks, Mr. Chairman, members of the committee. Brad Ashford, District 20; I'm here to introduce LB413, the college choice grant program act. This act or this bill is very similar to a bill that Senator Lynch and I worked on in 1991, and was passed at that time, and over the years, accumulated significant amounts of resources, and I believe now, though, is extinct which is unfortunate. But in any event, at the time the original bill was passed in 1991, I think it was one of the...I can be corrected, but one of the first state efforts to fund, you know, private, nonprofit institutions with scholarships that are state-funded. And it, I believe, had significant, positive impacts. This particular grant program would be administered by the

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coordinating commission. There is no fiscal note as there is no dollar amount specified for the program in this bill. The idea is to reimplement this kind of program for need-based students to attend private institutions in the state of Nebraska. At the time the original bill passed, there was opposition by public institutions that somehow this would take away resources that they would get somehow, and there may be some of that today. But what is clear, and you'll hear...and I want to turn this over to my...the witnesses who are here today who know much more about this than I do. But there are obviously a significant number of private institutions in this state that create opportunities for need-based students that makes up a significant part of the 40 percent, I believe, of the graduates of higher educational institutions in the state. It is such a potentially small amount of money compared to any appropriation to the state institutions as to almost be hardly worth discussing. But it makes a tremendous impact, gives a tremendous impact to the students who would choose to attend private institutions. And we, obviously, we all know that we're replete with those types of institutions in the state. It is a very much needed program. It is much more difficult today to raise money in the private sector than it has been in the past. We must maintain these institutions; they are critical to our future on so many levels. With that, Mr. Chairman, I would be happy to answer any questions. [LB413]

SENATOR ADAMS: All right. Are there questions for Senator Ashford? Thank you. First proponent? [LB413]

MARYANNE STEVENS: I guess it's good evening (laugh). The... [LB413]

SENATOR ADAMS: Yes, it is. [LB413]

MARYANNE STEVENS: Chairman Adams and members of the Education Committee, my name is Maryanne Stevens, S-t-e-v-e-n-s, and I'm the president of College of St. Mary in Omaha. As most of you probably know, College of St. Mary is a nonprofit, privately-controlled Catholic college for women. It was founded by the Sisters of Mercy, a Catholic religious order of women in 1923. And it's a niche college, because it is a women's college, and it has a special mission to reach out to women who are in need of more rather than less, whether that's money or whether that's services. And that's where they think they'll best succeed in terms of their education. In particular, we have a program that some of you may know about, a residential program for single mothers who can live on our campus with their children which provides them the opportunity to gain tremendous peer support and take advantage of residential college opportunities that they may not be able to take advantage of, at least at any other college in our state. One of the things that I would like to say about this particular bill is I think it's very important that we don't pit need-based students, we don't put them in the position of having to choose between large, public environments and smaller private environments when all the research says that many of these students are first generation college students and, therefore, do better in the smaller private college sector than they do in

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the public, large sector systems. As you know, these are also precarious times for colleges and universities, especially the independent colleges in states like Nebraska. Our endowments, modest though they are, have been ravaged by the weaknesses of the market, and we rely on those. Parents of students who have savings have seen their own resources diminished during the same period. Our colleges are very tuition-driven. Prospective students and their families will need additional resources from the federal government, from the state, and from our own institutional resources if they are to be able to enroll. Family incomes of students in the private sector are similar to the incomes of students in the public sector. Our median family incomes, for instance, at College of St. Mary are much lower than those on the University of Nebraska campuses; 54 percent of the students at College of St. Mary are Pell Grant recipients. Those same students also borrow from federal loan programs; 92 percent of our graduates graduated with some debt. That compares with 48 percent of graduates who graduated with debt at the University of Nebraska-Omaha. Our sector, the private sector as a whole in Nebraska, awards 41 percent of bachelor's and advanced degrees in Nebraska, and our service and commitment to diversity has resulted in our awarding more degrees to minority students than the University of Nebraska and the state college systems combined. We employ approximately 5,000 citizens in Nebraska in fields such as nursing and the health sciences where we have a shortage of trained workers, we award a majority of those degrees. So it seems to have made sense for Nebraska to have a student aid program serving students from independent colleges and universities for many years, students of need. It seems to me to make good sense to reimplement such a program. So I would be happy to answer any questions that you might have. [LB413]

SENATOR ADAMS: All right. Questions? Senator Haar. [LB413]

SENATOR HAAR: Yes, thank you. I'm just puzzled. I still don't see the funding source for this. [LB413]

MARYANNE STEVENS: And I'm not the one to answer that question. [LB413]

SENATOR ASHFORD: There is no funding in the bill now. It would be a General Fund appropriation. [LB413]

MARYANNE STEVENS: Thank you for your time. [LB413]

SENATOR ADAMS: Next testifier? [LB413]

JAMES CAVANAUGH: Senator Adams, members of the Education Committee, my name is James Cavanaugh, attorney and registered lobbyist for Creighton University, appearing in support of LB413. We commend Senator Ashford and Senator Nordquist for cosponsoring this bill. As you heard from the previous testifier and you'll hear in

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much greater detail from Mr. O'Neill, the need, if anything, is more acute now than it has been in the recent past, but let me just give you some idea of where the need has not only not been met, but has been less than met in recent years. State appropriations in fiscal year 2001-2002 for need-based aid and the independent college and university sector was \$3.9 million, is what Nebraska did for students in Nebraska attending Nebraska colleges and universities, independent colleges and universities...\$3.9 million. Fiscal year '08-'09 same number, \$2.4 million; 36 percent decrease from '01-'02 to '08-'09, and I think that we all have a fair handle on what the costs of higher education did during that same period. I think we all know that it didn't go down 36 percent. During the same period, the same programs for the University of Nebraska were increased 336 percent; for state colleges, increased 162 percent; for community colleges increased 100 percent; for for-profit schools, for-profit schools increased 240 percent. Now, if you want to really do a scratch-your-head comparison, go to the fiscal year 2001-2002 number of dollars for for-profit schools in Nebraska from the state, it was \$620,000. Go to fiscal year 2008-2009, it's \$2.1 million, 240 percent increase for your for-profits. Well, the not-for-profits get a 36 percent decrease. I think that this needs a hard look by the Education Committee. I think that what we are looking for in the last bill and in this bill is some approach to fairness and equity, and a rational policy towards the great asset that private higher education is to Nebraska. I'd be happy to answer any questions you might have. [LB413]

SENATOR ADAMS: All right. Thank you, Jim. Are there questions? Is it possible, Jim, that the shift that you just described in percentages is because the...and I don't know this, but I'm going to ask, is it because the for-profits are probably taking on more needs students? [LB413]

JIM CAVANAUGH: Well, I'm not sure if that's the case so much as the formula was changed, as you heard from Sister Stevens. The abolition of the Postsecondary Education Award Program, PEAP, involved also some formula changes and how the money was going to be distributed in the future. And from that point on, basically, you find the for-profits going from \$620,000 to \$1.4 million. I'll tell you this: The for-profits received more state aid to students than Creighton University and, you know, as was indicated in previous testimony, Creighton and other schools have comparable or higher percentages of needs students as defined by the Federal Department of Education than does the public sector in Nebraska. So I think it was more the formula, inclusion of for-profits than, you know, any great disparity in need-based students, you know, here or there. [LB413]

SENATOR ADAMS: I guess what I'm wondering is, and I need to study this whole scholarship program better, if up to now our policy has been that the aid follow the student and not the institution, that dictates the numbers, the percentages? I mean, if the nonprofit have these increases over the X number of years that you described, if the aid is following the student wherever that student goes, whether it's Wayne State, UNO,

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College of Hair Design, then that would say those numbers are up because that's where the students are going. [LB413]

JIM CAVANAUGH: Yeah, if it was all just need-based, but I mean, you know, the enormous bulk of your aid to students in the public sector doesn't have anything to do with their, you know, tuition, room and board. It's that you build and maintain the institutions that they go to at taxpayer expense. So, you know, if you're talking just the need-based things, if it's distributed equally to all students at all institutions, you're right, it should follow them. A Pell Grant student at Creighton should be treated the same as a Pell Grant student elsewhere. But we're not because in the formula change, where PEAP said, we'll give you X amount of dollars to go to a private college or university in Nebraska, the current formula says we'll give you whatever we give a UNL student whose tuition is substantially less than a Creighton student's. You understand? I mean, the... [LB413]

SENATOR ADAMS: Oh, I understand... [LB413]

JAMES CAVANAUGH: Everything...all the percentages, you know, or all the amounts given to the students were predicated on the public school tuition dollar amounts. So, you know, when our students are coming in and they're paying the full cost of education, the student attending UNO or UNL is not paying the full cost of that education, because the taxpayers of Nebraska support those institutions. [LB413]

SENATOR ADAMS: Um-hum. [LB413]

JAMES CAVANAUGH: I mean, that's the great thing about private education is the private investment in that massive infrastructure of maintaining a university. I mean, that's a great benefit to the state, but we...you know, we don't ask to be enormously rewarded for that, we just don't want to be penalized. And as these numbers indicated, at least our student population, the need-based students attending our institution, are getting a lot less than they did and, you know, there should be something that we should be able to do that. Now, Senator Ashford's proposal takes us back to kind of a PEAP-like concept which worked great for a lot of years. And it wasn't any economic consideration that did away with PEAP, it was a philosophical policy-driven decision, in large part, by the former chairman of this committee that little or no resources should be spent on our students attending private universities in Nebraska. Well, I submit that that's a wrong headed policy, and it hurts not only those students, but it hurts the state long-term. And what we're saying in this bill is, let's take another look at, you know, something that was a little more enlightened, worked well, isn't going to cost you a lot, and in the long term is going to, you know, yield great benefits to the state. [LB413]

SENATOR ADAMS: Other questions? Okay, thank you, Jim. [LB413]

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JAMES CAVANAUGH: Thank you. [LB413]

SENATOR ADAMS: Hi, Tip. [LB413]

TIP O'NEILL: (Exhibit 14) Senator Adams, members of the Education Committee, I'm Tip O'Neill. I'm president of the Association of Independent Colleges and Universities of Nebraska, and I realize it's been a very long day for you, and... [LB413]

SENATOR ADAMS: This is almost your honorary week here, isn't it? [LB413]

TIP O'NEILL: You know, well, I rarely introduced anything in the prior regime of the Education Committee, so I'm really happy to be back. I feel like I'm making a (laugh)... [LB413]

SENATOR ADAMS: (Laugh) Causing me to wonder, though (laugh). Go ahead. [LB413]

TIP O'NEILL: I always try to provide some different materials for the second time around than I did the first time. Obviously, the college choice grant program would be an important program for students attending independent colleges and universities just as PEAP was from 1991 to 2003. Thanks again to Senator Ashford for his work originally in ensuring that that bill passed and was productive, and also for introducing the bill this year. I want to bring your attention to the last two pages of this group of materials, because one of the things that we tend to forget when we look at student aid is not all of the state-funded student aid is in the need-based program that goes through the coordinating commission. And I just want to give you an idea of the sort of tuition waivers that we provide in the state four-year colleges and universities. And what has...which, in terms of this material that I'm providing you does not include graduate assistant tuition waivers which I believe are compensation as opposed to a scholarship. I mean, when you're paying some GA to teach a class and you're giving him or her a tuition waiver for taking a master's level program or a doctorate program, that's compensation, that's not a scholarship. Well, as you can see the total of those tuition waivers in the University of Nebraska, let's say, for example, in '02-'03 were \$27 million approximately, in '07-'08, are \$54.5 million. That's 100 percent increase over five years, and so the amount of student aid that's available to students in Nebraska, if you compare the amount that we get, \$2.5 million versus the amount that's funded through the public either in the form of a tuition waiver or the need-based aid, our percentage is a very low percentage. And so I'd be happy to answer any questions you might have. I've provided some other materials that I think you might find interesting. I know my warning light is on, but one of the concerns that I have is if I look at the number of full-time freshmen which are extremely important to our sector, I see that our sheer numbers of full-time freshmen have decreased, you know, about 7 or 8 percent over the last four or five years, and that concerns me as far as the future health of my sector is concerned. I'd be happy to answer any questions you might have. [LB413]

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SENATOR ADAMS: Are there questions for Tip? Tip, may I...as I learn more about this... [LB413]

TIP O'NEILL: Um-hum. [LB413]

SENATOR ADAMS: ...scholarship process and what was, and where we're at, and where we're going, correct me now if I'm wrong, but I sense in this week in all the bills that you've brought, are you in part asking this committee to relook at the philosophy that presently exists for the distribution of this state money? [LB413]

TIP O'NEILL: Yes, that would be accurate. [LB413]

SENATOR ADAMS: And are you asking us to reconsider giving money to institutions rather than to students? [LB413]

TIP O'NEILL: Well, the money always goes to students. You can't give money to private institutions. That's prohibited by the Constitution. [LB413]

SENATOR ADAMS: Right. [LB413]

TIP O'NEILL: And, in fact, the way the PEAP program is set up or the college grant choice program is set up, we have an Attorney General's Opinion from 1991 that says that the way that's set up is constitutional under Nebraska Constitution, so. [LB413]

SENATOR ADAMS: Okay. So if we leave...so we can't leave an institution out either. [LB413]

TIP O'NEILL: Well, sure you can. Well, you can limit it to a type of institution. You can say a privately controlled nonprofit located in Nebraska. [LB413]

SENATOR ADAMS: So then if I'm a student and it's need-based, and I say, I want to go to the College of Hair Design,... [LB413]

TIP O'NEILL: Right. They would not be covered under that program just as they weren't under the program that was passed in 1991. And part is...I mean, first of all, the resources that you have in an independent college, university, and the utilization of the resources there, is different from the way it works in the for-profit sector. Now I'm not saying either one is good or bad, but in terms of the impact on the state of Nebraska, it's certainly a higher impact for the nonprofit institutions in this state than the impact by the for-profit institutions. [LB413]

SENATOR ADAMS: Are there other questions for Tip? Thank you. [LB413]

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TIP O'NEILL: Thank you, Senator. [LB413]

SENATOR ADAMS: Other testimony? Proponent testimony? Is there any opponent testimony? [LB413]

CRAIG MUNIER: (Exhibit 15) Good afternoon, Senator Adams and committee members. My name is Craig Munier, C-r-a-i-g M-u-n-i-e-r, and I'm the director of the Office of Scholarships and Financial Aid at the University of Nebraska-Lincoln. Thank you for allowing me the opportunity to testify in opposition to LB413. We are concerned that LB413 will redirect scarce state funds from the very students the Nebraska state program...state grant program was designed to serve. In 2001, 69 percent of the enrollment of full-time students from Nebraska families with an expected family contribution of zero to \$500, were enrolled at Nebraska's public colleges, universities, and community colleges. With 18 percent of such students enrolled at independent colleges, universities, and 13 percent at Nebraska's private career institutions. If you ask the Coordinating Commission for Postsecondary Education for the data, I am confident the data will show clear evidence of a significant and sustained shift in enrollment patterns of students from low and modest income Nebraska families, from private to public colleges and universities in the years leading up to and continuing since the reform of the state grant programs. In fact, these shifts in enrollment patterns by students from low and moderate income families was a primary impetus for reform of the Nebraska state grant programs, formerly known as the State Scholarship Award Program, the Scholarship Assistance Program, and the Postsecondary Education Award Program. Reform of the state grant programs was not the cause of shifting enrollments, it was an appropriate response to those enrollment shifts. Higher education is the great sorting mechanism in our society today. It is in the best interests of all Nebraskans that we ensure that as many capable and academically qualified students as possible have the means of accessing postsecondary education in the state. It is far more important that we find additional resources for our existing state grant program than to debate shifting the existing dollars from students to institutional sectors with less regard for where the neediest students are enrolled. Again, thank you for the opportunity to present our opposition to this bill, and I'm available to answer your questions. [LB413]

SENATOR ADAMS: All right, thank you, sir. Are there questions? I guess not. [LB413]

CRAIG MUNIER: Okay. [LB413]

SENATOR ADAMS: Next opponent? [LB413]

JAMES HARDY: (Exhibits 16, 17) I promise to be brief. My name is James Hardy, H-a-r-d-y. I'm here today representing Nebraska Christian College. My only reason for

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opposing this bill is because we would not be included in this. The bill states that this is for regionally accredited institutions. There are other accrediting institutions that are approved by the United States Department of Education such as the ABHE, of which we have been a member for some time; that was formerly the AABC. For over 40 years now, we've been a part of this accreditation service, ensuring that we have a high academic standard that we play by the rules. And so, we would love to see this bill pass, but not as currently worded. If we could add, as in the letter being presented here by, you know, from the president of Nebraska Christian College, if we could add that this would be regionally or nationally accredited by the U.S. Department of Education Council for Higher Education accreditation, why we would be very much in favor of this. [LB413]

SENATOR ADAMS: Okay. Other questions? Thank you. [LB413]

JAMES HARDY: Thank you. [LB413]

SENATOR ADAMS: Next testifier? [LB413]

KRISTIN PETERSEN: (Exhibit 18) Good afternoon. Again, my name is Kristin Petersen, K-r-i-s-t-i-n Petersen, P-e-t-e-r-s-e-n, here for Chancellor Stan Carpenter on behalf of the state college system. The state college system is testifying in opposition to LB413. While LB413 does not currently have funding attached to it, we do have serious concerns about adding any new program that would have the potential to transfer the extremely limited funds that there away from a public institution of higher education. Without belaboring or repeating any of the testimony you've just heard or the comments from some of the hearings yesterday, we would just say again that state need-based support for students in public higher education should not be diminished in support of nonpublic private schools. In addition to that concept, I would just like to point out two other issues with the bill. In Section 3, there is a reference to "a tuition subsidy afforded Nebraskans who attend public colleges and universities." We aren't aware of any funding provided that has that term or that label, so that's an issue we would like to point out. And lastly, in Section 4, the bill language seems to infer that there are students who attend institutions of public higher ed in Nebraska that "may be less likely to be successful in obtaining a degree," and that phrase troubled us as, you know, we have a strong belief that at the state colleges, the university, and at the community colleges, we have an exceptional academic and student support service. That's all I have, but I'd be glad to answer any questions that there are. [LB413]

SENATOR ADAMS: Questions? Thank you. [LB413]

KRISTIN PETERSEN: Thank you for your time. [LB413]

SENATOR ADAMS: Next opponent? [LB413]

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JARED TIDEMANN: Mr. Chair, members of the committee, my name is Jared Tidemann, J-a-r-e-d T-i-d-e-m-a-n-n. I'm here on behalf of the Government Liaison Committee and on behalf of the Associated Students of the University of Nebraska, and I'm a student at the University of Nebraska. Thank you for allowing me to be here today to speak in opposition to LB413. There is little doubt that for students, times are getting really, really tough to have to pay for college. A lot of prospective students are definitely concerned about how that needs to be paid, and certainly as a student, recognizing the need for grants is very, very important. However, I think this piece of legislation may shift some of that away from need-based students. And we look at specifically, the fact that it doesn't outline how we would use these scarce resources. I fear that's going to create competition rather than future incentives for students. I think this is problematic. In a time where we're struggling economically, at a time when we look at our public institutions like the University of Nebraska that's receiving this year only a 1 percent increase, we need to be funding our public institutions and recognize the need to do that. Public institutions tend to serve students that have this need-based aid, and I think it's important we continue to support it. As a student, from the University of Nebraska, a public institution of higher learning, I feel privileged to be here and privileged that I've had the opportunity to receive my degree. We are privileged to have a university system like the University of Nebraska and other public institutions in the state that help to obtain individual degrees and allow them to be very successful. I would think it would be wrong to criticize the public institutions, and I would encourage you to continue to support them. On that, thank you again for the opportunity to speak in front of you, and if you have any questions, I'd love to answer them. [LB413]

SENATOR ADAMS: Questions for this young gentleman? Thank you, sir. You've been patient today. [LB413]

JARED TIDEMANN: Thank you. [LB413]

SENATOR ADAMS: Other opponent testimony? [LB413]

MARSHALL HILL: (Exhibit 19) Marshall Hill, Coordinating Commission for Postsecondary Education. I'll be very, very brief. First, I'd like to say that we fully understand, support... [LB413]

SENATOR ASHFORD: That's enough. (Laughter) [LB413]

MARSHALL HILL: I understand the sympathy, I really do. I really do, and I'm about to catch a plane to go to Washington to sit through three-and-a-half days of negotiated rulemaking for the U.S. Department of Education on accreditation, and I wouldn't wish that on anybody, that (laughter)...that's worse than what you're going through. First, although I'm testifying on behalf of the commission in opposition to this bill, I want to say

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that we fully support and appreciate the independent colleges and universities of Nebraska. They do a fine job with the students they educate. We'd be a far less better off state without them. Before going into statewide higher education work, I was a university faculty member for 19 years, about half of that was in independent colleges and universities, so I understand the differences, and I support them. Nevertheless, there are two points I'd...perhaps three, I'd like to leave with you. One, the current program we've said allows the money to follow the students. That's not quite right. It allows the money to follow the most needy students, and that's an important difference. It allows the money to follow the most needy students. The funds that then go to those students at different institutions are a function of student decisions. They're not a function of a formula. They're not a function of decisions that we are the coordinating commission make. They are a result of a policy decision that the Legislature made, to say that the funds would follow the most needy students. That story is told most concisely in this yellow piece of paper that we had for you yesterday. You will see that the students that go to our low...sorry, I'm tired. I think you are, too, and so am I. The students that go to our career schools and to our community colleges are our most needy students. Eighty-four percent of the recipients at the career schools are from families with incomes of less than \$20,000, so the student bodies at these career schools are the most needy, frankly, that we have in the state. So I think it's important that if you want to debate the policy, that you do just that. You debate that policy as to whether or not you should have a student focused orientation to where those dollars go or a sector focused concern about where those dollars go. For us, given the limited amount of funds that the state is providing, we have a student-focused orientation. As I said yesterday, we might prefer that students make some different choices. Frankly, some of those students that are at career schools I think would be just as well served at much less cost at some of our community colleges. Last point is, if there's a way to provide some help to everybody, that's through increasing the state grant program. We've requested that funding from the Appropriations Committee. We'd appreciate your support. [LB413]

SENATOR ADAMS: Questions for Marshall? Guess not. [LB413]

MARSHALL HILL: Thank you. [LB413]

SENATOR ADAMS: I think we're worn out, Marshall (laughter). Any other testimony? Neutral testimony then? [LB413]

JASON PFAFF: (Exhibits 20, 21, 22, and 23) Mr. Chairman, members of the Education Committee, my name is Jason Pfaff, P-f-a-f-f. I am campus director, University of Phoenix in Nebraska, testifying in a neutral capacity on LB413. This discussion could not come at a more exciting time in education. Students and jobs are more mobile than ever. As educators, we're now forced to think globally. We feel this is best done when we encourage competition and ensure all students have access. First, I'd like to share

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with you a snapshot of the University of Phoenix. We're excited to be in Nebraska, we're impressed with our students, and we're impressed with the support we've received from the corporate community. We're a degree granting institution, we're regionally accredited, and we offer programs at the associate, bachelors, masters, and doctoral level. Our students are a large contingent of hard-working people who want to better themselves, but have been historically shut out of traditional higher education because of their real life responsibilities. They're moms, dads, nurses, teachers, IT professionals, executives. They're rural principals who are earning their doctorate so they can one day be superintendents. Our students are very diverse at every level. We have graduated the largest segment of underrepresented students for master's degree programs in the country. Our students are 66 percent female, 24 percent African American, twice the national average. Our faculty is 49 percent female. The national average among traditional institutions is 41 percent. Our faculty is 15 percent African American. The national average is 5 percent. You also have a copy of our annual academic report, a very transparent look at how we measure ourselves, and how we measure up in the current environment. Some of what you will learn includes that with inclusive admissions, our students often enter with lower scores as compared to students at other institutions. By graduation, our students perform at levels comparable to seniors at all of those more exclusive institutions. Our students enter with a high number of risk factors. Despite this, completion rates for the university are comparable to those reported nationally by other schools--remarkable, considering our inclusive admissions. We reinvest resources and we maintain responsibility and affordability. In addition, our students are very satisfied; 96 percent are satisfied with our curriculum, and a full 93 percent report that they are satisfied with their faculty. We are opening our doors even wider to accommodate the growth we see in underserved students, and we are expanding our investments to support them. We began to develop our on-line learning system back in 1989. The technology is cutting-edge and courses involve a great deal of reading and writing which, as you know, mirrors the world of work. In 2000, we began providing all of our textbooks electronically which allows us to keep down costs for students. Nationally, demand for on-line programs is growing by 12 percent compared to 1.2 percent for traditional programs, and the Coordinating Commission data does confirm these trends exist in general here in Nebraska. Let me leave you with a couple of final thoughts, and then I would be happy to answer any questions. Number one, competition leads to progress and innovation in any sector. A lack of competition usually leads to high costs, little innovation, and stalled progress whether it is public or private, tax-exempt or for-profit, competition is good for higher education, and there is room for us all. Our students and consumers are more mobile than ever before. The last thing I'd like to leave, and I know my light is on, an important point as we have this discussion, we are facing leaving behind a generation of Americans that are less educated for the first time in history than the generation that came before them. These are big discussions that need big ideas, and we would just like to be part of the solution. And I would just like to humbly submit that, and I encourage and welcome any questions.

[LB413]

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SENATOR ADAMS: All right, thank you, sir. Are there questions for this testifier? Well, thank you for being patient and waiting your turn today. It's been a long afternoon. [LB413]

JASON PFAFF: My pleasure. Thank you, Mr. Chairman. [LB413]

SENATOR ADAMS: Any more neutral testimony? Go right ahead. [LB413]

SANDRA MUSKOPF: Good afternoon, Chairman Adams and members of the Education Committee. I am Dr. Sandra J. Muskopf, M-u-s-k-o-p-f. I'm the president of Omaha campus and Kaplan University. I appear before you today in a neutral position on LB413. For similar reasons, why we appeared in opposition to LB397 and LB399 yesterday. We oppose those bills because we are requesting that the state convene a task force to create a state grant program that is fair and equitable to all Nebraska residents who attend a resident postsecondary institution in the state. As mentioned yesterday, we at Kaplan University stand ready to assist the committee as you begin this process of developing a mechanism that stretches across Nebraska's educational system to address student needs and help students work with Nebraska businesses to achieve great things. As Nebraskans, we should be proud of the broad array of educational options available to our students whether those students choose to go to the University of Nebraska, Creighton University, or Kaplan University. We commit ourselves to work with you to address the need to provide assistance to Nebraska students in Nebraska classrooms. However, we believe assistance to Nebraska residents should not be limited by the college they attend, and should be open to all residents regardless of their educational choice. As we noted yesterday, our focus is the education of Nebraska's work force. We provide a career focus program that is not developed in a distant corporate office, it's developed in our local communities of Omaha and Lincoln where we are able to keep our fingers on the pulse of the needs of local businesses. And to follow up to your question, Senator Adams, about the money following the student or the media student--while it may be true that funding is up substantially for for-profits, I believe the gentleman quoted 201 percent, I know that our enrollments at Kaplan University alone are up over 200 percent since 2001. I appreciate your consideration of our issues, and I make myself available for any questions you may have. [LB413]

SENATOR ADAMS: Great. What questions do we have? Sorry. (Laughter) As you know, you've been here all afternoon right along with us. Thank you. [LB413]

SANDRA MUSKOPF: (Laugh) Thank you. [LB413]

SENATOR ADAMS: Is there any more neutral testimony? If not, Senator Ashford, what would you choose to do? [LB413]

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SENATOR ASHFORD: I know what you want me to choose (laughter). I'm going to choose this very briefly. [LB413]

SENATOR ADAMS: You're always unpredictable. [LB413]

SENATOR ASHFORD: No, very briefly, and I appreciate the comments. These same arguments were presented in 1991 when this program started. They're still...that doesn't mean they're not good arguments, but I think we have to evaluate what happened with the passage of the PEAP program in 1991. Also, I would really commend anyone to spend some time, as many of you already do, at the traditional four-year nonprofit, private, institutions like College of St. Mary's. It's an incredible experience. What is key to me and Sister Maryanne is a very cool person, but I wouldn't say that in public. What she has done... [LB413]

SENATOR HOWARD: Make sure that's in the record. [LB413]

SENATOR ASHFORD: Yes (laugh), but really, it is incredible to see what goes on in these institutions where they mix, certainly the case at College of St. Mary's, people, students with...who have come from poverty, and put them into programs with people of higher socioeconomic background in a traditional four-year school, but not with traditional educational opportunities. It's very innovative programs. This is a good program. I think the debate does need to be about the philosophy of whether we spend any money at all in doing this kind of thing. I think we should, it worked for 15 years, we ought to do it again. With that, Mr. Chairman, I appreciate the time and the patience of the committee. [LB413]

SENATOR ADAMS: Thank you, Senator Ashford. (See also Exhibits 23 and 24) And that will bring our hearings today to a close (laughter). Thank you all. No, I think we ought to Exec (laughter). Look at them, look at them. No, let's go home, let's go home. [LB413]

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Disposition of Bills:

LB655 - Indefinitely postponed.

LB673 - Indefinitely postponed.

LB400 - Indefinitely postponed.

LB607 - Indefinitely postponed.

LB413 - Held in committee.

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Chairperson

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Committee Clerk