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Government, Military and Veterans Affairs Committee
February 01, 2013

[LB180 LB224]

The Committee on Government, Military and Veterans Affairs met at 2:00 p.m. on Friday, February 1, 2013, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB180 and LB224. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Dave Bloomfield; Russ Karpisek; John Murante; and Norm Wallman. Senators absent: Scott Lautenbaugh and Jim Scheer.

SENATOR AVERY: All right. This is military day in the committee. We just had a briefing from General Lyons, the Adjutant General of the National Guard here in Nebraska. And now we are going to have hearings on two bills relating to veterans' issues. And we will start with the agenda as posted outside the door. We have two bills, LB180 and LB224. We'll hear them in that order. Before we start, let me introduce the members of the committee and discuss a little bit about the procedures we will follow. Starting on the right here, Senator John Murante from Gretna; next to him is Senator Dave Bloomfield from Hoskins; and I think soon to join us is Senator Scott Lautenbaugh of Omaha. Senator Scott Price, the Vice Chair of the committee, sits next to him. He is here and there he comes. And next to him and to my immediate right is Christy Abraham, the legal counsel for the committee. On my left is Senator Russ Karpisek from Wilber; seated next to him is Senator Norm Wallman from Cortland. And Senator Jim Scheer from Norfolk had to be out today for urgent business. The last person at the table is Sherry Shaffer. She is the committee clerk and she plays an important role in this committee. She keeps the records. When you appear here to testify for or against any of these bills, we want you to spell your name...state your name, spell it very clearly into the microphone for the record, and fill out this green form and provide--in print--the information requested. And give this to Sherry and this will become part of the permanent record. If you do not wish to testify but you would like to be recorded for or against any of the bills we discuss, there is a form here to fill out. Both of these forms are available at each entrance to the room. I'm going to ask you to turn off all electronic devices that make noise, and we try to do that here too. Occasionally we forget but it's not intentional. Anything that's done in this room is likely to be picked up on the transcribing machine. And we get calls in the office in the summer when we're recording the transcriptions and Sherry will say, well, who was that speaking? What was that person's name? Or you get a telephone ring and it can be a bit disruptive. So if you don't mind, keep your cell phones silent. We will be using the light system. The light system is green, amber, and red. You have four minutes on green, one minute on the amber light, and when the red light comes on we ask that you be finished. We have two interns with us or pages, I should say: Will Rahjes from Elwood and Cicely Batie from Lexington. If you have any exhibits that you would like for us to see, you can...you need 12 copies. If you don't have 12 copies, ask the pages to help you out and we'll get copies made for you. And those are the only exhibits we will be allowing, those that we can see at our desk. The procedure will be that the introducers make initial statements,

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followed by proponents, who are followed by opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. With that, we are honored to have with us our distinguished speaker, Senator Greg Adams, who will talk to us about LB180.

SENATOR ADAMS: (Exhibit 1) Thank you, Senator, and good afternoon to all of you. My name is Greg Adams, A-d-a-m-s, representing the 24th Legislative District. LB180 that I'm introducing today, you've heard before. It's been here. It's a rather straightforward bill although the fiscal note has changed on it, and there were a host of circumstances last year that may have prevented it from moving forward at the time for debate. So as I look at this committee and realize that many of you are veteran to it, you'll be familiar with this. But the essence of it is quite simple. What this bill would do would be to say that those veterans that...the dependents of veterans, if the veteran is experiencing a 100 percent disability or is deceased as a result of their military service, would have their fees waived at our Nebraska higher education...public higher education institutions. Currently we waive tuition. This would simply waive fees, and certainly not until all scholarships and financial aid had been totalled up. The remaining fees then would be, if you were to pass this, would be waived. We currently do both tuition and fees for police officers and firefighters that are also experiencing...their dependents are experiencing the same thing as a result of duty-related disability or passing. So this would just simply keep in line with that. Now you'll notice the fiscal note. If I remember correctly, I think the fiscal note last year was bumping up against \$300,000. And this year you'll notice it's at \$140,000. And I suspect that part of that is due to the letter that you see from the State College System that--and I am paraphrasing--said that they would be honored to waive these fees. And so that fiscal note looks a bit different. That is the essence of it. It replicates, I believe, the bill from last year, and if you're so inclined maybe we can take another run at it this year. I'd take questions, Senator. [LB180]

SENATOR AVERY: Thank you, Senator. Questions from the committee? I do remember this bill from last year, and I think that we ran out of time. I don't believe there was... [LB180]

SENATOR ADAMS: If I remember right, I think it was priority status, and time... [LB180]

SENATOR AVERY: Yeah. [LB180]

SENATOR ADAMS: ...and fiscal notes, and a host of things. In concept, it was acceptable but other things got in the way. [LB180]

SENATOR AVERY: I'd like for you to teach me how to get those fiscal notes reduced. [LB180]

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SENATOR ADAMS: It's magic that I had nothing to do with, I might add for the record. [LB180]

SENATOR AVERY: I don't see any questions. Thank you. [LB180]

SENATOR ADAMS: All right. There are a few testifiers that have come in today. Generally we've kept it limited knowing full well they know that you have heard this before, but certainly and out of due respect for people's rights to be heard, I've asked that they come in. I'm going to waive closing in light of the fact that there were no questions, I'll do that. Okay? [LB180]

SENATOR AVERY: Okay. Thank you. Proponent testimony? So the cavalry is here. [LB180]

GREG HOLLOWAY: The cavalry is here. Thank you, Senator Avery. And I do appreciate you trying to get this through this last year. I do understand that there was some time limitations on it. I am representing...I'm the immediate past commander...Greg Holloway, H-o-l-l-o-w-a-y. I'm the immediate past commander of the Department of Nebraska Disabled American Veterans. Last year Senator Avery assisted me in introducing this bill at the request of the Disabled American Veterans. They asked me to get it going again. They feel it's a worthy bill to assist our disabled veterans within the state of Nebraska. It is pretty clear-cut, pretty simple. We just want to keep in line with everything, and I think it falls right in with the Governor's educational proposals this year. We need to make it a lot easier for families and family members to go ahead and meet the financial climate of the issue of education, and so they can get out of it without having such a tremendous debt as to where they have a hard time paying it back. And the better we can keep our students educated...and I know only too well the reason for education. I, myself, didn't finish high school until after Vietnam when I was 22 years old. And I know that you really need to get out there and do it and keep them in school and a good education. So I appreciate you hearing us today and all your assistance in possibly moving this forward and getting it done this year, you know? If you do have any questions for me, I keep on top of the veterans' legislation as best as I possibly can, and will be knocking on doors to get more support for it once it gets out of committee. Thank you. [LB180]

SENATOR AVERY: Thank you, Mr. Holloway. Questions from the committee? [LB180]

GREG HOLLOWAY: Cool. All right. [LB180]

SENATOR AVERY: Thank you. Any other proponent testimony? Good afternoon. [LB180]

TIM KEIGHER: Good afternoon, Chairman Avery and members of the committee. For

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the record, my name is Tim Keigher, it's K-e-i-g-h-e-r. And I appear before you today as the registered lobbyist for the Nebraska Community College Association in support of LB180. And I will keep it very brief. We just are here to support it. [LB180]

SENATOR AVERY: Thank you. I like brief testimony. Any questions? [LB180]

TIM KEIGHER: Thank you. [LB180]

SENATOR AVERY: All right, thank you. Any other proponent testimony? Okay, opponent testimony? Neutral testimony? You want to close, Ms. Anderson? You don't. Okay. That...the...since the Senator has requested to waive closing, that ends the hearing on LB180. And we now will stand down for a minute while we wait for Senator Janssen to appear. He has the next bill. (Break) All right. Welcome, Senator Janssen. We are now opening the hearing on LB224. [LB180]

SENATOR JANSSEN: Thank you, former...fellow members of the Government, Military and Veterans Affairs Committee. For the record, my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent District 15 which is Fremont and all of Dodge County. LB224 would add a special subsection to our resident bidder statute. It would provide a preference for a resident disabled veteran over any other resident or nonresident bidder when a public contract is to be awarded to the lowest responsible bidder. I introduced LB224 to provide our honorable disabled veterans with encouragement to bid on public contracts. As you know, our nation's veterans have unique and exceptional skill sets. They are highly motivated and goal driven. They are accountable and deliver in pressure situations. They have much to offer the state of Nebraska. LB224 would indicate our state's support for disabled veterans and provide them with the opportunity to secure certain public contracts and recognition for their abilities and their service to our country. Resident disabled veteran is defined as "an individual who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or...National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense." In the previous interim, the Government Committee conducted an interim study to examine our public contracts bidding process. If the committee determines that changes are needed in this area of law, I certainly endorse and recommend including a disabled veteran preference to any changes you may make. Thank you and I'll be happy to entertain any questions you have, and I think there are others here as well. [LB224]

SENATOR AVERY: Thank you, Senator. I want to ask you briefly about the definition of resident disabled veteran. As I understand it, the Veterans Administration usually makes a service-connection determination. And they then, through medical examination,

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determine the percentage of disability. Is it your intent that this definition include all ranges of disability from 10 percent all the way up to 100 percent, because we do have other veterans preference laws that require 100 percent disability and service-connected activity? [LB224]

SENATOR JANSSEN: That would be my preference, yes. [LB224]

SENATOR AVERY: Yeah. No matter what the percentage. [LB224]

SENATOR JANSSEN: Right. [LB224]

SENATOR AVERY: Okay. Well, let me follow up on that. Someone who is 75 percent disabled may have a greater need for preference than someone who is 5 or 10 percent disabled. Would you want to make a distinction on that basis? [LB224]

SENATOR JANSSEN: I wouldn't want to delineate from that. You know, service disabled is service disabled. You know, we all deal with it in a different manner so I wouldn't want to go down that road, no. [LB224]

SENATOR AVERY: Okay. Any questions from the committee? Senator Price. [LB224]

SENATOR PRICE: Thank you, Senator Avery. I'd just make a stipulation that as I understand the disability rating from the Veterans Affairs Administration, that it starts at zero. [LB224]

SENATOR JANSSEN: Yes, correct. [LB224]

SENATOR PRICE: So you could have a zero percent disability rating which only talks to the subject of their admission of a service connection of a condition, but the percentage of disability is only the part at which it affects the ability to conduct daily life and/or employment and that's how that plays out. So when you do this, you open it from zero on. [LB224]

SENATOR AVERY: So you could qualify under this proposal at zero percent disability? [LB224]

SENATOR JANSSEN: That is correct, yes. And that's right up Senator Price's wheelhouse and I appreciate his clarification on that. [LB224]

SENATOR AVERY: Any...Senator Karpisek. [LB224]

SENATOR KARPISEK: Thank you, Senator Avery. And thank you, Senator Janssen. So I think maybe what Senator Avery was asking, if there's two veterans and one is 10

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percent and one is 50 percent, would the 50 percent be favored over the 10 percent?
[LB224]

SENATOR JANSSEN: That would not be my intention, no. [LB224]

SENATOR KARPISEK: Okay. Just wanted to make that clear in my own head. Thank you, Senator Janssen. [LB224]

SENATOR AVERY: So it would then be up to the employer to determine...you'd have...he'd give equal preference, but then you'd have other things come into play in determining who gets the award. [LB224]

SENATOR JANSSEN: It would be the department, the people accepting the bids. It'd be up to them on all terms. A service-disabled veteran would be a service-disabled veteran period. [LB224]

SENATOR AVERY: Uh-huh. And just thinking out loud, you could say that's a 10 percent advantage in ever how we score these applicants, right? [LB224]

SENATOR JANSSEN: As far as service disabled as one group compared to the other?
[LB224]

SENATOR AVERY: Yeah. [LB224]

SENATOR JANSSEN: It's not set out in my bill descriptive on that of how they would determine... [LB224]

SENATOR AVERY: But I'm just assuming they had a scoring system. Yeah. [LB224]

SENATOR JANSSEN: Yeah, and that would be something that... [LB224]

SENATOR AVERY: And so a veteran getting a zero percent service-connected disability status would get the same amount of preference as someone with 50 percent.
[LB224]

SENATOR JANSSEN: Yes. [LB224]

SENATOR AVERY: Okay. Any...yes, Senator Price. [LB224]

SENATOR PRICE: And I apologize. I don't want to disabuse the committee's time, but I know that within the federal system that the bidders must still be qualified bidders. You could not have someone who was unqualified but because they're a veteran they have preference. You have to meet all the requirements, but all things being said to be equal

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to the performance of the contract of said work, that a preference is aside described or weighted toward that veteran with a disability rating. So... [LB224]

SENATOR JANSSEN: And I believe you'll be hearing a bill from Senator Mello in the coming--I don't know when you're going to schedule it--dealing with contracts as well. In his, he laid out certain percentages and I didn't go down that road. I didn't really talk with Senator Mello too much when we put these two bills forward, but I do see some form that those two could blend together in some way, if we go down that road. And that's an odd couple, by the way. [LB224]

SENATOR AVERY: So if the committee wanted to amend something along the lines of what we will hear later, you'd be okay with that? [LB224]

SENATOR JANSSEN: Well, yeah. You'd certainly think LB224 is much stronger than anything Senator Mello would bring, but--I say that, tongue in cheek--but... [LB224]

SENATOR AVERY: We'll ask him what he thinks. [LB224]

SENATOR JANSSEN: Yeah, I'm sure you will. I'm sure you will. You better wind up..if you want to wind him up, go ahead. [LB224]

SENATOR AVERY: Any other questions? [LB224]

SENATOR JANSSEN: Thank you. [LB224]

SENATOR AVERY: Are you going to stay for closing? [LB224]

SENATOR JANSSEN: Yeah, I'm going to stick around. [LB224]

SENATOR AVERY: Okay. Proponent testimony? Mr. Osborn. Welcome. You don't appear before us very often. [LB224]

SHANE OSBORN: No. No. It's great to see everyone. My name is Shane Osborn, S-h-a-n-e O-s-b-o-r-n. I'm here as a proponent of LB224, representing the American Ex-Prisoners of War. I applaud Senator Janssen for dropping this bill as well as for Senator Mello. I think it's important. I have kind of a unique access to this in that I--outside the state but--still deal with this on a daily basis as part of a service-disabled veteran-owned broker-dealer now; the only post-9/11 in the country. And so we study it a lot and I learned a lot and there's a passion there. And I know several people on this committee have served in the military. And there are some great things that you get from the military, right? Leadership--you know, Senator Avery, I believe you served as well--you get leadership, you get skills that no one else can get. You're given responsibilities at a young age that can't be equaled in the civilian world, and there's

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always opportunities. And we have so many people serving us today--men and women. And the problem is, is especially now with the drawdowns, we have all these people getting out without jobs in an economy that's hurting. And while people love to support veterans and they'll stand up and say, thank you for your service--which is wonderful. It's a lot better than some generations and some wars in the past, right? But the problem is, is a lot of people don't understand how to translate that into a civilian job. So you've got a lot of veterans that are employed in the securities work and construction work and things that kind of pass over really. But like in my field, we're literally the only one in existence in the financial services that's post-9/11 veteran owned. But my point being is that while service to my country was by far the best thing I could have ever done and I'm proud to have done it, you literally give up 10, 12, 15, even 4 or 5 years of business experience so to speak. Now it translates over well, but...so when you come back, you know, you're 30 years old going up against somebody that's 23, 24 that probably may even have an MBA. There's some competitive disadvantages, I think. And I think that's what this bill really focuses on is those that not only signed up, right? They signed up to serve, they risked their lives, that's quite clear. And from a diversity standpoint there is no more diverse organization on this earth than the United States military. So what you're seeing is people coming back, getting out, and they can't find jobs that are really commensurate with what their skill levels are. So you're seeing unemployment rates. The statistics are all over the place, but I can tell you that they're significantly higher--18 to 24, post-9/11 is almost double. And guess what? If you're a female and you're a post-9/11 vet, it goes up double that. So it's in excess of 20 percent. And that takes out the fact that most military people are not people that are going to sit around and do nothing, right? So they'll take a job beneath their pay grade so they're not sitting at home, and trying to find something else. They don't hold out for a management position, you know, for six months. They're going to take the first thing they can to put food on the table. And so what I think this bill does is just acknowledges something that I think we all probably feel deep down inside, is that, you know, these men and women served, they have a service-connected disability. They've served us well, now they're back, and they don't want a handout. Veterans do not want a handout, they just want an opportunity for a career. And believe it or not, a lot of veterans are like me, they're entrepreneurial. They're willing to start their own business. They're willing to go out on their own. All they need is a shot because...and this gives it. It says, hey, they have to be qualified, they have to be able to perform the job. But you know what? All things equal, we're going to look at the person that served our country and put it on the line. And so that's really what I wanted to come here today as a proponent of this bill. There are 14 states around the country now that are doing this. It's a big push. We've got to do it while there's momentum. This momentum will not be here in a few years, so that's why I think it's important that this bill moves this year. So, Senator any questions for me, or... [LB224]

SENATOR AVERY: Thank you. Thank you. Let me see. Do I have any questions? Mr. Osborn, you got off easy. [LB224]

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SHANE OSBORN: All right. Thank you. It's good to see everybody. [LB224]

SENATOR AVERY: More proponent testimony. Welcome back, sir. [LB224]

GREG HOLLOWAY: Senator. Holloway, Gregory R., H-o-l-l-o-w-a-y. It's almost like I wrote their testimony. The Disabled American Veterans is 100 percent behind this. To explain service-connected disability a little bit...to further explain it, I was a county veterans' service officer for Lancaster County in the '90s. Presently...well, I came out of Vietnam 100 percent service-connected from shrapnel wounds. Part of my shrapnel wounds was the back of my head was blown out. I am zero percent service-connected for organic brain syndrome, but 50 percent service-connected for bone loss of the skull. Presently I draw 100 percent with an S Award which totals about 180 percent. I dropped that back in the '70s and worked until I decided I was done. So that's...it's such a convoluted system the VA has, it's hard to explain. But at the last meeting at the Nebraska Veterans Council which is made up of veterans' representatives from the DAV, VFW, American Legion, PVA, AMVETS, Disabled American Veterans, and also an organization part of the County Veterans Service Office put this bill on their priority list. So the veterans organizations within the state do back this bill 100 percent, and we're in support of it. If you have any questions for me, they pretty much said everything I was going to say. So I'm glad I waited till last. [LB224]

SENATOR AVERY: Okay. Thank you. Questions? No questions. Thank you, Mr. Holloway. [LB224]

GREG HOLLOWAY: Thank you, gentlemen, ladies. [LB224]

SENATOR AVERY: Any other proponent testimony? Okay, we're going to move to opponent testimony. [LB224]

CURTIS SMITH: I almost feel bad here. [LB224]

SENATOR AVERY: Your testimony will be given the same generous consideration as any other. [LB224]

CURTIS SMITH: Well, thank you. Thank you, Senator Avery, members of the committee. My name is Curtis Smith, C-u-r-t-i-s S-m-i-t-h. I'm the executive director of the Nebraska Chapter of Associated General Contractors. Many of you know that we're the people...highway people, highway contractors. And quite honestly, the reason I'm here is that in all, we do not support preference laws. We deal primarily...almost all of our contractors deal with public domain contracts and we see that the public good is best served with open and level contracting; no preferences involved. That's really the reason we think we would continue to support that position and that's why we're here to

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speak in opposition to this bill. So with that said... [LB224]

SENATOR AVERY: You are consistent. [LB224]

CURTIS SMITH: We are. Thank you. [LB224]

SENATOR AVERY: Yes. All right, we do have a question. Senator Price. [LB224]

SENATOR PRICE: Thank you, Senator Avery. And thank you for testifying. I ask this question--it's almost rhetorical in nature--but is it my understanding that there are members of your membership that bid on and participate in federal contracts? [LB224]

CURTIS SMITH: Yes. [LB224]

SENATOR PRICE: And they are aware that there are these same considerations given to federal contracts? [LB224]

CURTIS SMITH: I'm sure that if they bid on them, they know them, yes, if that answers your question. That doesn't mean we agree, but if they're there we deal with that. And there are other states that have preferential laws, too, and usually those are reciprocity things most of the time. Yeah. Yeah. [LB224]

SENATOR PRICE: And I do understand your argument in support of preferences in general in the contracts, but I do know that a good amount of money and contracts are awarded to Nebraska businesses that use federal dollars and are abiding by federal guidelines and, therefore, there is a understanding that it works at the federal level. [LB224]

CURTIS SMITH: Many, many. In fact, I know of contractors who deal--and on the Offutt Air Force Base perhaps--on some preferential bidding. Yes, they do. [LB224]

SENATOR PRICE: Okay, thank you. [LB224]

CURTIS SMITH: Yeah, I know that. [LB224]

SENATOR AVERY: Any other questions? Don't have any more. Thank you, Mr. Smith. [LB224]

CURTIS SMITH: Thank you. [LB224]

SENATOR AVERY: Any other opponent testimony? Any neutral testimony? Senator Janssen. [LB224]

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SENATOR JANSSEN: I always feel lucky to get the Friday hearings, they seem to go a little faster. I'd like to thank all the witnesses, proponents. And indeed it is a 3 percent federal. I'm glad you brought that up. We were just talking about that when you brought up the 3 percent, so the contractors are dealing in this environment right now. This is not anything foreign to them. And I'd be happy, as momentum builds behind this proposal, to work with the contractors on kind of what they're looking at. I think we would all benefit from that, and I'm certain that the service-disabled veterans would benefit from that. I have nothing else to add; it's Friday. And I'll close it at that and take questions if you have anything else. [LB224]

SENATOR AVERY: (Exhibit 1) Well, I do have for the record a letter from the Nebraska Building Chapter of the Associated General Contractors, and they have some specific objections to definitions and things like that. The committee might want to include something in an amendment. I don't know, but... [LB224]

SENATOR JANSSEN: I'd be happy to work with the committee on that, and especially Senator Price. It seems... [LB224]

SENATOR AVERY: But it's not anti-veteran. It's more... [LB224]

SENATOR JANSSEN: Certainly understood. I'm pro-business and also a veteran-owned business owner myself. And so I know what it's like as a veteran to start a business, and there are some obstacles to overcome. Like former Treasurer Osborn noted, I came back from the Navy; had four years. I was four years behind everybody. I'm still explaining why I was age 27 when I graduated college. People are saying, well, what were you thinking? You should be calling me doctor at this point. I really did it in four years, I was just four years in the military first, so just for clarification purposes. [LB224]

SENATOR AVERY: Same thing with me. Anybody else? All right. Thank you. [LB224]

SENATOR JANSSEN: Thank you. [LB224]

SENATOR AVERY: All right. That...I already read this into the record. That ends the hearing on LB224, and that concludes our business for the day. Thank all of you for coming. [LB224]