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Transcriber's Office

Government, Military and Veterans Affairs Committee  
January 22, 2014

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[CONFIRMATION LB766 LB772 LB806]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, January 22, 2014, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB772, LB766, LB806, and a gubernatorial appointment. Senators present: Bill Avery, Chairperson; John Murante, Vice Chairperson; Dave Bloomfield; Tommy Garrett; Russ Karpisek; Jim Scheer; and Norm Wallman. Senators absent: Scott Lautenbaugh.

SENATOR AVERY: Welcome to the first hearing of the Government, Military and Veterans Affairs Committee. My name is Bill Avery, I chair the committee. This is my last year. And we have, I think, almost a full house today or we will have before it's all over. Let me introduce the ones that are here. Starting with my right, Senator Dave Bloomfield who is from Hoskins, Nebraska. And next, kind of next to him, is Senator John Murante. Senator Murante is the new Vice Chair of the committee, replacing Senator Scott Price, and he is from Gretna. And just walking in the door is our newest senator, Thomas...is it Thomas or just Tommy?

SENATOR GARRETT: Tommy.

SENATOR AVERY: Tommy. Tommy Garrett from Bellevue. He just joined the Legislature in the last week or so and had his first time on the mike today, I believe it was. And to my immediate right is Christy Abraham who is the committee counsel and will be helping us throughout the hearing today. And on my left is Senator Russ Karpisek from Wilber. And just sitting down is Senator Norm Wallman from Cortland. And next to him is Senator Jim Scheer from Norfolk. On the very end on the left there is Sherry Shaffer who is the committee clerk. When...we are going to take up the bills in the order that...of the agenda posted outside the room. That order is to start first with a hearing on a gubernatorial appointment of a new Adjutant General for the state of Nebraska. And that will be followed by three bills, LB772, LB766, and LB806, and they will be taken up in that order. When you arrive at the table to give testimony, we ask that you fill out beforehand a green sheet here that requests information on you and what bill you are speaking to. And when you do fill that out, give it to Sherry so that we can have a clear written record of who testified. And I would just remind you that everything we do in this room is a part of a written record. So it's very important that when you do take the stand that you speak clearly, that you spell your name so that we can have a clear record of that. When...we'll be using the light system throughout this session. The colors are green, when it's green you have three minutes. No, two minutes. No, wait, three minutes. Am I right? Four, four minutes, yeah. It's been a few weeks since we did this. You get four minutes on the green light. And after four minutes, the amber light will come on and you have one minute, then, to wrap up your testimony. When the red light comes on, you should be finished. If you do not wish to testify but you would like to have your opinion on a bill recorded, you can fill out this form. You're not, of course, required

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to testify. But if you want to be recorded for or against a bill, that's what you do. The green sheet is for those who wish to testify. There is a sheet out here for each of you to sign in. But you only need to sign in if you are planning to testify. If you're not going to testify then we ask you to listen politely, turn off any of your electronic equipment that makes noise, and that will help us get through today. The order of business will be the introducer of a bill will make initial comments. And that will be followed by proponents, then the opponents, and that's followed by neutral testimony. Closing remarks are reserved for the introducers of the bill. We ask that you listen carefully to the testimony, try not to be repetitive, and we'll get along fine. We're going to start with a hearing on a gubernatorial appointment of Brigadier General Daryl Bohac. Come forward, please. He is being nominated by the Governor to be the new Adjutant General of the National Guard for the state of Nebraska. Welcome, General Bohac. It's good to see you here with that second star. [CONFIRMATION]

DARYL BOHAC: (Exhibits 1, 2, 3) Thank you, Senator. Chairman Avery and members of the Government, Military and Veterans Affairs Committee, it is an honor to appear before you for this confirmation hearing. I am Major General Daryl, spelled D-a-r-y-l, Bohac, spelled B-o-h-a-c. I was honored to be appointed by Governor Heineman as the thirty-third Adjutant General of the Nebraska Military Department on July 14 of last year. I'm fiercely committed to ensuring the success of soldiers and airmen of the Nebraska National Guard and the men and women of the Nebraska Emergency Management Agency. We are successful when we meet our mission, which is to prepare and deliver combat-ready forces in defense of our nation and stand ready to protect the health, safety, and welfare of the citizens of this state. Before I share my background with you, I want to take a moment to recognize an important member of my team. My wife, Kris, is with us here today, and we will celebrate 29 years of marriage this June and she has never known a day that I have not been in the military. Without her support and standing strong beside me, this day would not be possible. Service in the armed forces of the United States requires many sacrifices by the member. However, the spouses and family members also make many sacrifices so that those of us who wear the uniform can do the things our state and nation calls us to do. Now my background: I enlisted in the United States Marine Corps Reserve in 1978 and served four years with the 4th Engineering Maintenance Company in Omaha, Nebraska. I then transferred to the Nebraska Air National Guard in 1982 and was assigned as a vehicle operator and general mechanic with the 155th Tactical Reconnaissance Group here in Lincoln. I rose to the rank of technical sergeant and was the noncommissioned officer in charge of the vehicle operations section. And in 1988 was accepted into the Air National Guard commissioning program. I attended the Air National Guard Academy of Military Science at McGhee Tyson Air National Guard Base in Knoxville, Tennessee, and was commissioned on 11 August 1988 as a second lieutenant. My first assignment was with the Logistics Readiness Squadron as a supply officer. I later transferred to the Aircraft Maintenance Squadron and held two different squadron commands in the Nebraska Air National Guard. Up to that point, I served as a traditional member of the Guard and

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Reserve, attending monthly drills and annual training events each year. In 2003, I was selected to become the full-time director of staff for the Headquarters of the Nebraska Air National Guard, a position I served in until 2010 when my predecessor, Major General Judd Lyons, selected me for promotion to Brigadier General as the assistant Adjutant General for Air. General Lyons also appointed me as the full-time Deputy Adjutant General of the Nebraska Military Department. I have deployed on multiple occasions, and with my last deployment as the Senior Reserve Component Advisor to Air Force Central Command, Al Udeid Air Base, Qatar. I've also held positions of national significance and most recently served as the Vice Chair of the Air National Guard Strategic Planning System where I was responsible for leading the strategic planning efforts of the entire Air National Guard. Finally, I have experience with the work for the Nebraska Emergency Management Agency, including directing the deployment of soldiers and airmen in response to disasters here in Nebraska and elsewhere. My vision for the Nebraska Military Department is driven by the belief that excellence is never an accident. In other words, we don't rely on luck or hope as a means of achieving success. This was most recently demonstrated in December when we hosted Lieutenant General Mason, the Deputy Chief of Staff for Logistics of the United States Army. General Mason traveled to Nebraska to present the United States Army Best of the Best Award for Supply Excellence to the 209th Regional Training Institute of the Nebraska Army National Guard. He also recognized six other Nebraska Army National Guard units for being the best in the entire Army National Guard as well as honoring Sergeant Major Boyd Navratil as the Army National Guard logistician of the year. On the Air National Guard side, it was recently announced that Senior Master Sergeant Scott Tontegode is the United States Air Force nominee for the GEICO Safety and Accident Prevention Award. The 155th Air Refueling Wing here in Lincoln is an 11-time selectee for the Air Force Outstanding Unit Award and the 170th Group stationed at Offutt Air Force Base is a 5-time Meritorious Unit Award selectee which is only given to units for outstanding achievement or service in direct support of combat operations. Finally, Master Sergeant Sharon Okra-Goll of the Nebraska Air National Guard and Captain Russell Barthalow of the Nebraska Army National Guard were just named the recipients of the 2012 Individual Excellence in Diversity Award for the entire National Guard. I would be remiss in not highlighting the exceptional work of the men and women of the Nebraska Emergency Management Agency. From 1999 through 2011 Nebraska received 21 disaster declarations, 3 emergency fire declarations, and 1 emergency declaration at the federal level. Since then, we've experienced the historic floods of 2011 and multiple large wildfires in 2012. Fortunately, 2013 was relatively quiet, with the notable exceptions of the flooding on the South Platte River, tornado activity in Wayne and Macy, and the blizzard in the northwest regions of our state; the latter two events all on the same weekend. All of which significantly impacted citizens in Nebraska. In many of those instances, and when requested by local emergency managers or incident commanders, the staff of the Emergency Management Agency went out to provide assistance and support to the response and recovery efforts. The Nebraska Military Department has a combined state and federal annual payroll of just over \$151 million.

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We have an estimated impact of almost \$50 million in indirect jobs created simply because of the presence of the Nebraska National Guard. We deliver an amazing array of capabilities for our state and nation and are proud to do so. I have soldiers, airmen, and state employees spread across 87 of the 93 counties of this great state, residing in over 140 cities, towns, and villages. For your reference, I have included a copy of our 2013 Economic Impact Statement in my confirmation materials. I encourage you to spend a few minutes reviewing this document when you have time. Regarding the future deployments of the Nebraska National Guard, there are those who may think that with the projected drawdown in Afghanistan that the Nebraska National Guard may be done with combat operations. I am here to tell you that we are not done. The 1075th Transportation Company is scheduled to deploy in July of 2015 and is beginning training this summer to ensure they are ready. We just received notification that 10 members of the 195th Forward Support Company have been tapped to deploy later this fall. We currently have a refueling aircraft, crew, and support personnel deployed to the Central Command area of operations in southwest Asia. The 155th Air Refueling Wing will continue to deploy aircraft and members into harm's way. Similarly, the 170th Group at Offutt Air Force Base will also continue to have personnel deployed with their active duty counterparts throughout the year. Our nation has invested heavily in the National Guard. As a result, we are a reserve component with operational capabilities that give our nation strategic depth and at a great value. I will work without fail to ensure our Nebraska National Guard is never relegated to the back shelf as a strategic reserve in the Department of Defense. Finally, I am driven each and every day by helping others achieve and do what they never thought possible for themselves through service to their state and nation. In doing so, the Nebraska Military Department assists individuals in becoming better citizens for their state and nation. Working together, I am confident that we can meet the challenges ahead, accomplish our missions, and support each other, our families, and our employers. Senator Avery and members of this committee, thank you for the opportunity to appear before you today. As I said, it is an honor. I would be happy to answer any questions you might have. Thank you. [CONFIRMATION]

SENATOR AVERY: Thank you, General. I would just point out that General Bohac is the recipient of the Legion of Merit and two Meritorious Service Medals. In addition to that, he has a list here too long for me to read of military medals and a number of civilian awards. And with that, I would open up the proceedings to questions from the committee. Senator Scheer. [CONFIRMATION]

SENATOR SCHEER: Yes, sir. Could you give us any idea of any potential changes you see in our command as far as what you would be doing differently than your predecessor has done? [CONFIRMATION]

DARYL BOHAC: I think one thing that's changed for the better is the relationship between the Air National Guard and the United States Air Force. With a new chief of staff and now a new secretary of the Air Force, the Honorable Deborah James, the

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relationship is far better than it was in 2013. One of the things that I have to worry less about is the potential risk for reductions or changes in the types of units we might have in the Air National Guard here in the state. I'm reasonably confident, but not taking it for granted, what we have here in this state. So we'll continue to advocate for and look for opportunities for us to be even better than we are. On the Army side of the house, Senator, I would tell you that right now there is a disagreement between the leadership in the Army National Guard and the adjutants general from the 54 states, territories, and district, a disagreement with the Department of Army about what we should look like, mostly in the size of our force. And that would...could, potentially--if that came into being with the current Department of Army leadership--could lead to some proposed size reductions in our units and the kinds of capabilities we have. So those are the two things that I think remain foremost in my mind is preserving the capabilities we have, not only for Nebraska but for this nation, and continue to work there. I think we are...my predecessor, when he testified at his confirmation hearing, talked about growth. And I think we're at a stage in the Department of Defense and our responsibility for this nation's fiscal well-being, to look at what's the right balance between active component and reserve component. And the reserve component, particularly in the National Guard, brings a great value to our nation. That's where my line of effort is going to be.

[CONFIRMATION]

SENATOR SCHEER: Thank you. [CONFIRMATION]

DARYL BOHAC: You're welcome. [CONFIRMATION]

SENATOR AVERY: Any more questions? Senator Garrett. [CONFIRMATION]

SENATOR GARRETT: Thank you. General, I have friends in the Guard bureau and my information is probably somewhat dated. But the Air Force was looking at going to super tanker wings. And my friends told me that Lincoln didn't have the ramp space for a super tanker wing; therefore, perhaps putting the wing at risk...the mission.

[CONFIRMATION]

DARYL BOHAC: Yeah. Well, part of, sir, part of the discussion there starts with the acquisition of a new tanker which is the KC-46A. And the size of that aircraft and its requirements, we do not have...the way we're currently configured could not have that aircraft stationed here in the size of units the Air Force thinks leads to the most efficiency. There are other Air National Guard units that will get that tanker. The current tanker that we have, the KC-135, is projected to fly till sometime 2040-45 range. Now our tankers were built in '67, '68, '69 or '58, '57, '59. So it's...they're pretty old. But one of our core competencies in the Air National Guard and at this unit is air craft maintenance. And we've had active duty aircraft or air crew abort their own aircraft and get on ours to fly because they're that well maintained. So we're pretty stable here for right now. The Air Force can't do without the KC-135 for quite some time. The first

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KC-46A is scheduled for fielding in 2017 and then it's a program buy of 179. But it remains to be seen...and the Air Force is already in discussion about what will KC--it was originally called KCX--what's KCY and KCZ going to look like? So I think we're, for the moment, stable. That doesn't mean we wouldn't look for potential new missions, but the tanker mission is a great mission for us. I'm not looking to move away from that. [CONFIRMATION]

SENATOR GARRETT: Follow-up question. Have you looked at munitions for the Air National Guard as well? I know, ISR is near and dear to my heart. [CONFIRMATION]

DARYL BOHAC: Uh-huh, right. [CONFIRMATION]

SENATOR GARRETT: And I know that you already do have an ISR mission flying out of Offutt. [CONFIRMATION]

DARYL BOHAC: We do. [CONFIRMATION]

SENATOR GARRETT: But numerous states around the border in Nebraska picked up the RPV mission... [CONFIRMATION]

DARYL BOHAC: Uh-huh. [CONFIRMATION]

SENATOR GARRETT: Iowa and Kansas... [CONFIRMATION]

DARYL BOHAC: Right. [CONFIRMATION]

SENATOR GARRETT: North Dakota. [CONFIRMATION]

DARYL BOHAC: Right, yeah. [CONFIRMATION]

SENATOR GARRETT: Have you looked at, perhaps, that as a new mission? [CONFIRMATION]

DARYL BOHAC: As far as unmanned air space reconnaissance? Yes, sir, we've looked at it a little bit. The problem I think, the challenge that we're going to have in the Air National Guard overall is just how many orbits do we really need, particularly, as we move away from combat operations to we'll call sustained missions in the Middle East because the Air National Guard has been flying combat missions since Desert Storm? They've been flying unceasingly just like the Air Force has even if there hasn't been a ground force presence. But you could...we could turn toward the UAV mission. But I think we're getting saturated there and so I'm not sure that would be a wise move for the Nebraska Air National Guard at this point. Now, other kinds of ASR or excuse me, ISR expansion in conjunction with the 55th Wing at Offutt Air Force Base could be in the

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mix, I think, well into the future. The problem that we have here in the state is, Offutt Air Force Base rates lower on operational characteristics than does the Lincoln Air National Guard Base in terms of runways, etcetera. They don't have a parallel taxiway there. I mean, you've got to roll the jet to the end of the runway, turn it around, then take off. And so it ties up the runway. So I think because of the things we provide for Offutt Air Force Base, alternative operating location, in my career at least four times they've brought their jets down here and parked them on the west side of the airport while they're doing runway repairs. It's a great relationship we have with the 55th.  
[CONFIRMATION]

SENATOR GARRETT: Right. Thank you, General. [CONFIRMATION]

DARYL BOHAC: You bet. [CONFIRMATION]

SENATOR AVERY: Any other questions? Senator Karpisek. [CONFIRMATION]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, General Bohotch (phonetically). I just had to get that in there. (Laughter) [CONFIRMATION]

DARYL BOHAC: Thank you, Senator. If I move towards Wilber or five miles north, I change the way I... [CONFIRMATION]

SENATOR KARPISEK: You'll change your name back. [CONFIRMATION]

DARYL BOHAC: That's true. [CONFIRMATION]

SENATOR KARPISEK: I just want to thank you. I think you've been in these meetings since I've been here. And the whole group, the whole Guard has been very good to us, very open, invited us out for tours. Really appreciate it. We've got to actually see the facilities and know what's going on. And I feel like we've had a great experience where sometimes people don't want you to see exactly what's going on. I feel the exact opposite. The only thing I'm not sure about is your predecessors have all been here and left. And I'm not keen on the idea that somebody might snitch you away from us. But thank you for the great job you did and for all your troops or airmen. We're very proud.  
[CONFIRMATION]

DARYL BOHAC: You're welcome. The relationship that we have, particularly with this committee but also with the Legislature at large, is one we value. And it's one, under my leadership, we will continue to reinforce. And I think Kris will have a vote on whether or not I go anywhere, but I have no intention of leaving. [CONFIRMATION]

SENATOR KARPISEK: Thank you. [CONFIRMATION]

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SENATOR AVERY: I think I may have said this before, but it's nice for the Air Force to get the AG back. [CONFIRMATION]

DARYL BOHAC: Yes, sir. [CONFIRMATION]

SENATOR AVERY: I think we had two Army after General Lempke. [CONFIRMATION]

DARYL BOHAC: That's correct. [CONFIRMATION]

SENATOR AVERY: So congratulations on that. [CONFIRMATION]

DARYL BOHAC: Thank you, Senator. [CONFIRMATION]

SENATOR AVERY: Let me ask you about deployments. Do we still have troops deployed? I think we do. [CONFIRMATION]

DARYL BOHAC: We do. It's...as I mentioned in my remarks, we have Air National Guard folks in Qatar right now flying operational missions over Afghanistan, refueling missions. We have a group of soldiers from the same company, the 195th Forward Support Company, that are currently deployed, should be coming home in a couple of months, I believe. It's about a group of ten or so. We have small groups. We don't have any units currently deployed. But I think we will...I know that we will continue to deploy into the fight, wherever that might be, these small groups and units. That's not going to change. [CONFIRMATION]

SENATOR AVERY: And we will have a bill coming up in a few minutes on emergency management. You still participate in those kinds of activities? [CONFIRMATION]

DARYL BOHAC: Absolutely. We work very closely with Mr. Al Berndt, my assistant director for Emergency Management Agency. We continue to look for ways to support the citizens of this state in response and recovery efforts. [CONFIRMATION]

SENATOR AVERY: Any other questions? I don't see any. Thank you very much for appearing. [CONFIRMATION]

DARYL BOHAC: Thank you, Senator. [CONFIRMATION]

SENATOR AVERY: And I hope you stick around because we have a bill coming up where we will need you. [CONFIRMATION]

DARYL BOHAC: I'm not going anywhere, Senator. So...all right. [CONFIRMATION]

SENATOR AVERY: All right. LB806 is the bill. Anyone wish to speak in support or



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opposition to this nomination? Seeing none, we'll close the hearing on the nomination and we will move to bills starting with LB772 and invite Senator Davis up. Welcome, Senator Davis. [CONFIRMATION]

SENATOR DAVIS: (Exhibits 1, 2) Thank you. Good to see you all again in just a couple of hours here. Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. I am Al Davis, D-a-v-i-s, and I represent the 43rd Legislative District. Today I am introducing LB772. If aerial fire suppression or hazardous material response is immediately required, LB772 would increase the maximum allowable amount of expenditures by Nebraska's Adjutant General from the current level of \$10,000 to a new maximum of \$25,000 without a state of emergency proclamation being issued by the Governor. For the sake of historical perspective, it is important to note that the first time funding was provided for this type of emergency response was 18 years ago in 1996. The amount approved at that time was the current level of \$10,000. In 2012, the same \$10,000 maximum level of expenditure was added to the Governor's emergency program for hazardous material response. Hourly rates for aerial suppression increased on July 1, 2013. These new rates appear on the second page of the excerpt you received from the 2013 Emergency Assistance for Wildfire Control publication. This document was developed by the Wildland Fire Protection Section of the Nebraska Forest Service in cooperation with the Nebraska Emergency Management Agency. The rates in question increased on July 1 of last year by 25 percent across the board. The rates shown in your handout corresponded to the size or capacity of tanks that can be loaded on a specific aircraft. The aircraft load categories most often used in Nebraska are 451 to 600 gallons and 601 to 800 gallons. A plane carrying this type of load could make four to five drops in an hour. It isn't difficult to do the math and see how quickly the current \$10,000 level of funding would be reached or surpassed because of the recent rate increases. LB772 would update the Nebraska Adjutant General's authority to approve expenditures that more closely reflect usage costs based on new hourly rates without the need for an emergency proclamation. I have a letter to offer in support of LB772. It is from Pat O'Brien who is the general manager of the Upper Niobrara White Natural Resources District. I would be happy to answer any questions if I can. However, Jerry Stilmock, representing the Nebraska State Volunteer Firemen's Association is here today and will more fully explain the need for the change proposed in LB772. And after Jerry testifies, if you still have questions when I come up to close, maybe I can address some of those. [LB772]

SENATOR AVERY: Let me start by asking you how you came up with the \$25,000 rather than, say, \$30,000 or \$20,000. [LB772]

SENATOR DAVIS: You know, there wasn't a lot of scientific thought put into that, Chairman Avery. But the thinking that we have--and this calls for the Adjutant General--in reality, a lot of time those decisions are made by the Emergency Management Agency or the volunteer fireman who's running the fire, who's in

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command. So what we're talking about here is, basically, hiring private contractors to come in who might be spray-plane outfitters out in the western part of the state or wherever that's going to happen. So a few years ago, those gentlemen were saying to us, it's just not worth our while to do this. And so there was a decline in the number of crop dusters, essentially, that would carry this out, which is where the increase came from. But our thinking is that a lot of times when these guys are dealing with being in a fire...in charge of a fire command, the last thing they really need to be worried about is, am I getting close to the \$10,000. You know, how am I doing on that? It's really important that you get a quick response to a fire situation. So we thought a \$25,000 limit would give them a lot of leeway. But I don't really anticipate it's going to be a significant increase in cost. I mean, I don't think people are going to be calling people in just for the sake of that. Those gentlemen have a good knowledge of fire and they know pretty much what they need. [LB772]

SENATOR AVERY: Questions from the committee? Don't see any. [LB772]

SENATOR DAVIS: Thank you. [LB772]

SENATOR AVERY: Proponent testimony? Welcome, Mr. Stilmock. [LB772]

JERRY STILMOCK: Thank you. Senator Avery, members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska State Volunteer Firefighters Association. Senator Avery, members, your committee considered an interim study this past fall during November, LR341. One of the items that was considered and discussed at that time was this very issue that the fire chiefs that have these responsibilities that respond to these wildland fires throughout the state, volunteer fire chiefs, were asking for another tool. And that tool would be to increase this dollar amount. We haven't received any reports of any misuse. And mostly what is happening is, imagine your worst day of an emergency. And imagine that emergency being filled with protecting lives of the citizenry, protecting lives of your volunteer force that's out there, and trying to keep in line with am I getting close to that \$10,000 cap. You saw in the fiscal note or you will see in the fiscal note, there was a comment that there did not appear to be any misuse or that there was no reports of any incidents that were reaching the cap. What the fire chiefs have asked in this legislation is just increase that. The amount has been set since 1996. And interestingly enough with General Bohac being here prior, when this legislation was introduced for the first time to put in the Emergency Management Act, there was a recognition of some flexibility needed. And Senator Wickersham brought the measure. And it was General Stan Heng that testified that in these wildland fires, forest fires, tree fires, cropland fires, what is critical is on a moment's notice...a range fire, tree fire, 5, 15, 20, 40 minutes is very important and prompt action is very important to...in order to move forward. For these reasons, we believe it will be very important to go ahead and increase that amount, realizing that the funding still comes out of the Governor's Emergency Fund. It's just that flexibility that

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you would grant the fire chiefs to manage what they're doing, give them a little bit more room. And with those comments, I'd encourage your support for LB772 to advance it to the floor. [LB772]

SENATOR AVERY: Thank you. Questions from the committee? I don't see any. [LB772]

JERRY STILMOCK: The...if I may...I should have, the rates that Senator Davis--I failed to address it--but the rates, those were increased at about 25 percent. And through the efforts of both the State Forest Service and the Nebraska Emergency Management Agency, they learned that one of the things that was happening was these aerial plane pilots, there weren't as many in number to help out throughout the state. And one of the cries was that these rates needed to be increased. So with that eventually happening, it's not unheard of that you can chew through \$10,000 pretty quickly. But all for a good cause, Senators. Thank you. And thank you for allowing me to speak after I said I was finished. [LB772]

SENATOR AVERY: That's all right. [LB772]

JERRY STILMOCK: Thank you. [LB772]

SENATOR AVERY: Nope, now we have a question. Senator Scheer. [LB772]

SENATOR SCHEER: Jerry, maybe you may not be the one to ask and perhaps Senator Davis is. But in looking at the map that Senator Davis provided us with the airports and the retardant at locations, and Senator Davis had said that the reimbursement rate caused a decline in aerial folks that were willing to be part of the use for fire protection, it looks--if the little planes are those that are participating--it really looks to me that the area that is probably most at risk has the least if no providers in that area. Is that a concern? Or is this somewhat outdated that we might have others that would be interested under the new rates? [LB772]

JERRY STILMOCK: I think it's a work in progress, Senator Scheer. I think before the rate increases, I was told that the number of pilots was 18. Now the sign-ups are pushing 22. That was as of the first of the year, actually since this January. So I think with the cooperation of both NEMA and the state forestry office that they're looking to expand on those areas. And I have to believe that they are looking at those areas where you and I and others are not seeing those planes to identify a pilot in that area, particularly in the north-central part of the state if I'm reading what you're seeing, because that's what I'm seeing. [LB772]

SENATOR SCHEER: Yeah, to me it looks like we're most at risk and that's where we have the least protection it would appear. [LB772]

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JERRY STILMOCK: Yes, sir. Very good observation, sir. Thank you. [LB772]

SENATOR AVERY: Senator Karpisek. [LB772]

SENATOR KARPISEK: Thank you, Senator Avery. I'm sorry, I can't help myself. Could one of these fires be started by a novelty lighter? [LB772]

JERRY STILMOCK: Undoubtedly. [LB772]

SENATOR KARPISEK: Thank you. [LB772]

SENATOR AVERY: Any more questions? All right. Thank you, sir. Any other proponents? We are on LB772. Any opponents? Any neutral testimony? Welcome back. [LB772]

DARYL BOHAC: (Exhibit 3) Thank you, Senator. Well, I'm still Major General Daryl Bohac, D-a-r-y-l B-o-h-a-c. And I'm here to give testimony in a neutral capacity on LB772. As been noted, within the Governor's Emergency Fund/Guidelines for Public Officials there is laid out for local emergency managers and fire chiefs a process for attaining aerial suppression and hazmat response support under the current statute. And as noted, that's set at \$10,000 per event without the Governor issuing a state of emergency proclamation. Raising a threshold for a declaration by the Governor from \$10,000 to \$25,000 will only change the threshold cost amount needing to be exceeded by the responders prior to the Nebraska Emergency Management Agency having to contact the Governor's Office to request an emergency declaration which would allow further response support. NEMA has in place a very robust system of monitoring the state conditions on a 24-hour basis and integrating with local emergency managers and first responders. NEMA also maintains contact with the Governor's Office on a 24-hour basis to obtain approvals as needed to carry out the functions of the Emergency Management Act. A historical review of aerial fire suppression at the local level, excluding state and federal aerial suppression for the large fire complexes shows...and you have a chart in the testimony provided to you which I'm not going to read other than to note that from 2005 through 2013, there were 99 incidents with a total expenditure of \$134,793 with an average of \$1,361.54 per fire incident. A review of hazmat activations in 2012 and '13 showed a total of four incidents with costs of \$3,000 outstanding to date. NEMA has found thus far, funds expended for hazmat response are ultimately recovered back to the Governor's Emergency Fund from the insurance carrier that carries the coverage on the cargo or the facility. Thank you, and I'd be happy to answer any questions you might have. [LB772]

SENATOR AVERY: Thank you, sir. Senator Wallman. [LB772]

SENATOR WALLMAN: Thank you for being here, General. [LB772]

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DARYL BOHAC: Senator. [LB772]

SENATOR WALLMAN: And my question is in regard to that train accident, you know, they had up north. [LB772]

DARYL BOHAC: Yes, sir. [LB772]

SENATOR WALLMAN: If that happened in here, would you be called in on that, you think? [LB772]

DARYL BOHAC: If it's a hazardous material incident, it very well possible could be, yes. [LB772]

SENATOR WALLMAN: Okay. Thanks. [LB772]

SENATOR AVERY: Any other questions? I don't see any. Thank you. [LB772]

DARYL BOHAC: Thank you, Senator. [LB772]

SENATOR AVERY: Any more neutral testimony? Welcome, sir. [LB772]

SCOTT JOSIAH: (Exhibit 4) Thank you. My name is Dr. Scott Josiah, J-o-s-i-a-h. And I'm the state forester and director of the Nebraska Forest Service, which is part of the University of Nebraska. Senator Avery, members of the Government, Military and Veterans Affairs Committee, Senator Davis, and colleagues, thank you for this opportunity today to present testimony in a neutral capacity on LB772. Rapid and efficient dispatch of aerial fire suppression assets via aerial applicators in this state is a vitally important component of the wildland firefighter's toolbox. Aerial fire suppression keeps fires small and reduces suppression costs and damage. Nebraska's system of using aerial applicators for fire suppression is an excellent means to both effectively fight wildland fires and to keep costs low. Speed is of the essence in fighting fast-moving wildfires. Delays or temporary holds on aerial suppression efforts can have a huge impact on the size of a wildfire and the damage it causes and puts unnecessary risk...lives and property at unnecessary risk. To better reflect the rising costs and at the request of the Nebraska Forest Service, volunteer fire districts, and aerial applicators, NEMA raised the rates paid to aerial applicators in 2013. With these higher rates, it's quite likely that in the heat of the fire suppression effort involving aerial assets, the current \$10,000 cap on nonemergency expenditures will be quickly reached, possibly in as little time as an hour. As the cap is approached, the fire chief or the incident commander will need to be cognizant of this and place another call to NEMA requesting authorization, otherwise incur the considerable risk of having to pay for the aerial suppression costs themselves. This could cause delays or result in a suspending of the

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aerial support until the calls are made and the authorization is received. This is all happening...to set the context, this is all happening at the same time as when the fire chief or the incident commander is fully engaged in the complex task of managing multiple suppression assets and firefighters on the ground, possibly coming from several responding volunteer fire departments. So there's a lot going on at that time. Increasing the cap to \$25,000 before NEMA has to be called for an emergency declaration will make fire suppression operation much more efficient, effective, and safe. It will allow the fire chief or incident commander to fully focus on managing the firefighting effort. It will help to avoid delays that could complicate wildfire suppression efforts. Thank you again for this opportunity to provide testimony, and I'd be pleased to respond to any questions that you might have. [LB772]

SENATOR AVERY: Thank you, sir. Questions from the committee? I don't see any. [LB772]

SCOTT JOSIAH: Great. [LB772]

SENATOR AVERY: Thank you. [LB772]

SCOTT JOSIAH: Thank you. [LB772]

SENATOR AVERY: Any additional neutral testimony? Seeing none, Senator Davis, you are welcome to close. [LB772]

SENATOR DAVIS: Well, I'll simply say if there aren't any questions, I'll waive closing. [LB772]

SENATOR AVERY: Okay. Do we have questions? Senator Scheer. [LB772]

SENATOR SCHEER: Well, of course we do. Not getting to see you very often, Senator. Do you have any thoughts in relationship to the need for those additional units in that north-central region? Do you see more people coming forward with your newer rates as far as availability of aerial applicators or... [LB772]

SENATOR DAVIS: Well, the rates are already in existence. And I think probably what we need to do is look at somewhat of a recruiting effort in that particular part of the state. You know as well as I do that the farther west you get, the drier it gets. And so I think probably there's been more effort in that part of the state to develop the program. And since the incidence of fire isn't as great in the north-central part, it probably just hasn't been worked on. But I think it would be nice to have aerial applicators close to all parts of the state. I know in the fire in 2012, they were coming from Broken Bow to go to the Ainsworth fire, which is a significant distance. And so you fly up, you fly back, and you fly up, and you're losing time. So I would certainly hope that we could...we would

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see an effort to recruit more. [LB772]

SENATOR SCHEER: Thank you. [LB772]

SENATOR AVERY: Thank you. Any others? I don't see any. Thank you, Senator. [LB772]

SENATOR DAVIS: Thank you, Senator Avery. [LB772]

SENATOR AVERY: (Exhibits 5, 6) That ends...oh, it doesn't end. I have two letters of support here from Patrick O'Brien, general manager of the Upper Niobrara White Natural Resources District, and one from Joel Cerny who I think is with a volunteer fire department or association, district four. With that, we close the hearing on LB772, and we move to LB766 and invite Senator Bloomfield to come forward. Welcome, Senator. [LB772]

SENATOR BLOOMFIELD: Thank you, Senator Avery. Fellow committee members--and welcome to our committee, Senator Garrett--this will be extremely brief. Good afternoon, Chairman Avery--that's compulsory--and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Senator Dave Bloomfield, D-a-v-e B-l-o-o-m-f-i-e-l-d, and I represent the 17th Legislative District. I'm here today to present LB766 to the committee for your consideration. I'm introducing this bill at the request of Major General Bohac. In my opinion, this is a very simple cleanup bill dealing with the tuition assistance program for National Guard. Currently, the Adjutant General is allowed to extend the entitlement period for a National Guard member if they are deployed on federal or state active duty status. LB766 will clarify a member will still be subject to all remaining conditions of the tuition assistance program during the extended period. This bill also removes outdated language. LB766 states that members who have a baccalaureate degree but who have not exhausted their federal tuition assistance benefits will not be eligible for assistance. Thank you for your time. I would prefer to pass any questions you may have to Major General Bohac who will be testifying right behind me. [LB766]

SENATOR AVERY: Thank you, sir. And in deference to your request, I will hold off. [LB766]

SENATOR BLOOMFIELD: Thank you. [LB766]

SENATOR AVERY: All right, we'll now move to proponent testimony. [LB766]

DARYL BOHAC: (Exhibit 1) Good afternoon, Senator Avery. Major General Daryl Bohac, the Adjutant General of the Nebraska Military Department, testifying in support of LB766. As you know, the tuition assistance program is a longstanding, critically

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important program for the Nebraska National Guard which aids in the recruitment of new members and helps to retain quality, high-trained, experienced members. LB766 would not change that. As introduced, the bill will clarify two key provisions of 85-505 and 85-505.01. First, it will remove redundant and dated language from those sections. For example, the reference to "the federal Educational Assistance Program for Members of the Selected Reserve as it existed on September 1, 2001." in section 85-505.01(1) paragraph (c) is no longer applicable. In fact, our research of the Congressional federal record or the Veterans' Administration records did not find a reference to this program, so it creates some confusion. Second, the bill further clarifies who is eligible to use state tuition assistance program, as Senator Bloomfield noted in his introductory remarks. As amended, it would provide that any member--rather than enlisted or officer--who has earned a baccalaureate degree or has not exhausted federal tuition assistance benefits, is not eligible for the tuition assistance program. These amendments do not diminish the Military Department's statutory authority and responsibility under section 85-505.01(6) to manage the tuition assistance program with maximum fiscal efficiency and productivity, an obligation that the agency takes seriously for the benefit of both the state of Nebraska and our military members. These changes provide important clarifications in the application of the state tuition assistance program and ensure we meet the Legislature's intent for this program, which is to strengthen our recruiting and retention efforts in the Nebraska National Guard. I respectfully request your support of LB766 and would be happy to answer any questions you might have. Thank you. [LB766]

SENATOR AVERY: Thank you. I have one. [LB766]

DARYL BOHAC: Yes, sir. [LB766]

SENATOR AVERY: I'm reading here on page 4 that tuition assistance under these sections may...a person may obtain tuition assistance only for one baccalaureate degree. It doesn't address graduate degrees. Are they covered or not? [LB766]

DARYL BOHAC: No, sir. Anything beyond the undergraduate level or baccalaureate level is not eligible for participation. And we changed it from undergraduate to baccalaureate because if a person is attending, say, Southeast Community College and earns an associate degree, under the current statute they would no longer be eligible for the program, is our interpretation. [LB766]

SENATOR AVERY: I'm going to have to leave because I have a hearing coming up in another committee. And I'm going to pass the Chair over to the Vice Chair. [LB766]

SENATOR MURANTE: Thank you. Are there any additional questions? Seeing none, thank you for your testimony. [LB766]



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DARYL BOHAC: Thank you, Senator. [LB766]

SENATOR MURANTE: Are there additional proponents wishing to testify? Are there any opponents? Does anyone want to testify in the neutral capacity? Seeing none, Senator Bloomfield waives closing. And our next introducer is leaving the room as we speak. [LB766]

CHRISTY ABRAHAM: Well, my apologies that you get stuck with the second string, but I am here on behalf of Senator Avery to introduce LB806. The Military Department asked Senator Avery to carry this bill for them, and we were happy to do it. Like the previous bill you heard, this is technical in nature and involves the staff of the Adjutant General. LB806 eliminates the position of chief of staff of the Military Department and adds the option of the Adjutant General appointing a civilian deputy director. If the Adjutant General appoints a civilian deputy director, the Adjutant General may, when the Adjutant General is absent, delegate the authority to perform the military duties to any active officer of the Nebraska National Guard who holds a minimum rank of colonel. If both the Adjutant General and the deputy adjutant general or the civilian deputy director are absent, I don't know, Terri Kattes takes over. No, I'm just kidding. Just kidding, Terri. The military duties may be delegated to any active officer of the Nebraska National Guard who holds the minimum rank of colonel. The state duties may be delegated to any member of the Adjutant General's appointed executive staff. Finally, the bill provides the deputy adjutant general is not required to take leave or a reduction in salary when performing his or her federal duties, except when called to active duty of the United States in support of missions authorized by the President or the Secretary of Defense. Again, General Bohac is here to answer any technical questions you may have about the bill. And I should probably...I didn't introduce who I was. I'm Christy Abraham, legal counsel for the Government Committee. Sorry, Sherry. [LB806]

SENATOR MURANTE: Will you spell that for us? [LB806]

CHRISTY ABRAHAM: Of course. Christy is C-h-r-i-s-t-y, Abraham is A-b-r-a-h-a-m. [LB806]

SENATOR MURANTE: Thank you. Are there any questions for Christy? Seeing none, thank you, Christy. All right. Are there any proponents to LB806? Welcome. [LB806]

DARYL BOHAC: (Exhibit 1) We have to stop meeting like this, Senators. Again, I am Major General Daryl Bohac, the Adjutant General, and testifying in support of LB806. And thank you, Senator Avery, for introducing this bill for consideration. As noted by Christy Abraham, the bill aims to clarify provisions relating to the position of the deputy adjutant general or deputy director of the Nebraska Military Department. It proposes to eliminate the title, chief of staff, that exists in the current statutes at section 55-125 and section 55-126. This title is not relevant to the way we function in the Nebraska Military

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Department and would be confusing if we used it since we already have a full-time chief of staff of the Nebraska Army National Guard. It also preserves the option for the Adjutant General to appoint a deputy adjutant general with the minimum grade of colonel or a civilian deputy director. This distinction would allow the Adjutant General the flexibility to structure the deputy position in a way that best satisfies the needs of the department. The next amendment to section 55-126 harmonizes the leave provisions for the deputy adjutant general with a similar previous amendment made to the leave provisions for the Adjutant General. More specifically, the amendment would provide that the deputy adjutant general will not have to be in a state vacation leave status while performing military duty as long as the deputy adjutant general is still able to perform his or her state duties. Selecting the right individual to serve as the deputy for any agency is challenging. This is especially true for the Military Department due to the unique combination of state and federal functions and multiple employee statuses in which our members serve. The issue is complicated further when the individual selected for the deputy adjutant general position transitions from a full-time military employment to state employment. The new deputy adjutant general faces a significant reduction in pay and leave. With rare exception, the Nebraska National Guard officer selected to fill the position of deputy adjutant general will be new to state employment. The deputy adjutant general would earn 15 days of military leave and 12 days of vacation leave per calendar year. Under current personnel rules, once military leave is expended, the deputy adjutant general is required to use available vacation leave, assuming they had earned any, or take an unpaid leave of absence for additional military duty during that calendar year. General officers in the National Guard are normally expected to perform 24 days of inactive duty training or weekends, 15 days of annual training, and 45 to 60 general officer man-days. This makes it difficult, if not impossible, for a deputy adjutant general to accumulate vacation leave for its intended purpose of personal and family time. I personally faced this issue during my three years as deputy adjutant general prior to my appointment as Adjutant General. Over time, the position of the deputy adjutant general and interrelated nature of the state and military responsibilities of the position have evolved. The deputy adjutant general is regularly required to attend military conferences and meetings as a representative of the Adjutant General and the Military Department. In this capacity, the deputy adjutant general advocates not only for the federal interests of the Nebraska National Guard but also for the interests of the state regarding such issues as manpower, equipment needs, funding, etcetera, for state active duty missions. In addition, evolving technology has made it a reality that the deputy adjutant general has constant contact regarding state issues and timely input on state matters and is expected no matter where...and timely input on state matters is expected no matter where the deputy adjutant may physically be located and regardless of the fact the deputy adjutant general is in a military status. I believe it is unreasonable to expect the deputy adjutant general to use state vacation leave while simultaneously performing military duty and state duty. I believe it is equally unreasonable to expect the deputy adjutant general to perform official state duties in an unpaid status merely because the deputy adjutant general is performing military duty. Again, this amendment

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mirrors a past amendment to the leave provisions for the Adjutant General. The amendment to the Adjutant General leave provisions was made for the same reason that this bill is proposed. The bottom line is that LB806 makes the statutory leave provisions for the Adjutant General and deputy adjutant general consistent and fair. Finally, I would note that this proposal would not affect a civilian deputy director because a civilian deputy director would never be on military orders. Thank you for your time this afternoon. I'd be happy to answer any questions you might have. [LB806]

SENATOR MURANTE: Thank you, General. Are there any questions? Seeing none, thank you for your testimony. [LB806]

DARYL BOHAC: Thank you, Senator. [LB806]

SENATOR MURANTE: Are there additional proponents wishing to testify? Are there any opponents? Does anyone wish to testify neutral? Seeing none, that will close the hearing on LB806. And that should do it for the day, I believe. [LB806]