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Transcriber's Office

Education Committee
January 24, 2017

[LB123 LB124 LB396]

The Committee on Education met at 1:30 p.m. on Monday, January 24, 2017, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB123, LB124, and LB396. Senators present: Mike Groene, Chairperson; Rick Kolowski, Vice Chairperson; Laura Ebke; Steve Erdman; Lou Ann Linehan; Adam Morfeld; Patty Pansing Brooks; and Lynne Walz. Senators absent: None.

SENATOR GROENE: 12:29 and a half, 11:29 and half, 1:29 and a half. I think everybody is here except Senator Morfeld. Welcome to the Education Committee public hearing. My name is Mike Groene, I'm from North Platte. Let me change that, I am from Lincoln County. People from Sutherland and Brady would not like me saying that. I am from Lincoln County, Nebraska, and represent the 42nd Legislative District. I serve as Chair of this committee. The committee will take up the bills in the order posted outside the door. Our hearing today is your public part of the legislative process; you are the second house of the Legislature. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off cellphones and other electronic devices. The order of testimony is: introducer, proponents, opponents, neutral, and closing remarks. If you will be testifying, please complete the green form and hand it to the committee clerk when you come up to testify. Those are back in each corner of the room. If you have written material that you would like distributed to the committee, please hand them to the page to distribute. If you brought letters to the committee from someone else, please drop them off at the beginning of the meeting, even though they're bills later on, so the clerks have time to dispense them. We need 12 copies of all committee members, from all committee members, of your correspondence. If you need additional copies, please ask a page to make copies for you now. When you begin to testify, please state and spell your name for the record. Please be concise. It is my request that you limit your testimony to five minutes. If necessary, we will use the light system. And then of course you will probably be asked questions, unless you're very thorough. Take it as a compliment if you don't get questions, because it means you're very thorough. You will have a green for four minutes; yellow for one minute; and when you get the red, please wrap up. If you would like your position to be known, but do not wish to testify, please sign the white form at the back of the room and it will be included in the official record. Please speak directly into the microphone so our transcribers are able to hear your testimony clearly. The committee members with us today will introduce themselves, beginning at my far right.

SENATOR LINEHAN: Lou Ann Linehan, District 39, which is western Douglas County.

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SENATOR PANSING BROOKS: I'm Patty Pansing Brooks from District 28, right where we're sitting.

SENATOR KOLOWSKI: Senator Rick Kolowski, District 31, southwest Omaha.

SENATOR EBKE: Laura Ebke, District 32, which is Saline, Jefferson, Thayer, and Fillmore Counties, and the southwest portion of Lancaster County.

SENATOR MORFELD: Adam Morfeld, District 46, northeast Lincoln.

SENATOR ERDMAN: Steve Erdman, District 47, about 80 percent of the Panhandle is my district.

SENATOR WALZ: Lynne Walz, District 15, which is all of Dodge County.

SENATOR GROENE: Thank you. Introduce the committee staff: To my immediate left is legal counsel, Charles Garman; to my right, at the end of the table, is committee clerk, Kristina McGovern; and Mandy Miz...I can't pronounce her last name, Mandy, who was the clerk here for in the past, is helping Kristina out. She's new. This is only her second day as a clerk. And our pages are Alexi Richmond and Samuel Baird. They're both students at UNL, so they will be helping. Please remember that senators may come and go during our hearing, as they may have bills to introduce in other committees. I'd also like to remind our committee members to speak directly into the microphones. Also, for our audience, the microphones in the room are not for amplification, but for recording purposes only. Lastly, we are an electronic-equipped committee, any information provided electronically, as well as in paper form. Therefore, you may see committee members referencing information on electronic devices. Be assured that your presence here today and your testimony are important to us and is critical to our state government. If you see me texting on my phone, it's because I'm texting back to the office for an answer to a question. So thank you. We will start with LB124, presented by Senator Baker. And he will introduce his bill. [LB124]

SENATOR BAKER: Good afternoon, committee members. I am Senator Roy Baker, R-o-y B-a-k-e-r. I'm introducing LB124 on behalf of the community colleges. LB124 changes one thing: probationary period for community college staff to be changed from two years to three. That is consistent with the probationary period for professional staff in K-12 schools. Four-year colleges and universities of course have a different tenure process. The purpose of a probationary period is to determine whether or not a person can perform at the desired level. A three-year probationary period would give the community college sufficient time, a longer period of time,

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to work the probationary staff members to bring the level of performance up to the level of excellence desired. I see it being an advantage both to the institution and to the teacher. If the institution has to make a decision after two years they may not be as quick to give tenure. If anybody has a question about the difference between probation and tenure status, I would explain that. If not, I'm not going to tell you something you already know. So at that point, I'll answer any questions you may have. [LB124]

SENATOR GROENE: Any questions from the committee? Senator Kolowski. [LB124]

SENATOR KOLOWSKI: Yes, thank you very much, Mr. Chairman. Senator Baker, is there any kind of stipulation for part-time staff? Are they looked at in any way, shape, or form as far as continuous employment tied to something like this? [LB124]

SENATOR BAKER: You know, I'm not sure. But I think that in the K-12 schools that it's the same period of time. [LB124]

SENATOR GROENE: Senator Linehan. [LB124]

SENATOR LINEHAN: Thank you, Mr. Chairman. I just have a...so I understand probationary, I understand tenure, but define tenure as it means here. They could still be dismissed for cause, right? If you just give us your understanding of what you mean by tenure. [LB124]

SENATOR BAKER: Right. A probationary teacher still is entitled to due process rights, meaning the time lines for notification, opportunity for a hearing, etcetera. The same is true for tenured teachers, but there's also substantive due process. If you're going to dismiss a tenured teacher, you have the burden of proof to show that the performance is not adequate. Probationary teacher, the substance doesn't matter. You know, they might ask for a hearing, ask for an explanation, but in the end it doesn't matter. If you decide that person is not at the level of excellence you want, that's good enough. [LB124]

SENATOR LINEHAN: Thank you very much. Thank you. [LB124]

SENATOR GROENE: Senator Erdman. [LB124]

SENATOR ERDMAN: Senator Baker, has this been a serious problem? Is there a lot of people that they should have...they needed one more year to prove that they can do what they're doing? It seems to me two years is sufficient. [LB124]

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SENATOR BAKER: I'm going to defer to the people behind me to speak to the community college. I don't have any direct knowledge of the community college situation. [LB124]

SENATOR ERDMAN: Thank you. [LB124]

SENATOR GROENE: So I assume you brought this for the community college administrations. [LB124]

SENATOR BAKER: Exactly right. For former Senator Adams, to be exact. [LB124]

SENATOR GROENE: Thank you. Any other questions? Thank you, Senator Baker. Are you going to stay for the closing? [LB124]

SENATOR BAKER: I'll hang around a bit and I will waive closing if I have to go before. [LB124]

SENATOR GROENE: Introducers...I mean, proponents? Remember, first in line is how we act here. By the way, it is a good idea, so we have an idea about how many people are going to testify, to move to the front row so that we can just have an idea. And it works quicker if the next testifier steps forward. Thank you. [LB124]

DENNIS HEADRICK: Good afternoon. I'm Dr. Dennis Headrick, D-e-n-n-i-s H-e-a-d-r-i-c-k, vice president of instruction for Southeast Community College. I've had the opportunity to be an administrator for Southeast for over 25 years, and the opportunity to hire many faculty in a variety of subject areas. I'm here to testify today in favor of LB124, as I see it as a great benefit to our instructors, the college itself, but especially the students. Many of the faculty that we hire, they teach in career and technical areas. Many of them are leaving a job one day, walking into a classroom the next, and they've not had any opportunity for any kind of teacher preparation to be able to deliver the content or even know how to deliver that content. In the last 18 months, we've hired 82 faculty, 55 of them being in those career and technical areas. SCC, as well as all of the other community colleges, will each work with those new faculty to try to prepare them for that classroom, for that laboratory, so that they can share their knowledge and skills that they have with the students. That process takes time, for them to be comfortable in that classroom, to know what's the best way for them to teach those students and share that information. At Southeast, we do an annual evaluation of every new faculty person. We observe them on a term-by-term basis to try to assist them and help them along the way. But due to the notification of contract renewal, we're limited to basically one evaluation because that becomes the benchmark maybe of areas that they have to improve upon. That before we're able to get to that second evaluation, April 1

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comes along where we have to give them notice if we wish to renew their contract. Obviously the K-12 education system has recognized that even with a teacher preparation training requirement of their teachers that a three-year probationary period is an advantage for that teacher to hone those skills. So it seems to us to just make sense that a three-year probationary period for community college instructors would also benefit those teachers. We would also see a change from a budgetary standpoint. Hopefully it would reduce the turnover of our faculty, we'd save money in advertising, staff time. But hopefully the greater impact is we would be able to retain faculty that would then be more seasoned to teach our students. So I would like to ask that the Education Committee give this serious consideration for approval. Thank you, and I'd be glad to answer any questions. [LB124]

SENATOR GROENE: Senator Erdman. [LB124]

SENATOR ERDMAN: Thank you for coming. How many staff do you have if you hired 82 new ones? [LB124]

DENNIS HEADRICK: We have 350 full-time faculty. [LB124]

SENATOR ERDMAN: So that's about 25 percent turnover? What do you attribute the turnover to? How come so many turnovers? [LB124]

DENNIS HEADRICK: Well, obviously we have many people that are long-term and so we have some right now that we've been adding additional faculty to try to grow the institution. But we've also had some retirements, and so in the last year happened to be a year where we hired quite a few, in the last 18 months I should say, we hired quite a few. [LB124]

SENATOR ERDMAN: Okay. Baby boomers going away, huh? [LB124]

DENNIS HEADRICK: They are. [LB124]

SENATOR ERDMAN: Okay. So the difference between a tenured teacher and one that's on probation, I'm having a little trouble getting my hands around why three years is better than two. It would seem like, in all the positions that I was in that I hired people, I knew, for example, at the end of a year whether those people were going to make it or not. I didn't need another two years to figure that out. Why do you need three years? [LB124]

DENNIS HEADRICK: Well, I think part of it is that, you know, many of our faculty that we hire, they're not dealing with the technology that we deal with. So there's a learning curve in

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terms of technology. Obviously, there's a learning curve in just what works best for students and how to learn. And so when you think about it, that you know, there's not a lot of terms in a year and a half's time for that to happen. And so that's why we think one additional year would give us at least more terms for those instructors to have that opportunity in front of students to be more successful. [LB124]

SENATOR ERDMAN: So if you have a two-year probationary period now, at the end of that two years you just don't renew that contract. They're not under tenure so it's not a big deal? [LB124]

DENNIS HEADRICK: I'm sorry? [LB124]

SENATOR ERDMAN: If you have a two-year probationary period and you don't renew their contract for the third year, they're not tenured and they just go away, right? [LB124]

DENNIS HEADRICK: Exactly. [LB124]

SENATOR ERDMAN: So you go two years, you give the person their contract. At the end of the third year you discover that that's not the right person for that position. How difficult is it for them to get rid of them, to make a change? [LB124]

DENNIS HEADRICK: Well, obviously at that point, they, as Dr. Baker mentioned, you have an opportunity for a hearing. [LB124]

SENATOR ERDMAN: Okay. [LB124]

DENNIS HEADRICK: You obviously have to have much more documentation to show reason for cause. So you obviously have legal costs affiliated with that. Typically at that point you have a union that's involved and so, you know, you have to go before a board. There's costs associated with that. So it just becomes a little more challenging from a documentation standpoint. [LB124]

SENATOR ERDMAN: From the point of a staff, I think I would much rather have it be two years. [LB124]

DENNIS HEADRICK: Okay. [LB124]

SENATOR ERDMAN: You know what I'm saying? I'm just...think about that. Thank you. [LB124]

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SENATOR GROENE: Any other questions? Senator Kolowski. [LB124]

SENATOR KOLOWSKI: Dr. Headrick, would you describe the kind of teacher training programs that you have when you have new staff come on board and taking that two- or three-year time period to bring them to maturity in the classroom so they are used to the technology and the range of students that they'll have? What do you do to make that happen? [LB124]

DENNIS HEADRICK: Well, we do a variety of things. One, where we can, we try to reduce the number of classes that they're teaching, so that they're not teaching a full load right off the start. So hopefully they can kind of learn into that. We try to have a mentor instructor, someone who's seasoned to work with that instructor, so if they have questions, concerns, that type of thing. We have professional development, obviously, that we do to help them in that regard. And as I mentioned, we do the, for us it's quarterly, because we're on a quarter calendar, quarterly observation where we're in that classroom to identify with them, you know, how we can help them in that regard. Every new group that we bring in as instructors we kind of have a cohort group that we also partner them with, a division dean, so that they can get together. We have materials that we ask them to read to learn about teaching best methods and that type of thing. So again, depending a little bit on their experience and comfort level, it varies. But we think we have a fairly active process, but it's still, you know, 18 months goes very quickly. [LB124]

SENATOR KOLOWSKI: And your training for those staff development and all the rest with your staff, that's done internally or do you have a circuit of people that you can bring in or a combination of things? [LB124]

DENNIS HEADRICK: Typically right now it's internally, yeah. [LB124]

SENATOR KOLOWSKI: Thank you. [LB124]

DENNIS HEADRICK: Uh-huh. [LB124]

SENATOR GROENE: Any other questions? [LB124]

SENATOR WALZ: I have a question. [LB124]

SENATOR GROENE: Senator Walz. [LB124]

SENATOR WALZ: And I'm just trying to clarify. [LB124]

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DENNIS HEADRICK: Sure. [LB124]

SENATOR WALZ: So if you have somebody that comes in, they usually don't have prior teaching education? [LB124]

DENNIS HEADRICK: Correct. [LB124]

SENATOR WALZ: Correct. Okay. [LB124]

DENNIS HEADRICK: Right. [LB124]

SENATOR WALZ: I just wanted to clarify that so people understood that. [LB124]

DENNIS HEADRICK: Yeah, we may bring a welder in and on Friday they're welding and then on the next week, you know, they're now a teacher, and in maybe within two days they're in a classroom. So, yes. [LB124]

SENATOR WALZ: Right, yeah. Which makes...yeah. It's a big change for people. [LB124]

DENNIS HEADRICK: It is a big change. [LB124]

SENATOR GROENE: Senator Pansing Brooks. [LB124]

SENATOR PANSING BROOKS: Thank you. Thank you for coming. I guess I'm interested in Senator Baker mentioned the K-12 requirement of three years versus the community colleges. And so I think about the fact that there are schools that have trade...I mean, we have trade school agreements with...between the community colleges and the public schools, isn't that right? And so theoretically the people with...you could go to school, you could go to be a teacher at a community college, and become tenured far quicker than you could if you went through the normal rigors of the requirements of K-12. [LB124]

DENNIS HEADRICK: Correct. The instructors that we hire, after two years they're tenured. If you're teaching at a K-12 school, you have to go three years. [LB124]

SENATOR PANSING BROOKS: Okay, so just because you choose to go to teach at Southeast Community College versus teaching...because you're teaching some of the same students. Isn't that right? [LB124]

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DENNIS HEADRICK: Well, if you have what we call dual credit opportunities... [LB124]

SENATOR PANSING BROOKS: Yes. [LB124]

DENNIS HEADRICK: ...where you may be teaching a college course to high school students,... [LB124]

SENATOR PANSING BROOKS: Right. [LB124]

DENNIS HEADRICK: ...yes, that's true. [LB124]

SENATOR PANSING BROOKS: Like the trade program that's at Southeast Community College? [LB124]

DENNIS HEADRICK: Well, a good example might be welding, that we may be teaching a welding course which may have students, if they're coming to our campus, that are still in high school, as well as other students. We have situations where we may have our instructor going to the school and teaching the same class to high school students only. [LB124]

SENATOR PANSING BROOKS: So it seems like if we have certain standards for the K-12 kids and then they're also being able to use certain other educational opportunities that we ought to have similar requirements, doesn't it? Is that what you're sort of proposing? [LB124]

DENNIS HEADRICK: I think that's what we would agree with, yes. [LB124]

SENATOR PANSING BROOKS: Okay, thank you. [LB124]

SENATOR GROENE: Any other questions? How many have you riffed, or whatever, asked to leave, that you wish you'd have had another year? [LB124]

DENNIS HEADRICK: Well, I have to tell you that after 25 years my memory isn't as good as it used to be. But what I can tell you is of the 55 instructors that I mentioned that we've hired in the career areas in the last 18 months, we've already lost 5. [LB124]

SENATOR GROENE: By choice? [LB124]

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DENNIS HEADRICK: What's that? [LB124]

SENATOR GROENE: Did they leave on choice? They found out they weren't cut out for it or because you asked them to leave? [LB124]

DENNIS HEADRICK: I would say a variety of reasons. Typically they know that there's a two-year window. They know that, you know, that at the end of their probationary period if they're not doing well that they do not have any rights. So at that point, most of them, if they believe that it's not working out, that they will resign. [LB124]

SENATOR GROENE: My job also to play Gabriel's advocate here, but if you got three years of employees, you got three years you can riff without going into the...when budget crises, instead of going into maybe riffing the bad tenured individual. As management, it helps you that you have that pool of people that you can terminate their employment without a problem when you have budget situations, does it not? [LB124]

DENNIS HEADRICK: You...yes, I mean, you have a longer window of time for them being on probation in which they would have no rights. You're correct that if that is your decision to reduce staff that... [LB124]

SENATOR GROENE: It's easier. [LB124]

DENNIS HEADRICK: They would have an additional length of time there that they don't have currently. Yes. [LB124]

SENATOR GROENE: Yeah. Thank you, sir. Anybody have questions from the committee? Thank you, sir. [LB124]

DENNIS HEADRICK: Thank you. [LB124]

KIM KUSTER DALE: Good afternoon, everyone. My name is Dr. Kim Kuster Dale, those are three separate names; Kim, K-i-m, Kuster, K-u-s-t-e-r, Dale, D-a-l-e. And I am currently serving as the executive vice president at Western Nebraska Community College, so some representation from the other side of the state. I am responsible currently for a variety of things at Western, and maybe most importantly the quality of instruction that we have at Western, as the chief academic officer. But I'd also like to share with you that I am a former high school, community college, and university faculty member, so I'm coming with that perspective as well. I'm testifying in favor of LB124 to benefit both faculty and teaching institutions. At Western, hiring a new faculty

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member is a very, very important investment for our college and our communities. You can imagine being in a rural area like the Panhandle it can be very difficult to recruit and retain staff, and in particular, qualified faculty. And to your point, I think it's important that everyone know and understand that the qualifications to hire a community college faculty member, first and foremost it's about having content knowledge. So if we're hiring someone to teach psychology, they must have a master's degree in psychology, but there is no requirement to have any experience in pedagogy. Now, would we prefer that? Absolutely. However, we don't always get deep pools of folks with that type of experience. And as Dr. Headrick spoke about with the career and technical education field, oftentimes we are hiring someone maybe to teach automotive technology and they have owned their own business, they're excellent at what they do, but perhaps have never taught before. So that's why it's important to have time to evaluate and support these faculty. A two-year probationary period for new teachers in practice actually translates to three semesters in which to evaluate, due to the notifications requirement for nonrenewal. So if we evaluate a teacher, and even think about really anyone for that matter, within their first year, you're getting to know them, they're getting to know the organization, trying to understand the culture. That takes time and maybe you're not necessarily seeing areas that need improvement right away. But even when you do, you're giving that faculty member one semester to improve after one year before you have to make that decision. And at Western, we have a process for our faculty where we have two evaluations of each new probationary faculty each semester. So we're getting in there as much as possible to see what's going on. And speaking to the other support that we have, we have a variety of technology support people and programs to help those folks get up to speed. Because as you can imagine, teaching with technology is a very important role for teachers these days. So even the most seasoned teachers often need more than three semesters to necessarily demonstrate the competency. And at WNCC this may not sound like a lot, because we are a smaller institution, but two out of...two probationary faculty members in the last three years have not been retained because we have not had sufficient evidence. And again, getting back to how important that decision is, it's not like we have oodles and oodles of these folks in line waiting for these positions. So we take this process really, really seriously, and that extra year would really help both the institution and the faculty member, having more time to make the best decision. So we really feel like this is a win-win solution, providing that extra year for teachers to demonstrate competency. And then, as Dr. Headrick spoke about, this is an expensive process to recruit, to hire, to train. We really want to make sure we have the right person and we want to use our taxpayer dollars very judiciously. And lastly, I think it's important to share that I have had a conversation with our faculty association at Western, and there is unanimous support from our faculty association for this LB124 change. So with that, thank you very much for your consideration. Thank you, Dr. Headrick, for fielding many of those questions, but I'm happy to answer some as well. [LB124]

SENATOR GROENE: Any questions? Senator Pansing Brooks. [LB124]

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SENATOR PANSING BROOKS: Thank you. Thank you for coming clear out here, Dr. Kuster Dale. I was interested in do you have an idea of why this initially was set forth as two years, rather than three? Do you know any of the history of that? [LB124]

KIM KUSTER DALE: What I do know is that this issue was brought forward to the Legislature in 2007 by Senator Harms for consideration to become three years, as opposed to two. [LB124]

SENATOR PANSING BROOKS: Okay. But do you know why it was initially created as two years? That's what I was wondering. [LB124]

KIM KUSTER DALE: I don't know, but I think it's because it was consistent with K-12. So I may have some other folks who know more, but that that was consistent, but then K-12... [LB124]

SENATOR PANSING BROOKS: At that time. [LB124]

KIM KUSTER DALE: But then K-12 changed. [LB124]

SENATOR PANSING BROOKS: Okay. And I think there's a...that we keep hearing about a tendency to not hire tenured teachers and to have more part-time teachers. That there is a world out there, I'm not saying you guys or anybody, but that there is a world out there that is doing more with adjunct professors and professors that aren't necessarily tenured and with...because of cost concerns. So can you address that a little bit, in light of this bill? [LB124]

KIM KUSTER DALE: Uh-huh. Well, my response to that is that at Western we actually have a very high percentage of full-time faculty because we struggle with finding adjuncts in certain areas. However, the reason that using adjunct faculty came about in the first place was to get that experience. So as you know, it has become sort of a strategy to manage costs, but it's also to bring in expertise from the field to provide that real world education in the classroom. So I find that extremely valuable from an instructional perspective. My experience at Western is that we have many more full-time faculty. And when we talk about tenure, we're talking about that process where someone moves into sort of that nonprovisional area. We would always, always love to hire someone who we have that availability. Because with that, you also get service to the college, which is another important piece to the job description. And like Dr. Headrick spoke about, new faculty come in, we don't require necessarily that service to the college piece because we want them to focus on instruction and improving their pedagogy. But that's sort of the differentiation between the two positions. An adjunct will come in, teach, and then go home;

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where that full-time person is really investing in the college and we're investing in them.
[LB124]

SENATOR PANSING BROOKS: Uh-huh. Just one more thing: So, number one, I'm just grateful for the amount, the work and the education you do for a part of our state that has less people. And so it's really important. [LB124]

KIM KUSTER DALE: Thank you. [LB124]

SENATOR PANSING BROOKS: What percent...are you doing a lot of distance learning?
[LB124]

KIM KUSTER DALE: Uh-huh. [LB124]

SENATOR PANSING BROOKS: And what percent would you say of your classes or your students access courses via distance learning? [LB124]

KIM KUSTER DALE: Well, if we define distance learning as on-line education, blended, or through the ITV system, it's probably safe to say 50 percent. [LB124]

SENATOR PANSING BROOKS: Wow. Okay, thank you very much. Interesting. [LB124]

KIM KUSTER DALE: Uh-huh. [LB124]

SENATOR GROENE: Senator Kolowski. [LB124]

SENATOR KOLOWSKI: Doctor, thank you for your testimony today. A few quick questions, one is kind of the big picture across the 50 states. Where do we stand, as far as two years compared to three years or more, whatever it might be? Do you have any idea on the numbers and categories in that? [LB124]

KIM KUSTER DALE: As far as other states? [LB124]

SENATOR KOLOWSKI: Yes. [LB124]

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KIM KUSTER DALE: I can't speak from a national perspective, but I come from the state of Colorado, and that rule is three years with an optional fourth year for community college faculty. [LB124]

SENATOR KOLOWSKI: An optional? Okay, thank you. Also, on evaluating a teacher then, tell us what you do as far as are there surveys being done of the staff themselves, outside eyes you can bring in of a technical nature if you don't have the expertise in that particular area, student summaries at the end of the coursework? What else do you do? [LB124]

KIM KUSTER DALE: Very good, yes. [LB124]

SENATOR KOLOWSKI: Been there, done that. [LB124]

KIM KUSTER DALE: So from a supervisory perspective, so what a department chair would do is, there's a three-part evaluation process. One is overall performance, another is classroom observation, and then the other are student evaluations. So all of our faculty are evaluated at the end of every semester for every course. So that's a three-part evaluation process for faculty, but then we also have a position which is a faculty on special assignment called a teaching and learning coordinator. And they have a role where they go in the classroom, not from an evaluative perspective but from a coaching perspective. They'll go in, they'll see what that teacher is doing, make suggestions for improvement, as well as going into what the on-line content might look like, since we do so much in the virtual world. So we strive to provide all of that support for all of our faculty. [LB124]

SENATOR KOLOWSKI: When you have a mentoring situation, if you have more than one person in a particular slot doing something, is that mentor...does he or she receive a stipend to assist that new teacher? [LB124]

KIM KUSTER DALE: We have not provided a stipend. We provide a stipend to the teaching and learning coordinator. [LB124]

SENATOR KOLOWSKI: Thank you. Thank you very much. [LB124]

SENATOR GROENE: Any other questions? Thank you for your testimony. [LB124]

KIM KUSTER DALE: Thank you. [LB124]

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SENATOR GROENE: Next proponent. That will end that segment. Opponents? [LB124]

JASON HAYES: (Exhibit 1) Senator Groene, good afternoon, and members of the Education Committee. For the record, I am Jason Hayes, J-a-s-o-n H-a-y-e-s, and I am here representing the Nebraska State Education Association. I am testifying in opposition to LB124. NSEA is opposed to any attempts to extend the probationary period beyond the current two-year period. Three years is an unreasonably long time period for a community college to determine if a professor could either be retained or removed from probationary status. Although there is a three-year probationary period for K-12 teachers, these educators have additional probationary protections that are not afforded to their community college peers. I cite Section 79-831 and I attached it to the handout. That provides a notice requirement time line and provision of a hearing officer for a probationary period termination of K-12 certificated staff. And I just want to add, based from the previous discussion that it's my understanding this was changed from two to three years back in 1983 and these additional protections were put into statute at that time. It seems clear that the current trade-off for only having a two-year probationary period in community colleges is that termination during this period is relatively quick when compared to the K-12 requirements. At the very least, if the probationary period is extended, then similar requirements as those found in 79-831 should also be implemented for community college educators. The current two-year period is an adequate period of time to determine the ability of an educator to teach at the community college level. And I'll just add I'm also an adjunct professor at Doane University and some of the things that I find is that I receive student evaluations after every term, we go...we have five terms a year, and so I get immediate feedback from the college students as to my abilities, as to the administration that oversees me gets that feedback as well. I think another difference that's very important to say between the K-12 educator versus community colleges is that K-12 educators are educating very young children. Teaching a community college student, if they don't feel like they're getting the amount of education that they're paying for, they're very assertive in letting the administration know, as well as letting the professor know that changes need to be made. And so I think that's why a two-year period for community colleges is sufficient, because you do have those college students that have the ability to go to administration. Whereas perhaps a third grader, a fourth grader may not be in the same positions. So I thank you for your time and I'm happy to answer any questions you may have. [LB124]

SENATOR GROENE: Questions from the committee? Senator Erdman. [LB124]

SENATOR ERDMAN: Thank you, Senator Groene. So the teachers at the community college are members of your organization? [LB124]

JASON HAYES: That's correct. [LB124]

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SENATOR ERDMAN: On the second page of the handout you gave us, under 79-831, in the first sentence it says "Any probationary or permanent certified employee whose contract of employment may be amended." Can you explain what "permanent employee" is? [LB124]

JASON HAYES: Well, my understanding would be that would be somebody who would be in their position more than three years, that they would go from probationary certificate of employee status to permanent certificated employee status after three years. [LB124]

SENATOR ERDMAN: I have a little trouble with that word "permanent." [LB124]

JASON HAYES: I understand. Although, you have to due process. There are ways to go through that procedure. [LB124]

SENATOR ERDMAN: Let me share a little background. We had an employee we hired once and our handbook used to say for 18 months...for 6 months you're probationary, then you become a permanent employee. We terminated him, he took us to court, and the court said your handbook says they're a permanent employee. Guess what? We had a problem with that. So when that says permanent, I'm not so sure that's the correct word to use. Permanent means different things. Words have meanings. [LB124]

JASON HAYES: Yeah. [LB124]

SENATOR ERDMAN: And it appears that permanent may mean permanent in the case with tenure. [LB124]

JASON HAYES: I've found, Senator, that nothing in life is ever permanent, so. [LB124]

SENATOR ERDMAN: That's what it says. [LB124]

SENATOR GROENE: Any other questions? So what percentage of the statewide tenure, and not certified, but tenured employees that are considered instructional staff at the community college are your members? [LB124]

JASON HAYES: I don't have those numbers in front of me, but I'd be happy to get that for you. You're asking for the numbers of our members that are tenured community college teachers? [LB124]

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SENATOR GROENE: Working at the community...yeah. [LB124]

JASON HAYES: Okay. Yeah, I'd be happy to get that for you. I don't have that in front of me. [LB124]

SENATOR GROENE: Is there another union that represents them, or are you it in the state (inaudible)? [LB124]

JASON HAYES: I don't know. I believe we're the organization that represents them, so to the extent that there are members and certainly there are nonmembers, you know, there are teachers that are not members of our organization, so. [LB124]

SENATOR GROENE: Kim, I'll say that first name, mentioned something, there was a change after Senator Harms had introduced something. [LB124]

JASON HAYES: I believe what she was referring to is that this proposal was brought up a few years back when Senator Harms was in office and he had brought that proposal forward. But it's my understanding that... [LB124]

SENATOR GROENE: She mentioned something, there was a change to the certified staff at public schools. [LB124]

JASON HAYES: Yeah, well, not wanting to speak for her, I think that in one respect she was referring to that Senator Harms brought this legislation a few years back, but I don't know if it got out of this committee. The other thing that she may have been referring to is the fact that it went from a two-year probationary period for K-12 certificated staff and that changed to three years in 1983. [LB124]

SENATOR GROENE: But that was prior to Senator Harms' attempt. [LB124]

JASON HAYES: Yeah, sure. [LB124]

SENATOR GROENE: All right, thank you. Senator Walz. [LB124]

SENATOR WALZ: I just have another question. So certificated employee are the people who are teaching the trades at certified... [LB124]

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KIM KUSTER DALE: I'm assuming, I don't know...(inaudible). [LB124]

SENATOR GROENE: Excuse me, we...that's not kosher. You're not supposed to. [LB124]

SENATOR WALZ: Okay. All right, are they certified...sorry. [LB124]

JASON HAYES: Well, maybe I can help a little. Like, to be a teacher at Doane University, I have a terminal degree, which would be juris doctor, so being able to teach classes in my discipline field, whereas that's typically how community colleges--Doane University, other colleges--will hire somebody who are...not necessarily have an educational background to teach related classes. [LB124]

SENATOR WALZ: Okay, thank you. I apologize. [LB124]

SENATOR GROENE: Thank you, Jason. Whoops. [LB124]

SENATOR PANSING BROOKS: Sorry. Thank you, Senator Groene. [LB124]

SENATOR GROENE: Senator Pansing Brooks. [LB124]

SENATOR PANSING BROOKS: Thank you, Mr. Hayes. I guess I'm glad that Senator Erdman brought up, I guess is the permanent certificated employee somebody who didn't receive tenure at year three? I'm trying to figure out what that is in this. Huh? That? [LB124]

SENATOR KOLOWSKI: That's K-12. [LB124]

SENATOR PANSING BROOKS: I know, I'm just asking him about that. [LB124]

JASON HAYES: Yeah. Well, Jay Sears would be the person to ask for that. But my understanding is, is that you transition from that probationary period to a permanent certificated employee after the three years. [LB124]

SENATOR PANSING BROOKS: Okay. [LB124]

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JASON HAYES: Now, you know, obviously, "permanent" is a word of art in that there are other statutes that deal with changing that permanent status. I don't know if I answered your question, but... [LB124]

SENATOR PANSING BROOKS: It may take a little... [LB124]

JASON HAYES: Okay. And I'll be happy to get back to... [LB124]

SENATOR PANSING BROOKS: ...Law Review article. But anyway, that sounds fine. And then the other question I have is it seems to me that extending the period, and I just...so the main problem that you have is that this kind of language is not added, is that correct, to for the community college teachers? [LB124]

JASON HAYES: You know, I provided that as a possible other alternative that the committee may wish to go to. I think the main thing is, you know, is a community college, are they able to determine the adequacy of a person to teach, a college professor, within a two-year period of time. And our...we would suggest that that two years is sufficient, particularly with a college-age student. [LB124]

SENATOR PANSING BROOKS: Yeah, okay. So I'm just trying to find out more information. It seems to me, because you're representing teachers, correct? [LB124]

JASON HAYES: Correct. [LB124]

SENATOR PANSING BROOKS: So it seems to me that teachers would like to have more opportunity to become certified, rather than a shorter window in which they can become tenured. [LB124]

JASON HAYES: You're...okay. [LB124]

SENATOR PANSING BROOKS: So I guess I'm trying to understand. [LB124]

JASON HAYES: I guess we'd have to kind of peel back the onion and try to determine what's the intent behind this proposal. [LB124]

SENATOR PANSING BROOKS: Okay, that would be good. [LB124]

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JASON HAYES: I think it was suggested earlier that perhaps it would be easier to terminate community college teachers within that three-year period, versus a two-year period. [LB124]

SENATOR PANSING BROOKS: Okay. Or easier for the teachers to be able to show their value within that three-year period. [LB124]

JASON HAYES: Well... [LB124]

SENATOR PANSING BROOKS: I don't know, I'm just, I'm asking. What's happening around the country? [LB124]

JASON HAYES: I think that, you know, the committee is really going to have to decide is adding another year going to make all the difference to determine if that is an adequate professional in the classroom. And we would argue for the point that two years is sufficient. [LB124]

SENATOR PANSING BROOKS: And one other question: So do you know if these teachers generally are full-time employees that are up for tenure? Do they teach all year round or, I mean, are they teaching one course for one...I don't know, some of them are a quarter system. [LB124]

JASON HAYES: Yeah. [LB124]

SENATOR PANSING BROOKS: So do the teachers necessarily have the opportunity within two years to truly show their value? [LB124]

JASON HAYES: Well, every community college is different. I'm sure that there are some teachers that are covered by this that are, you know, perhaps they're teaching every semester, every quarter maybe two or three sections. Whereas, as compared to somebody who's only teaching one section, I think that might be a valid point. But, you know, you still have a period of time, you have student evaluations that would indicate if that professor is able to do the job or not. And I do think as the point I made earlier with regard to the age of the student is very important in this instance. An 18-year-old, a 20-year-old, if they don't feel like they're getting the price they're paying for, you know, they've got the ability to go to administration. There's many avenues for them to communicate with administration their displeasure in the education they're receiving. [LB124]

SENATOR PANSING BROOKS: I would agree except in the trade schools, like the trade program that LPS has. Those are high school students. So I agree middle and grade school kids don't have that opportunity or, I mean, wouldn't be able to speak for themselves. But I even

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wonder about some of the high school kids. Anyway, interesting. Thank you very much for your time. [LB124]

JASON HAYES: Thank you as well. [LB124]

SENATOR GROENE: Any other questions? Senator Kolowski. [LB124]

SENATOR KOLOWSKI: Thank you, sir. Mr. Hayes, I'm a little concerned that NSEA didn't back this. That in my own experience in a career that included teachers in the two-year time period, as well as the three-year time period, as they came into our district and into our buildings, I really liked the three-year aspect because we had more time to work with them and do the things that we would like to do that I think that made a difference. Your issue of students with the age level of the community college students going and protesting or talking about to someone in the administration about their teachers, they also vote with their feet, because they may not stay in that class. And that may be determined by the amount of time before you don't get a rebate or a return of money if you're in the class X number of weeks that would come back to them. So you may not even ask them what happened or what happened to those classes or other being taught. Kids in elementary and middle school have an advocate in their parents, and I hope the parents, as they do in most districts, if they have a concern about what's going on in that classroom they'll contact the teacher, contact the principal of the building, and all the rest. So just I favor the three year because you build a relationship and trust and results I think over that time when you're doing things correctly. And I'm just sharing that as far as a background on the whole thing. Would you like to react to any of that? [LB124]

JASON HAYES: I would just say that, you know, then perhaps some of those additional protections should be added as they were in 1983. That's something the committee may want to consider. [LB124]

SENATOR KOLOWSKI: And I appreciate having those, and I don't disagree with that also. Thank you. [LB124]

SENATOR GROENE: Any other questions from the committee? Thank you, Jason. [LB124]

JASON HAYES: Thank you. [LB124]

SENATOR GROENE: I'm sure we'll see you again. Any other opponents? Neutral? [LB124]

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MARK McGUIRE: (Exhibit 2) Good afternoon, Mr. Chairman, members of the committee. My name is Mark McGuire, M-a-r-k, McGuire, M-c-G-u-i-r-e. I'm an attorney. I've been, in a prior life, a representative of NSEA, going back to about 1973 or 1974. It's been a while. I was involved very much in the drafting of what now is the Continuing Contract Law where all these topics about evaluations and tenure and how many years and so forth, they all have a history. And the package that's the Continuing Contract Law was worked out in this room in 1981 from the Education Committee. And I think maybe I could...I don't have a horse in this race, I don't care one way or the other what you do with it, but I thought I'd give you a couple pieces of information that you might find significant. And based upon your questions, I think I can hit a couple of balls. But we'll see where we go. The...Senator Baker indicated at the very beginning in his comments this bill, LB124, would make the contract law for community colleges "consistent with K-12 statutory scheme." Well, that's sort of partially correct, and I don't say that in a pejorative sense. But it's on its surface correct because it moves the probationary move for community college folks from two years to three, where the K-12 teachers are. The K-12 teachers got there because one of the issues that was part of the interim study that led to LB259 in 1982, it set up a process that, and responded to school districts saying, well, we need three years to do adequate evaluating. And the response was from us at that time that, okay, fine, then we'll put in the statute a requirement that you conduct evaluations in a meaningful sense. And I would suggest that you...you're going to have to look at Section 79-824 for the tenure statute that would go for K-12 teachers, which will provide to you the evaluation process that's required. Basically it came down to, and we wound up writing a Law Review article that describes that history and that result. And so I'd like to give that to your legal counsel when I'm through here today if that might lend some assistance. So the three-year period came about because it was tied to a legislative compromise, that meaningful evaluation for a full instructional period once each semester for the first three years of employment or prerequisites and requirements that had to take place. And I'm here to tell you that the K-12 scheme for tenure, as compromised in this room and as worked out in this room, has basically worked. We used to have a lot more termination cases and so forth that came about. And when one of the school districts didn't like the idea of mandated evaluations, because school districts don't like anything that's mandated, but nevertheless I think it's borne out. I'm not associated with NSEA anymore, so I don't know exactly, but you don't hear any hue and cry. And I looked back and I was looking back on my files for prior...well, just for getting ready for today, and I was kind of amazed about the number of cases we had, both to the district court level and to the Supreme Court level, on teacher continuing contract litigation type issues. Those you don't see anymore. So I think the process has worked. One interesting thing is that this compromise was worked out, and Senator Koch also made it very plain that he didn't want any of the parties to come back with some piece of proposed legislation in a following year or years to kind of do an end run on the deal that had been struck. And his admonitions in that regard have proven to be fruitful. And there hasn't been litigation over all that time. The issue of how many years, two years or three years in the community college, I think Mr. Hayes, I know he was right. But it was a few years ago, we were

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kind of at this stage again. The Community College Association wanted to change the law and make it consistent. And we were down to agreement or close to agreement, but it eventually didn't work. And an agreement that doesn't work, it doesn't work. So in any event, I'm not sure if I added anything to help you, but I'd be pleased to respond to any questions that you might have. [LB124]

SENATOR GROENE: Is there any committee questions? Thank you, sir. [LB124]

SENATOR KOLOWSKI: If I could, please. [LB124]

SENATOR GROENE: Yes, Senator Kolowski. [LB124]

SENATOR KOLOWSKI: Sir, is it impossible to get rid of a tenured teacher? [LB124]

MARK McGUIRE: Is it possible to get rid of? [LB124]

SENATOR KOLOWSKI: Is it impossible to get rid of a tenured teacher? [LB124]

MARK McGUIRE: No. [LB124]

SENATOR KOLOWSKI: Okay. Is it difficult? [LB124]

MARK McGUIRE: It requires a little homework. [LB124]

SENATOR KOLOWSKI: Sure. [LB124]

MARK McGUIRE: In my experience of 40 years, it's you can get rid of them if the cause for getting rid of them is real. [LB124]

SENATOR KOLOWSKI: That's right. Thank you. Just wanted to have that clarified for the committee. Thank you. [LB124]

MARK McGUIRE: And (inaudible) because they may have some bad act, that's not going to go away. You know, that's the evidence. Yeah. [LB124]

SENATOR KOLOWSKI: Thank you. [LB124]

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SENATOR GROENE: Any other questions from the committee? [LB124]

MARK McGUIRE: Thank you. [LB124]

SENATOR GROENE: Thank you, sir. Any other neutral testifiers? That will bring to an end the hearing on LB124. Oh, I'm sorry, Roy. You want to waive it? Thank you, Roy. We will take a five-minute break and then it will be LB123 by Senator Pansing Brooks. [LB124]

BREAK

SENATOR GROENE: So if you want to open on LB123, Senator Pansing Brooks, you're welcome to start. [LB123]

SENATOR PANSING BROOKS: Thank you. Thank you, Chairman Groene and fellow members of the Education Committee. For the record, I am Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, and I'm representing District 28, right here in the heart of Lincoln. And I'm here to introduce LB123 today, which makes several important changes in statute to better protect students who attend for-profit institutions in Nebraska. Last interim, as part of an interim study that I had, LR564, the Education Committee examined regulatory discrepancies between the Nebraska Department of Education and the Coordinating Commission on Postsecondary Education. In the interim hearing for this study, we found that there are gaps in student protections for institutions regulated by the Coordinating Commission. Currently, the Nebraska Department of Education possesses regulatory power for tuition recovery and surety bonds for institutions they regulate, which encompass the postsecondary institutions who offer associate's degrees and below. So the Nebraska Department of Education has this authority to regulate tuition recovery and surety bonds through the Private Postsecondary Career School Act. However, the Coordinating Commission, which regulates institutions that provide a bachelor's level or above...a bachelor's degree level of above, that commission does not currently have this regulatory power as a part of the regulatory power enumerated within the Postsecondary Institution Act. So the fact that Coordinating Commission on Postsecondary Education cannot provide this regulatory power is a problem because it means that students are not adequately protected when a for-profit educational institution closes its doors. This happened as recently as last year, when Wright Career College, a Kansas-based for-profit with a campus in Omaha, closed its operations with little warning. It also happened last year, when ITT Tech again closed its doors with little warning. There were about 340 students at Nebraska's ITT campus when it closed. As you can imagine, Nebraska students suffer as a result of these closings. Many were in the middle of degree programs or close to graduating and they were left to find a school that would accept their transfer credits. These students are trying to get the skills they need to thrive in our work force, and many of these students were also adults who are going back to school to

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raise their income level and to help create a better future for themselves and their families. Students and families like this who are suddenly uprooted by a closure of an institution need better protection when this assuredly happens again. In my opinion, this points to a larger issue of low-income people obtaining the financial means to access a quality education. Many students turn to for-profit institutions due to financial hardship, and when those institutions close, it leaves those students victimized. They're promised a good education, but in reality they are at the whims of the profit margins of these institutions. As Ben Franklin said, "An investment in knowledge pays the best interest." But we're not living up to that ideal. In Nebraska, the average student loan debt is \$26,235 according to the Institute for College Access and Success. Nationally, the United States has \$1.26 trillion in student loan debt. So these students who turn to for-profit institutions with the promise of better financial investment need some protection. And clearly not every for-profit is in this realm, but LB123 will protect students who attend the for-profit colleges by establishing a Guaranty Recovery Cash Fund. This fund will allow students who suffer financial harm due to the closure or termination of a for-profit secondary educational institution to make a claim against the fund for a refund of lost tuition and fees. It will also require student records to be maintained and transferred when a school ceases operation, which will allow students to access their records. There have been situations across the nation where schools close and kids who have been paying cannot get access to their records. The school shuts down, that's it. Everything is lost. So another important provision of this bill will require for-profit postsecondary institutions to pay back our state via reimbursement to the Nebraska Opportunity Grant Fund for academic terms not completed by students receiving rewards--those are Nebraska state dollars--for receiving those Nebraska state dollars under the fund when the institution terminates operations. This will better protect our state resources by ensuring that for-profit schools that receive those NOG dollars, the Nebraska Opportunity Grant dollars, are returning our state's taxpayer investment. It's my understanding that that's \$1.8 million this year. So to fund that Guaranty Recovery Cash Fund, the Coordinating Commission on Postsecondary Education will assess each for-profit institution one-tenth of 1 percent of the prior school year's gross tuition revenue until the Guaranty Recovery Cash Fund reaches the minimum level of \$250,000. LB123 also allows the Coordinating Commission to require a surety bond to provide protections to students until the Guaranty Recovery Cash Fund reaches its minimum level. This is the same model that's already currently being used by the Nebraska Department of Education, as we said, for associate's level and below for the institutions that they regulate. Dr. Mike Baumgartner, executive director of the Coordinating Commission, will be testifying shortly and will be able to offer more detail on how this will work. Nebraska Appleseed conducted a study on "The High Cost of Higher Education: The For-Profit (College) Industry in Nebraska" in 2015. Part of their conclusion was that across the country students at for-profit schools and career schools are for the most part protected by either a Tuition Recovery Fund or some type of bond requirement or both. A representative from Nebraska Appleseed will be testifying as well on the information on their research. I do have an amendment for this bill that I'm going to be submitting. AM34 clarifies that closing for-profit institutions shall provide student records to the

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University of Nebraska-Lincoln, because they have been acting as a clearinghouse when that happens with the Nebraska Department of Education. But it keeps current statutory language for how private not-for-profits may turn information over when they close. For example, when Dana College closed, they turned their records over to Midland College...or I'm sorry, over to Midland University. Under the this amendment that I'm offering, these institutions would continue to have the option to turn records over to other institutions. It wasn't our intent to change that current structure, so we have amended the bill to clarify that. In closing, I would just like to ask for your support of this important bill with its amendment and to extend protections to all postsecondary students and to protect our precious state dollars. And with that, I'll be glad to answer any questions you may have. [LB123]

SENATOR GROENE: Committee, any questions? Senator Kolowski. [LB123]

SENATOR KOLOWSKI: Senator Pansing Brooks, how many states around us or across the country are doing this and have this potential? [LB123]

SENATOR PANSING BROOKS: Quite a few. And I'm sorry, I can't speak to that. I should have said I'll try to answer any questions, but I know the people behind me will be able to answer that. So okay, thank you. [LB123]

SENATOR KOLOWSKI: Thank you. [LB123]

SENATOR GROENE: Anybody else? Senator Erdman. [LB123]

SENATOR ERDMAN: I thought your amendment...thank you for coming. Anyway, I thought your amendment was good. I read the bill a couple of times and I was wondering how that transfer of information was going to happen. So in your amendment it says the trustees or officers of the for-profit secondary institution shall transfer to the university. Well, if they're bankrupt and they're going out of business, what if they don't? Then what happens? What if they don't transfer those records? [LB123]

SENATOR PANSING BROOKS: What if they don't transfer the records? [LB123]

SENATOR ERDMAN: Yeah. [LB123]

SENATOR PANSING BROOKS: I think the students will have a claim against them for those records. That's a property right, I believe. And so and again, I think that Dr. Baumgartner can probably...yes, he can answer that question better than I. [LB123]

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SENATOR ERDMAN: Okay. Because we put "shall" in there all we want. If they don't have any money or employees, it's pretty hard to do. [LB123]

SENATOR PANSING BROOKS: Exactly, you're right. I think there is a process and the Department of Education also uses that process. But if you could ask that really good question to Dr. Baumgartner, I'd appreciate it. [LB123]

SENATOR ERDMAN: Okay. I thank you. [LB123]

SENATOR GROENE: Any other questions from the committee? Thank you. [LB123]

SENATOR PANSING BROOKS: Thank you. [LB123]

SENATOR GROENE: Proponents? Proponents? [LB123]

MIKE BAUMGARTNER: Good afternoon, Chairman Groene and members of the Education Committee. My name is Mike Baumgartner, M-i-k-e B-a-u-m-g-a-r-t-n-e-r. I'm the executive director of the Coordinating Commission for Postsecondary Education, and I'm testifying as a proponent of LB123. LB123 would provide a means for financial redress to students negatively impacted by the closing of a for-profit college or university located in Nebraska. Senator Pansing Brooks already provided you with details about what the bill would accomplish, so let me take a few minutes to speak more about how Nebraska's postsecondary institutions are currently regulated, why this bill improves that regulation to increase consumer protections for students, and of course I'll be happy to answer any questions after which you have on details as well. We can categorize postsecondary institutions operating in Nebraska in a number of ways, but let me focus on three from the Postsecondary Institution Act passed by the Legislature in 2011. The first category is public institutions, which do not have to apply to the Coordinating Commission for authorization to operate in Nebraska because they have that authorization from the constitution or from the Legislature. The second category is private institutions with continuing authorization to operate. This applies to private institutions that have operated in Nebraska for at least 20 years as of 2011. It includes institutions such as Creighton, Nebraska Wesleyan, Bellevue, Doane. The third category contains postsecondary institutions that have a physical presence in the state, offer a baccalaureate degree or above, and have received recurrent authorization to operate. These institutions must apply to the Coordinating Commission to operate on a recurring basis every five years until they've operated in Nebraska for 20 years without a change of ownership. They are typically private, although not exclusively. There are some public institutions from other states operating that have to go through this process. They may be not-for-profit, such as Bryan College of Health Science, or for-profit, such as Kaplan University. Prior to 2011, the for-profit institutions were regulated under the Private

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Postsecondary Career School Act administered by the Nebraska Department of Education. The Coordinating Commission uses specific and thorough criteria defined in statute to determine whether schools in the third category are allowed to continue to operate in Nebraska. These include enrollments and graduations by program; accreditation; financial stability; student loan default rates; the quality of teaching faculty; library services; support services; the adequacy and quality of facilities...of facilities, I'm sorry; programs to be offered; and any transfer agreements or cooperative relationships that exist with other institutions in Nebraska. These criteria typically work well and provide the commission with the authority to thoroughly evaluate the institutions. However, they are not fail-safe, as we know from two instances in the past year. In the past several years, a number of for-profit education companies across the country have closed suddenly. Some were able to provide an orderly teach out or transition for their students; others are not able to or don't. When a very recent example demonstrates why we believe the surety bond and Guaranty Recovery Fund requirements are necessary, as Senator Pansing Brooks noted in September 2016, ITT Tech went out of business, closed all its campuses nationwide, including Omaha. Students attending the campus suffered as a result of the sudden closing, many were in the middle of degree programs or close to graduating and were left to find schools that would accept their transfer credits. With the closing of ITT Tech, there are now three institutions in Nebraska that would fall under the category regulated under LB123: The Creative Center in Omaha; National American University, with a campus in Bellevue; and Kaplan University, which has locations in Omaha and Lincoln. LB123 would provide a greater level of protection to students attending these institutions, with relatively little financial impact on these institutions. Many other states have enacted similar requirements and they have proven to be effective. Furthermore, these institutions, were under the regulation of NDE, if they were, they would be covered by the Tuition Recovery Fund already. So whenever the authority came over to the Coordinating Commission in 2011, I don't know why, but the Tuition Recovery Act did not. And this is just correcting something that I think needs to be corrected as a result of that. With that, I'd be happy to answer any questions you may have. [LB123]

SENATOR GROENE: Questions from the committee? Senator Erdman. [LB123]

SENATOR ERDMAN: Yeah, thank you for coming. Thank you, Senator Groene. How much tuition do these schools collect? One-tenth of 1 percent of the tuition that they annually receive? Do you have any idea what that is? [LB123]

MIKE BAUMGARTNER: I do. Altogether, I have estimated based on their IPEDs reporting and enrollment changes from year to year, but somewhere in the neighborhood I would expect between \$25 (million) and \$35 million a year for these institutions. So it would take... [LB123]

SENATOR ERDMAN: Total tuition collected? [LB123]

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MIKE BAUMGARTNER: Yeah, so it would take somewhere between probably 8 and 12 years, based on one-tenth of 1 percent, to get up to the \$250,000 level. [LB123]

SENATOR ERDMAN: So the goal is to have the fund be between \$250,000 and \$500,000? Is that right? [LB123]

MIKE BAUMGARTNER: Yes. It would...contributions would stop at \$250,000 and then interest would accrue in the fund after that period. [LB123]

SENATOR ERDMAN: Are you familiar with those institutions that closed and what happened to those students? [LB123]

MIKE BAUMGARTNER: Yes, I am. [LB123]

SENATOR ERDMAN: And were they able to recover their records? [LB123]

MIKE BAUMGARTNER: The records in the case of Wright Career College are at the University of Nebraska-Lincoln; the records of ITT are in limbo, but they are under the purview of the bankruptcy attorney and the bankruptcy court. They are currently being provided to students through a national company called Parchment, which handles transcripts nationwide for lots of institutions. And the electronic records went to Parchment, students can pay to get their transcript. Nebraska law requires that it go to the University of Nebraska at some point and so it will come from the bankruptcy process to the University of Nebraska at some point. [LB123]

SENATOR ERDMAN: They're surely not having to wait until the bankruptcy is settled to get their records, are they? [LB123]

MIKE BAUMGARTNER: Yes, they are, except for the ones that are electronic. So there are records that are paper that go back before, I believe it's 2001. Those are being held. Because it was a nationwide institution, the bankruptcy proceedings are holding those up. If they were electronic, the students are able to access those right now. [LB123]

SENATOR ERDMAN: Thank you. [LB123]

SENATOR GROENE: Any other questions from the committee? Senator Linehan. [LB123]

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SENATOR LINEHAN: I don't even know if we have this, but are there schools that operate in Nebraska virtually that we can't...this wouldn't affect? [LB123]

MIKE BAUMGARTNER: Yes. If an institution offers courses in the state on-line and does not have a physical presence, they are not regulated in the state of Nebraska. So if you don't have something that indicates a physical presence, administrative office or meeting more than once a semester with a group of students or having a campus, then you're not regulated in Nebraska. [LB123]

SENATOR LINEHAN: And that's probably true across, because interstate commerce you can't emulate somebody who's located elsewhere. [LB123]

MIKE BAUMGARTNER: Well, yeah, you can. It varies. We're a state that has chosen not to regulate that, but there are states that do regulate any students who are taking courses within their state. Nebraska is not one of them. [LB123]

SENATOR LINEHAN: Okay, thank you. [LB123]

SENATOR GROENE: Any other questions? I have one. Would this law have made any difference to this bankruptcy case? It would still be tied up in bankruptcy, wouldn't they? [LB123]

MIKE BAUMGARTNER: The students would be able to...the ones that had to pay for instance for a transcript right now would have had the opportunity to get their transcript. We would have reimbursed them for that. If the... [LB123]

SENATOR GROENE: What do you mean by pay? [LB123]

MIKE BAUMGARTNER: Well, in order to access a transcript through Parchment, you got to pay \$10 each time you want to get a hold of the transcript. So that's one place that we would have done it. In the case of Wright Career College, which is also I believe still tied up in bankruptcy, we would be able to pay students out if they had legitimate claim that we were able to determine at that point. [LB123]

SENATOR GROENE: The \$10. [LB123]

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MIKE BAUMGARTNER: Well, the \$10, possibly more. I think that would depend on how we wrote the rules for how the students were able to access it. [LB123]

SENATOR GROENE: Did both of these institutions that recently went under, did they go...did they quit after a semester break or right in the middle of class? [LB123]

MIKE BAUMGARTNER: One was in the middle, one was near the end of a break, and one was between breaks. So what institutions have teach out plans whenever they get their accreditation. Like, if you did have financial exigency, how would you make it through the term. And most do make it through the term. I think in the case of ITT Tech there were students who were taking on-line classes only who did have the courses canceled before the classes were completed. But if they were taking the courses on the campus, then they were between terms and they would not have lost any tuition money (inaudible). [LB123]

SENATOR GROENE: So they lost. There were students that lost tuition money and you would be able to reimburse them with this,... [LB123]

MIKE BAUMGARTNER: Yes. Uh-huh. [LB123]

SENATOR GROENE: ...with this money. [LB123]

MIKE BAUMGARTNER: Yeah. [LB123]

SENATOR GROENE: All right, thank you. Senator Kolowski. [LB123]

SENATOR KOLOWSKI: Mike, I'm really bothered by these colleges. I think it's just an atrocity that they sometimes just walk and no recourse is offered. I really appreciate this bill coming forward because I think it meets a need. Are they able in other states or have they been able to go back directly to the owners of these colleges? Because somebody is owning them, somebody is pocketing money, somebody is doing something that's ripping off the students in our state. How far back legally can you go to another state, another situation, whatever it might be, to try to get some balance on this as far as our students are concerned? [LB123]

MIKE BAUMGARTNER: Oh, we wouldn't have an ability to do that. The Attorney General might be able to do that with the consumer (inaudible). [LB123]

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SENATOR KOLOWSKI: Has it been done in other states for AGs? AGs have done that?
[LB123]

MIKE BAUMGARTNER: I don't...in a lot of other states, AGs are party to the initial suits against the institutions. So I assume so, but I would have to look into that in greater detail.
[LB123]

SENATOR KOLOWSKI: Just curious about anything we could do to help those students.
[LB123]

MIKE BAUMGARTNER: Yeah. [LB123]

SENATOR KOLOWSKI: Thank you. [LB123]

SENATOR GROENE: But the amendment offered would protect the Dana, Midland situation where two institutions the students weren't harmed, they transferred to Midland without any loss. I mean, the government wouldn't get in between those situations. [LB123]

MIKE BAUMGARTNER: Well, first of all, that would be not-for-profit and so they wouldn't be covered in this. And second, if it happens between a term then there's generally not any harm to the student if they completed the term, unless they had a refund, unless they had left and they were owed a refund that had not been refunded to them before the institutions closed. [LB123]

SENATOR GROENE: Guess I didn't read it well enough to catch that this is just for-profit.
[LB123]

MIKE BAUMGARTNER: Right. [LB123]

SENATOR GROENE: Didn't catch that, thank you for clarifying. Any other questions from the committee? Thank you, Mike. Next proponent. [LB123]

KEN SMITH: (Exhibits 1, 2) Good afternoon, Chairman Groene and members of the Education Committee. My name is Ken Smith, that's K-e-n S-m-i-t-h, and I'm a staff attorney in the economic justice program at Nebraska Appleseed, which is a nonprofit, public interest law and policy organization that works for justice and opportunity for all Nebraskans. And I appreciate the opportunity today to testify in support of LB123. Along with my written testimony, you're being handed a copy of a report that Appleseed just released earlier this week that is sort of our

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second report on this topic in the span of a year that focuses on improving protections for students at for-profit schools. And LB123 is certainly a very important and reasonable step to take in that direction. Director Baumgartner and the senator I think very thoroughly explained the bill and the ins and outs of it, and so I think I'm going to kind of deviate from my prepared testimony to just speak to a couple things that I think should be clarified, and answer some of...or try to answer a question or two that I heard presented. So just to be clear, and I think it gets kind of confusing when you're talking about the different statutory schemes, but these are...this LB123 will just extend protections that we have already in place for students at some private, for-profit postsecondary schools that fall under that category of schools that offer up to an associate's degree. And so this is just simply extending already existing student protections to reach students to whom they don't currently apply. I think I would also just like to echo what has been said by director Baumgartner and Senator Pansing Brooks in terms of the concern that led to really the need to fill this gap in student protections, being the trend of for-profit schools nationwide shutting down with little or no notice. And I know extensive statements have been made about Wright and ITT Tech. There is another instance of Corinthian College, which was a big one a couple of years ago. So I would just say that Appleseed has spoken with some former students of some of those institutions, unfortunately none of them were able to come testify today. But we can echo from the student perspective that this bill, you know, from the students who we've spoken with about it would be a very helpful step forward in ensuring that what happened to them, the impact of a sudden school closure in the middle of a semester is lessened and the burden is eased for students who may fall into that unfortunate circumstance down the road. I would also reiterate that LB123 also protects the Nebraska Opportunity Grant Fund in that, if you look at I believe the introduced copy of the bill, it is in the line of persons to be reimbursed through the Guaranty Fund. If the state of Nebraska through the Nebraska Opportunity Grant has funded tuition or fees for a student attending one of these schools that then shuts down, the school would be responsible for reimbursing the fund. And we think that that is another great component of this bill. I will say to the question I believe, Senator Kolowski, you asked about the number of states that had these sorts of protections in place, and I can tell you from the research that we have done there are 22 states that maintain some type of Tuition Recovery Fund and 40 of the 50 states require schools to secure some type of bond. That bond takes the form of two different bonds: one is a general surety bond that the school can file; other states require agent bonds to indemnify students for the actions, or inactions I suppose, of any registered agents of those schools. You have to be a little bit careful with that though, because I was reading when I found this research, it said that Nebraska is a state, one of only six states, that actually offers both of those protections. But we know that obviously those protections, the reason we're here today, is that they don't apply to all students. So with that, I would just say that LB123 extends important protections that already exist to students and passing it would ensure that Nebraskans pursuing higher education at these schools are protected better than they are today. So I think with that I would try to answer any questions you may have. [LB123]

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SENATOR GROENE: Any questions of the committee? Go ahead, Senator. [LB123]

SENATOR ERDMAN: Thank you, Senator Groene. Mr. Smith, help me, if you would, understand Nebraska Appleseed. What is that organization? [LB123]

KEN SMITH: Sure. Nebraska Appleseed is a nonprofit, public interest law firm and policy advocacy organization. [LB123]

SENATOR ERDMAN: Okay. [LB123]

KEN SMITH: Our mission is to work for justice and opportunity for all Nebraskans and we do that through four program areas. I'm in the economic justice program. We also have an immigration program, a healthcare access program, and a child welfare program. And so we have a legal team of, you know, lawyers that take care of, you know, legal components of that work. But we also, as we are doing now, engage in policy work and then we have a tremendous field organization to kind of mobilize communities and our partners to help with that. So we work in those three areas, or those four areas, and we operate, we call it, kind of the three-legged stool through the statehouse, the courthouse, and the community. [LB123]

SENATOR ERDMAN: I had read that. Thank you. Appreciate it. [LB123]

KEN SMITH: Thank you. [LB123]

SENATOR GROENE: Any other questions? Thank you, sir, for your testimony. [LB123]

KEN SMITH: Thank you. [LB123]

SENATOR GROENE: Next. [LB123]

RICH MORRELL: Good afternoon. My name is Rich Morrell, R-i-c-h M-o-r-r-e-l-l, registrar for the University of Nebraska-Lincoln. The university would like to express its support for LB123 and appreciation to Senator Pansing Brooks for introducing this legislation to address a gap in state policy for students who have attended an institution that closes. The university has some suggestions to clarify portions of the bill. Specifically, the university suggests an amendment to the Nebraska Revised Statute 85-173 to state that the University of Nebraska-Lincoln is the registrar referenced. The statute has not been revised since 1943, so it does not take into account the current structure of the University of Nebraska with four campuses where each campus has

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its own registrar. The university also suggests an amendment to the Section 9(c) of the proposed legislation to insert the words "collection, transportation" in line 23, after the words "associated with the." This allows the university to seek reimbursement for expenses associated with collection and transportation of those records. We appreciate the committee's interest and attention to this issue, and I would be happy to take any questions the committee might have. [LB123]

SENATOR GROENE: Any questions from the committee? I...collections, transportation, what type of expenses are you incurring here? [LB123]

RICH MORRELL: Well, we haven't had any...I've been here in my fourth year as registrar here. We haven't had any since I've been here, but just transporting the hard copy records from wherever they are to the university. They're the academic currency of the university. You probably want to load a Brinks truck up and have a driver and an attendant that have been bonded. This is just important documents. But that's the cost that would be associated with that. Newer records are electronic. We could access them on a server, a secured server that they might have, so there wouldn't be much expense there. [LB123]

SENATOR GROENE: Thank you, sir. Any other questions from the committee? Thank you for your testimony. Next proponent. Opponents? None of the private colleges are here so, that says something. Neutral? Thank you, that closes the...Senator Pansing Brooks. [LB123]

SENATOR PANSING BROOKS: Thank you all. Thank you, Senator Groene, and I am appreciative. I didn't realize the university...that Dr. Morrell was going to come and speak to us, and I appreciate his supportive comments. Just to speak to one of the issues, we have already in the amendment designated the University of Nebraska-Lincoln, which is something he talked about. And the other thing is he talked about the transportation, and we do have reasonable expenses regarding the storage and maintenance. So I guess we can talk about transportation, that again we had not been contacted. And I just want to again say that this is about tuition recovery, a protection for students, but it's also for important state dollars. The Nebraska Opportunity Grant's money are important state dollars that we give to students and those dollars are just lost if the school closes down. So with that, thank you for your time and your thoughtful questions. And I'm done. [LB123]

SENATOR GROENE: Can I ask you a question? [LB123]

SENATOR PANSING BROOKS: Sure, sure. [LB123]

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SENATOR GROENE: Do you know with the close of those last two institutions if we did have any Opportunity Grant money involved? [LB123]

SENATOR PANSING BROOKS: I do not know specifically. But I don't...because of the fact that we have \$1.8 million currently at the various institutions I presume that we did. But I do not know that for sure. And I could find that out easily and get it to the committee. [LB123]

SENATOR GROENE: And then my counsel pointed out...I'm confused, I'm not a lawyer, this is "lawyerese." In Section 6(3), I don't understand that. [LB123]

SENATOR PANSING BROOKS: Excuse me, Senator Groene, what page and...? [LB123]

SENATOR GROENE: Seven. [LB123]

SENATOR PANSING BROOKS: Seven? [LB123]

SENATOR GROENE: Yes. Section 6(3) is the right terminology. [LB123]

SENATOR PANSING BROOKS: Section 6(3), okay. [LB123]

SENATOR GROENE: "Any for-profit postsecondary institution applying for an initial recurrent authorization to operate shall not be assessed under this section for the first year of operation but shall be assessed each year thereafter for four years or until the fund reaches the minimum fund level, whichever occurs last." [LB123]

SENATOR PANSING BROOKS: Okay. [LB123]

SENATOR GROENE: So if they don't have \$250,000 in four years it still stops? But how can that raise the minimum? I'm confused. [LB123]

SENATOR PANSING BROOKS: Well, my understanding of what...and this goes with what's happening under the Department of Education's clarification...hang on one sec as we... [LB123]

SENATOR GROENE: Can you clarify that for us? Bring it back or...? [LB123]

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SENATOR PANSING BROOKS: Sure. Yes, I did have some information on that, but the language that is almost verbatim from the Nebraska Department of Education's Tuition Recovery Cash Fund. And so the intent of "whichever occurs last" is to ensure that all for-profit postsecondary institutions pay something into the fund that could benefit the students in case of closure, even if the fund is already at \$250,000 minimum when the institution begins in operation. So it ensures all of them have some skin in the game, so. [LB123]

SENATOR GROENE: But they might not have the minimum after four years if it's a small institution. [LB123]

SENATOR PANSING BROOKS: I think when they were talking about \$25 (million) to \$30 million... [LB123]

SENATOR GROENE: All right. All right, thank you. [LB123]

SENATOR PANSING BROOKS: Okay. [LB123]

SENATOR GROENE: I think I'm starting to understand it. [LB123]

SENATOR PANSING BROOKS: Okay. Well, it's all complicated. Thank you so much. Any other...okay. [LB123]

SENATOR GROENE: Thank you. That ends the hearing on LB123. Unless somebody needs a break, we will start with LB396 by Senator Morfeld. [LB123]

SENATOR MORFELD: Chairman Groene, members of the Education Committee, my name is Adam Morfeld, for the record, that's A-d-a-m M-o-r-f-e-l-d, representing the "Fighting" 46th Legislative District, here today to introduce LB396. For those of you that are returning to the committee, you are well aware of my concerns about tuition, not only in Nebraska but nationally. I will start out by saying that Nebraska, as compared to the rest of the nation, has done an incredible job in keeping tuition low. That being said, we need to be continually vigilant and innovative in our approach to keep the cost of college education down, knowing also that college is only one path to be successful, to have a successful future and career in our state and country. Despite the fact that almost half of my district's entire constituency is students attending the University of Nebraska-Lincoln, I have a personal stake and experience in this. I've often told students and constituents alike that I personally have 120,000 reasons why higher education is often pricing itself out of low- and middle-income families. The purpose of LB396 is to help attract and retain highly skilled and highly trained individuals in Nebraska by offering in-state

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tuition to nonresidents for persons who have received a degree from an accredited Nebraska college or university. So these are individuals who have come out of state and then received a degree and paid generally out-of-state tuition here in the state of Nebraska. They would then have in-state tuition for purposes of their graduate studies, but only after receiving a degree here in the state of Nebraska. A student who has received an associate's, bachelor's, master's, doctoral degree, or its equivalent, would be considered a resident with respect to tuition. This is a work force issue and a retention issue. This bill was brought to me by a person who would have benefited by such a program, but I too am a person that would have benefited from this bill as I attended the University of Nebraska-Lincoln before attending law school here, even though it was much more expensive than if I would have gone elsewhere. That had to do a little bit with military status and some other issues that were settled with a bill that Senator Crawford brought just several years but too late for my tuition bill, unfortunately. At the time, I was out of state. I came from a military family, as I just described to you. Providing in-state tuition to students for graduate school, they've already been a Nebraska...and already received a Nebraska undergraduate degree will help entice talented and skilled individuals to stay in the state by giving them an additional incentive to start their professional careers here. I believe that this will lead to more out-of-state students staying here and I know many others feel the same way. Given the current budgetary situation and the position of the university in that situation, I've talked about this legislation to President Bounds and understand his concerns with the legislation before taking an in-depth look at how this would impact the university system and its revenues. It may require more work over the interim to conduct that analysis and I'm open to working with the university in that regard before moving forward. I urge your favorable consideration of this bill and would be happy to answer any questions. [LB396]

SENATOR GROENE: Questions from the committee? Senator Erdman. [LB396]

SENATOR ERDMAN: Thank you, Senator Groene. Senator Morfeld, on the fiscal note, at the bottom of that explanation says the university is estimating there will be 500 to 535 students affected by this... [LB396]

SENATOR MORFELD: Uh-huh. [LB396]

SENATOR ERDMAN:...and the revenue loss could be from \$2.5 million to \$6.6 (million). [LB396]

SENATOR MORFELD: Yep. [LB396]

SENATOR ERDMAN: The university is willing to absorb that? [LB396]

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SENATOR MORFELD: No, I did not say that. (Laughter) [LB396]

SENATOR ERDMAN: So that's a significant loss for them. [LB396]

SENATOR MORFELD: Yep, and I did not say that they were willing to absorb it. [LB396]

SENATOR ERDMAN: That's why I'm asking if they did. The answer is no. Thank you. [LB396]

SENATOR MORFELD: Uh-huh. I think that, personally, after further analysis, that the university will find that this will actually keep more students here and could be a net revenue gain in the long run. That being said, I don't have that analysis and the numbers to back that up. And so I would like to do that and work with the university on that and see if that actually is the case. And that's why I'm more than happy to work with them over the interim and study this issue more and look at what other states have done. I'm sure there's some others...this can't be just my idea. So I'm sure it's been done in some other states and we can look at it. [LB396]

SENATOR GROENE: Any other questions? Senator Ebke. [LB396]

SENATOR EBKE: Let me just clarify, so that it's on the record. So if a student comes from Wyoming or Colorado or Iowa, goes to school at Doane or Creighton or Wesleyan, they get their four-year degree there, they've spent most of the four years there, except for maybe breaks or whatever, and they get admitted to Medical School at UNMC or to the master's program at the University of Nebraska-Lincoln, they would be eligible for in-state tuition at the master's or doctoral level, correct? [LB396]

SENATOR MORFELD: Yes. [LB396]

SENATOR EBKE: Thank you. [LB396]

SENATOR MORFELD: Yes. And we don't distinguish between a public institution or a private institution for that initial degree so. Correct. [LB396]

SENATOR GROENE: Any other questions before I ask mine? [LB396]

SENATOR PANSING BROOKS: Not yet, I don't... [LB396]

SENATOR MORFELD: Uh-oh. [LB396]

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SENATOR GROENE: So I'm confused. You want us to pass this bill and then you will work with the university, or you want to work with the university first and then we address the legislation? [LB396]

SENATOR MORFELD: I would prefer that we work with the university first, that it be carry-over legislation. And then we address it next session. [LB396]

SENATOR GROENE: So you really would let us just have it sit? [LB396]

SENATOR MORFELD: Yep. I would prefer that we have it sit this session. That way we have time to really look at the potential impact with the university. [LB396]

SENATOR GROENE: Who are these students? When you went to the university and you moved, I'm sure by the sophomore year you established residency. [LB396]

SENATOR MORFELD: Incorrect. When you come to the university for purposes of...when you come to the state of Nebraska for the purposes of obtaining a higher education you will not be able to establish residency until the university has determined that you are no longer in the state for purposes of obtaining a higher education when you're an out-of-state student. Now, there might be somebody from the university that will be able to explain that a little bit differently or provide a little bit more detail, but that's how I understood it, and that's why I was out-of-state for six years. [LB396]

SENATOR GROENE: So if you move and you stay the summer and you register to vote here, which you can, when you go down to register to vote they don't ask if you're a student. [LB396]

SENATOR MORFELD: No. [LB396]

SENATOR GROENE: That doesn't hold up to the university of Nebraska? [LB396]

SENATOR MORFELD: No. Voter registration status, vehicle status, even owning a home, when you come to the state of Nebraska for purposes of obtaining a higher education you are an out-of-state student for purpose of tuition for that duration of that period. [LB396]

SENATOR GROENE: Now, what happens about foreign exchange students? They come here and they're paying high tuition, I understand, most of them. They're here four years and they're

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still a citizen of Switzerland. They now can have in-state tuition, even though they're a citizen of Switzerland? [LB396]

SENATOR MORFELD: I would defer to the university on that. My bill doesn't appear to distinguish like whether a student is a foreign national or whether they're a citizen or a resident. So that's something I would have to look into a little bit more, Senator. [LB396]

SENATOR GROENE: That's probably the cash cow they don't want to lose, but I agree with them. Anyway, thank you. [LB396]

SENATOR MORFELD: As you know, I'm an amenable guy, Senator Groene. I'm willing to work with it. [LB396]

SENATOR GROENE: Senator Linehan. [LB396]

SENATOR LINEHAN: Thank you, Chairman. I just want to...as long as you're doing an interim study. It's my understanding, if I remember this right, if your parents graduated from the University of Nebraska, or one of them did, and you're now outstate, you can come back to Nebraska and pay in-state tuition. I'm not sure this is right, but this is my recollection. So when you're doing your study would you check that out, and if it carries over to grad school? [LB396]

SENATOR MORFELD: Yeah. I'll be more than willing to look into that. [LB396]

SENATOR LINEHAN: Oh, thank you. Thank you, Mr. Chairman. [LB396]

SENATOR GROENE: Any other questions from the committee? Thank you, Adam. [LB396]

SENATOR MORFELD: Thank you very much. [LB396]

SENATOR GROENE: Are you going to close? [LB396]

SENATOR MORFELD: Possibly. It depends on what they say behind. [LB396]

SENATOR GROENE: That's the advantage. First proponent. [LB396]

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ANDREW RASMUSSEN: Senator Groene, members of the Education Committee, my name is Andrew Rasmussen. For the record, that is spelled A-n-d-r-e-w R-a-s-m-u-s-s-e-n, representing myself. I am an employee of the university, but I do not represent them here today. I am only in my sole individual capacity. I am here to testify in support of LB396. I came about with this idea for this proposal, my proposal to Senator Morfeld, because in February of 2016 I was attending the JumpStart Challenge, and a challenge for entrepreneurs to come up with ideas to, in the case of the challenge for that year, help the Lincoln Chamber of Commerce retain talented individuals in Nebraska. They were looking for technological solutions, but as an attorney, legislative solutions occurred a bit more easily to me. And so I sort of hit upon this idea, e-mailed the senator, and he and I started working together on this. I proposed the bill to Senator Morfeld because I am precisely the type of student that it would benefit. I grew up in North Dakota, my grandparents live in Omaha, and we've been Huskers fans, you know, since I was three-days old. So I was sort of always going to be coming to the University of Nebraska-Lincoln and I toured the college, applied, and I got...it was a good fit for my degree, my Bachelor's of Science in mechanical engineering. But then the time came for me to choose what school to get for my juris doctor. I wanted to go for intellectual property law, which is where the two of them sort of intersect. And I had to take financial considerations into account on that. I was very fortunate in my undergraduate education that my grandparents helped cover significant portions of my costs, but they were unable to do so for my graduate career. And I had to compare the tuitions, and the tuition at the University of Nebraska-Lincoln was, for an out-of-state student, so very high. And so I attended the University of North Dakota, which was going to give me in-state tuition. Ultimately, through a number of circumstances, I ended up coming back to Lincoln and finishing my JD here for my second and third years, but I ended up having to pay out-of-state tuition for that. I feel that after an individual has spent about six or so years in the state of Nebraska, they really begin to lay down roots and lay down connections that will keep them in the state for a long period of time. And so I feel that this bill is a way to very subtly influence talented individuals to stick around and contribute to the state, even though they may not have been doing so prior to their admission at the university. And I feel that the connections that a student makes in graduate school tend to be the ones that are most impactful to their career, especially in the case of an attorney. And I feel that attracting, you know, the students who have been here for a while will keep them in the state. I will now take questions. [LB396]

SENATOR GROENE: Thank you. Any questions from the committee? Senator Erdman.
[LB396]

SENATOR ERDMAN: Thank you, Senator Groene. Thank you for coming. How much difference is there between in-state and out-of-state? [LB396]

ANDREW RASMUSSEN: I didn't quite do the calculations on just the tuition. My student loans are \$136,000 and for tuition and fees for a law student is \$48,000 for an in-state. [LB396]

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SENATOR ERDMAN: For an in-state? [LB396]

ANDREW RASMUSSEN: Yeah. [LB396]

SENATOR ERDMAN: Okay. Thank you. [LB396]

SENATOR GROENE: Any other questions from the committee? Thank you, sir. Any other proponents? Any opponents, however you want to pronounce it? Any neutral? Come forward. [LB396]

AMY GOODBURN: Good afternoon, Chairman Groman (sic) and members of the Education Committee. My name is Dr. Amy Goodburn, A-m-y G-o-o-d-b-u-r-n, and I serve as the associate vice chancellor for academic affairs at the University of Nebraska-Lincoln. I'm here to speak on behalf of the University of Nebraska system in a neutral capacity regarding LB396, proposed by Senator Morfeld. LB396 would change residency provisions to allow any student who has received a postsecondary degree in the state of Nebraska to pay resident tuition for any additional postsecondary degrees from accredited colleges or universities in Nebraska. We would like to thank Senator Morfeld for his efforts to think more broadly about student recruitment and the potential that these students might continue to reside in Nebraska as tax-paying citizens. After discussions with our campuses we have several questions and at this point can only predict financial loss that would be difficult during such an austere budget environment. We are interested in more discussion about why the state of Nebraska would reduce the cost of tuition for students who have not demonstrated a bona fide intention to live in the state of Nebraska. Some questions we have include the following: If out-of-state students graduate from a Nebraska institution and move back out of state, would Nebraska residents want to allow them to pay resident tuition if they return for additional schooling? Would this law provide residency to students who graduate with Nebraska degrees through distance programs and who might enroll in additional distance programs when they do not, and do never intend, to reside in Nebraska or pay taxes in the state of Nebraska? Would this law include international students, who you referenced before, who earn degrees in the state of Nebraska? Would these students also be eligible to pay in-state tuition for additional educational degrees? As we understand this proposal, even though most international students do not intend to reside in Nebraska after graduation, they would receive the benefits of residency tuition for any additional education that they would pursue in Nebraska. In addition to these questions, we have concerns that this policy might unintentionally incentivize out-of-state students to go to Nebraska community colleges first and then matriculate to the University of Nebraska, instead of paying out-of-state tuition as entering freshman. This scenario might have a significant financial impact on the university and could also impact its enrollments. LB396 would enable all graduates of an accredited college in Nebraska to be eligible for in-state tuition for graduate and professional school. While LB396

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might help increase the applicant pool for the University of Nebraska law, grad, dental, and medical schools, it might also have significant financial impact on the University of Nebraska, which provides the majority of the graduate and professional education in the state. Frankly, in most of our professional schools we are already at our enrollment limit, so recruitment to those areas is not a factor. In fall 2016, the UNL campus alone's full-time enrollments for nonresident students included 5,132 undergraduates, 1,543 graduate students, and 113 professional students, so we would need to further analyze how many out-of-state students attend all Nebraska postsecondary institutions and then continue on to graduate school in Nebraska to fully understand the recruitment and financial implications. The University of Nebraska is invested in the success of students and in attracting more students to the state of Nebraska's work force. Until further analysis and research can be done to fully answer these questions, however, the University of Nebraska is neutral regarding LB396. Thank you. Happy to answer any questions. [LB396]

SENATOR GROENE: Questions from the committee? Senator Linehan. [LB396]

SENATOR LINEHAN: Just to clarify, so you come here from Colorado, you go to UNL, you graduate. How long would you have to live here before you would... [LB396]

AMY GOODBURN: One year, 12 months. [LB396]

SENATOR LINEHAN: So it's just a 12-month gap. So if they graduate from Lincoln, they'd have to wait 12 months and then go to law school... [LB396]

AMY GOODBURN: If you had a job for 12 months and then... [LB396]

SENATOR LINEHAN: ...for in-state tuition? [LB396]

AMY GOODBURN: As long as you don't enter your post-second, your graduate school before that 12-month term. As long as you're working, demonstrating that you have a bona fide intention to live permanently in the state of Nebraska, then you can achieve residency. [LB396]

SENATOR LINEHAN: But the definition of bona fide intention is 12 months... [LB396]

AMY GOODBURN: Uh-huh. [LB396]

SENATOR LINEHAN: ...from the day you graduate from undergrad? [LB396]

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AMY GOODBURN: From the day you graduate, yes. You have to work in Nebraska for 12 months before you could achieve residency status. [LB396]

SENATOR LINEHAN: In any job? You just have to work. Okay, thank you very much. That helps. [LB396]

SENATOR GROENE: Any questions from the committee? Senator Erdman. [LB396]

SENATOR ERDMAN: Thank you, Senator Groene. Thank you for coming today. I'm a new kid on the block. I'm not accustomed to neutral. And so... [LB396]

AMY GOODBURN: I'm new at this too, so. (Laughter) [LB396]

SENATOR ERDMAN: ...as I analyze...but as I analyze people's comments and the things that they say, I try to determine from their comments which side of the aisle are they on. And as, and this is my own personal problem, I have a problem with neutral because I don't know how people can be neutral. Some of the comments you made led me to believe one way and one another. But I would think that the university has something to benefit from this. I don't know whether they can afford it. That will be up to you guys to decide that. But just for the record, I have a difficult time with neutral. [LB396]

SENATOR GROENE: Thank you. Any other questions? I have one. Correct me if I'm wrong, I believe we're the lowest in the Big Ten in tuition for undergraduate. [LB396]

AMY GOODBURN: That's correct. [LB396]

SENATOR GROENE: Where do we fit in graduate schools? [LB396]

AMY GOODBURN: I would have to look that up. It would depend on which graduate program you're looking at. Medical school, law school, dental school, I'd have to... [LB396]

SENATOR GROENE: There's something the University of Michigan... [LB396]

AMY GOODBURN: For the law school we were considered the best value law school for the second year in a row in the nation, so. [LB396]

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SENATOR GROENE: I would assume some of our out-of-state tuition is close to in-state at the University of Michigan. [LB396]

AMY GOODBURN: Actually, for some of our Big Ten peers their in-state tuition is more expensive than our out-of-state tuition. [LB396]

SENATOR GROENE: That's what I meant, yeah. [LB396]

AMY GOODBURN: Yeah, yeah. And I couldn't tell you all of them. I think Michigan and perhaps Illinois. [LB396]

SENATOR GROENE: I know Michigan is high on everything. Them and the University of Colorado, but they're not in our...but anyway. What's that? But anyway, go ahead, Senator Kolowski. [LB396]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Doctor, thank you for your presentation. It's good to hear where the university is coming from. I hope in the future we'll be able to look at the possibility, as we have now grown to 1.9 million in the state, millennials are flocking back into metro areas, both Lincoln and Omaha. We're getting a lot of growth in a lot of different industries and all the rest. I look at this as a real possibility that could be beneficial for us and if there's a...if the university is dinged on dollars, we need to find a way to help make that happen to bring people here. All you have to do is go to the Coasts, either one, or down South, see the cost of living. And people are flocking back here because it's very economical and that's a big draw for a lot of people, clean air, clean water, and a place to live that's pretty decent. So I hope whatever it might be that we could see this. You have an Innovation Campus. I hope we can get innovative in lots of ways and figure out a way that this would be beneficial for everyone concerned. [LB396]

AMY GOODBURN: As Senator Morfeld said, he's willing to work with the University of Nebraska to explore different options. [LB396]

SENATOR KOLOWSKI: Sure. [LB396]

AMY GOODBURN: We have many different opportunities for students to apply for residency status already, depending on certain conditions. So I think that there's certainly opportunity to think creatively about incentivizing students to come to the University of Nebraska. [LB396]

SENATOR KOLOWSKI: Thank you. [LB396]

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SENATOR GROENE: You said all your graduate programs are full, waiting list. [LB396]

AMY GOODBURN: Many of them are, the professional schools, especially. [LB396]

SENATOR GROENE: MBAs, doctor... [LB396]

AMY GOODBURN: More of like professional schools: architecture, medical school, dental school. [LB396]

SENATOR GROENE: Dentistry. But literature and those types of...they got room. [LB396]

AMY GOODBURN: I'm from the English Department actually, so I can speak to the literature. (Laugh) We have room in the program but not for fund. Many of our graduate students who come here are funded through teaching assistantships, so they're not actually paying for tuition anyway. They're getting a waiver, a remission of tuition, and then teaching some courses in composition. [LB396]

SENATOR GROENE: So the big would be the graduates with the high income, the dental, the medical, the law, if you're a good lawyer. [LB396]

AMY GOODBURN: More of the professional schools, uh-huh. [LB396]

SENATOR GROENE: The high end. So that's where. We already have a surcharge on some degrees on the undergraduate, don't we, that you pay more a credit hour for engineering and... [LB396]

AMY GOODBURN: There are differential tuition for three of the colleges: business, engineering, and architecture. [LB396]

SENATOR GROENE: So this bill would eliminate that, basically, at the graduate level, any kind of a bump-up we have for the higher paying careers. [LB396]

AMY GOODBURN: Well, those are...the differential tuition is charged on resident and nonresident, but yeah. [LB396]

SENATOR GROENE: Thank you. Any other questions? Thank you for your testimony. [LB396]

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AMY GOODBURN: Thank you. [LB396]

SENATOR GROENE: Any other neutral? [LB396]

SENATOR MORFELD: Well, it appears as though I'm the last person here today, so I'll just make it real brief. I appreciate some of the feedback from the university and, as I said, I want to work with them to get through some of those issues. Obviously there's some loose ends that we have to tie up with some of the language to make sure there's not any loopholes if we do decide to go through with this type of legislation. The other thing that I'll say is that, you know, for somebody who just finished their undergraduate, knows that they want to go to graduate school, why would we make them wait a year? I mean, that's going to be a time where they're either, particularly if they know they want to go to graduate school, they're either going to decide to stay in the state or go somewhere else. And anything that we can do to retain those individuals and keep them in the state of Nebraska, investing in the state, and then hopefully staying here, buying a home, starting a family, and spending their life here, I think that we should look into more innovative ways of doing that. And with that being said, I would again like to thank the University of Nebraska, the Board of Regents, and obviously the taxpayers for keeping tuition so low at the University of Nebraska. That being said, I think that we can be one of the most innovative states in the country when it comes to retaining and attracting young Nebraskans through tuition. Thank you. [LB396]

SENATOR GROENE: Thank you, Adam, Senator Morfeld. That ends today's hearings, thank you for attending. [LB396]