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Government, Military and Veterans Affairs Committee
January 27, 2011

[LB171 LB172 LB218]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Thursday, January 27, 2011, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB171, LB218, and LB172. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Lydia Brasch; Charlie Janssen; Russ Karpisek; Rich Pahls; Paul Schumacher; and Kate Sullivan. Senators absent: None.

SENATOR AVERY: Welcome to the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I represent District 28 right here in the center of Lincoln. I'm going to introduce the members of the committee and talk a little bit about our procedures today and then we'll get into our agenda. I'm going to start with Senator Pahls on the end down here who is from Millard. He is the longest serving member of this committee presently on it. And next to him in a few minutes Senator Lydia Brasch from Bancroft will arrive; and then next to her is Senator Charlie Janssen from Fremont; and next to him sits our Vice Chair, Senator Scott Price from Bellevue. To my immediate right is Christy Abraham who is the committee's legal counsel. Senator Karpisek sits here. He is from Wilber. He'll be here in a few minutes. Next to him is Senator Kate Sullivan from Cedar Rapids; and the last senator on the left there is Senator Paul Schumacher from Columbus. He is a new member of the Legislature. And at the very end is Sherry Shaffer. She is the committee clerk. She is the person who makes this committee run smoothly. She operates the light system, she collects the testimony sheets, and she transcribes our proceedings. Speaking of transcribing the proceedings, when you...if you wish to testify, there is a form to pick up at each door. We have them...plenty of copies. We're going to ask you to fill out this form clearly and we prefer that you print it. It provides pertinent information for us to enter into the record so we'll know who you are and what you are here for. If you wish to be recorded for or against any of the bills but do not expect or wish to testify, there is a form also on each...at each door that you can fill out that gives an opportunity for you to record your name, address, the bill number, and whether you support or oppose that bill. These are to...the testimony sheet is to be given to the committee clerk. This you can just sign at the entrances to the room. We are using a light system this session, and we've had a lot of issues that have kept us here until 5:30 a number of days. We hope today might be different, but nonetheless we welcome your input. We would like to give everybody as much time as you wish to take to give your testimony, but we can't do that if people want to go on for more than five minutes. So we have a light system. The light system has three colors. Green is on your left. Green means you have four minutes to present your testimony. When the middle light comes on, the amber light, you have one minute to wrap up your comments. And when the red light comes on, you are to stop. If you are color-blind, just think of it as left to right as the lights change you know that your time is running down. We did have a fellow senator in the other day that says: I'm color blind. I don't know whether I'm supposed to be talking or shutting up. Again, let me emphasize

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we are not trying to restrict your input into these issues. We want to make sure that everybody gets a fair chance to speak. One other thing. Please pay attention to the testimony that transpires before you take the microphone because if the points that you want to make have already been made, you don't add a lot to our knowledge of the issue by repeating what others have said. So try to keep your remarks to something that hasn't been said or perhaps hasn't been said the way you want to say it. I'm often reminded when we get into sessions like this that everything has been said. The only thing is that not everybody has said it. And often we...on the floor of the Legislature we do that. We wait until everybody has said it before we finish. If you have a cell phone with you or any other electronic equipment, please put it on vibrate or silence. We cannot have disturbances during these proceedings. Also, we do not allow any video taping of the proceedings, and so please cooperate with us. We have two red coats in the room and they'll be watching to help make sure that everything is done properly. When you take the chair to testify, please state your name clearly and then spell it for the record because we will have to transcribe all of these proceedings later on this year, and if your name is not spelled it sometimes is hard for us to figure out who you are and what's been said. We have, assisting us today, two pages: Danielle Henery from Battle Creek and Kyle Johnson from Sutton. If you have anything that you want to distribute to the committee, give it to the page and the page will distribute it to us. All right. With that, I am going to turn the chair over to the Vice Chair because I have the first bill up.

SENATOR PRICE: Chairman Avery please. [LB171]

SENATOR AVERY: Thank you, Senator Price, and good afternoon, committee. My name is Bill Avery, B-i-l-l A-v-e-r-y. I represent District 28. I am here to introduce LB171 which would change some fees in the Secretary of State's Office. You will remember for a good part of last summer and fall we engaged in something known as the LR542 process where the Legislature worked on ways of changing the laws of this state to reduce spending by a cumulative amount of 10 percent. We did not want to do across-the-board cuts. We thought that would weaken government overall. But we thought that there might be some way for us to change the way we do business in the state of Nebraska by eliminating programs and by perhaps restructuring government. And we will be talking about some of those things later on today. This particular bill came out of our discussions, and we talked about not only changing laws in order to eliminate programs or to restructure some programs, but we also talked about ways we might be able to use fee-based programs to reduce the cost of performing those services to government. The committee discussed how fees could be set in statute. In fact, most of...many of the fees charged in state government are fixed in state law, and in order to change the fees you have to change the law. For example, debt management fees haven't been raised since 1982 when they were raised from \$100 to \$200; truth and deception examiner fees haven't been raised since 1982 when they were raised from \$20 to \$50; notary public fees haven't been raised since '94 when they were raised from \$10 to \$15. The Secretary of State issues: over 1,800 new notary

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public commissions each year and renews over 4,500; for truth and deceptions examiners, there were 3 new licenses issued last year and 65 renewals; for debt management there were 2 new licenses and 37 renewed licenses. LB171 changes the fee structure for these services performed by the Secretary of State. It includes the notary public. It includes the debt management business, and truth and deception examiners license. With this bill, the specific amounts charged for these licenses and renewals are eliminated so you don't have to go back and change the statute every time you need to change the fee. What we're doing is putting language in to allow the Secretary of State to establish the fee, set the fee structure not to exceed the actual cost of administering the service. The whole point here is that at least the Secretary of State will be able to legally to set the fees not to make more money than they need but to simply cover their cost. Based on the conversations I have had with the Secretary of State's Office, the bill has an operative date of March 1, 2012. That will allow them enough time to change their rules and regs in order to get ready for this should we decide to advance it. I would call your attention to the fiscal note. The fiscal note indicates that at the present time the fees that are being charged are adequate to cover the cost of the Secretary of State's business in these areas. It is, however, clear to me and to, I think, people in the Secretary of State's Office that they are going to need this authority if not in this biennium, in the next biennium. And with that, I will stop and take any questions you might have. [LB171]

SENATOR PRICE: Thank you, Senator Avery. Are there any questions from the committee? Senator Sullivan. [LB171]

SENATOR SULLIVAN: Thank you, Senator Price, and thank you, Senator Avery. Just a few clarifications. So I understood you correctly in what you just said that the Secretary of State right now does not anticipate there would be a need to increase the fees. [LB171]

SENATOR AVERY: The Secretary of State thinks that he needs this authority but does not necessarily need it this biennium. [LB171]

SENATOR SULLIVAN: So in other words, there's no anticipation immediately of changing the fees. [LB171]

SENATOR AVERY: Right. [LB171]

SENATOR SULLIVAN: What's the process for when they do? I mean, if this legislation were to go into effect, at any point in time they determine that...and that's the other side of my question, is how do they determine what's the actual cost of their administrative expense? [LB171]

SENATOR AVERY: Yeah. I think they have a fairly sophisticated system of determining

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the cost of administering, particularly the notary public commissions. [LB171]

SENATOR SULLIVAN: Um-hum. [LB171]

SENATOR AVERY: A notary public commission has to be renewed each year, I believe. No, not each year, but they get almost 2,000 new ones, new applications and over 4,500 renewals. [LB171]

SENATOR SULLIVAN: Um-hum. [LB171]

SENATOR AVERY: I believe the commission is good for two or three years at a time. They know what it costs and they are able to determine in advance what the costs are likely to be so that they could make the adjustments internally in the office. This just gives them the authority to do it. [LB171]

SENATOR SULLIVAN: Okay. So, but I'm trying, just trying to get a handle on what might people anticipate. You know, right now it's a \$15 fee for a notary public. Did the Secretary of State give you any indication of at said time how much of a bump up they would...? [LB171]

SENATOR AVERY: Well, early in our discussions there was...the thought was that they actually did need this authority right away because they were far behind in what it was costing to administer these programs and renew the licenses and things of that sort. They've since decided that that's not necessary for this biennium but they would perhaps need it for the next biennium. [LB171]

SENATOR SULLIVAN: Okay. Thank you. [LB171]

SENATOR PRICE: Thank you, Senator Sullivan. Senator Schumacher. [LB171]

SENATOR SCHUMACHER: Thank you, Senator Price. Senator Avery, the other day, I believe it was one of your bills for registration of the voters, the Secretary of State's Office told us that, well, the cost would be \$100,000. And I think in the discussion that followed, the \$100,000 wasn't a cost but it was what some other agency charged to them. And is that intended to be...can the executive department self-deal that way under this particular bill? [LB171]

SENATOR AVERY: I don't think so. And I remember that exchange that you had with the Secretary's Office, and I shared your concern that it seemed to be pretty arbitrary and they were just taking the number from somewhere else. But they have a long history of administering these programs themselves, so this is the information they have and would not have to rely on an outside agency. [LB171]

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SENATOR SCHUMACHER: Would there be any reason why the Legislature wouldn't have to give a final blessing? It seems to me that fund-raising, revenue raising, whether we call it fees or taxes, it's squeezing money out of the public, comes as a legislative function, and administering the law is an executive function. Shouldn't there be some mechanism in here for the Legislature at least blessing the fee schedule? [LB171]

SENATOR AVERY: That's the way it is now, and the problem is that you've got fees that have...some were set back in 1982 and the Legislature has been reluctant to revisit it. And I suspect that some of those fees are probably in need of adjustment, if not in this biennium certainly next year. [LB171]

SENATOR SCHUMACHER: What, then, is preventing the Secretary of State or any other agency from just coming to the Legislature and saying, hey, I need a \$10 increase on this item and a \$3.50 increase on this item unless... [LB171]

SENATOR AVERY: And they do it, and they do it, and every time they're met with the same opposition and it's almost always, that's a tax increase, but it's a user fee. People who are using the service, people who need the notary public commission, they use that for an important purpose and it has an administrative cost. And the state has been picking up a big part of that and it seems to me that the users ought to pay the lion's share of that. [LB171]

SENATOR SCHUMACHER: Thank you, Senator. [LB171]

SENATOR PRICE: Senator Sullivan. [LB171]

SENATOR SULLIVAN: Thank you, Senator Price. Senator Avery, and even more importantly than the Legislature giving their blessing, it's important for citizens to have the opportunity to weigh in if there is a fee increase on anything. And as I understand it, if the Secretary of State would arrive at that conclusion that fees need to be raised, there would need to be a change in the rules and regulations and there would have to be a public hearing and then ultimate approval by the Governor. Is that right? [LB171]

SENATOR AVERY: That is correct. You did your homework. Thank you. Now that's... [LB171]

SENATOR SULLIVAN: Okay. Well, you can thank your legal counsel for that.
(Laughter) [LB171]

SENATOR PRICE: Thank you, Senator Sullivan. Questions? Senator Janssen. [LB171]

SENATOR JANSSEN: Thank you, Vice Chair Price. Chairman Avery, LR542 this summer and fall...I think I go that...it was LR542, right? [LB171]

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SENATOR AVERY: Yeah. [LB171]

SENATOR JANSSEN: We were, I guess, tasked with looking for statutory ways to cut from the government and this came from that or...because this is...I thought we were told not to look for tax increases or fee increases. [LB171]

SENATOR AVERY: No. That's a good question. You're calling my hand, Charlie or Senator. (Laughter) It is...this came...you remember I said that there were probably some areas where we would be looking for opportunities to enhance fees in order to help some of these agencies meet their obligations without having to go into the General Fund. [LB171]

SENATOR JANSSEN: As you know, I hang on every word you say, Chairman Avery. [LB171]

SENATOR AVERY: I know you do. (Laughter) And we ran out of time for the committee to get...to sit down and to discuss these...this was a part of the process. This did not specifically get the blessing of this committee. [LB171]

SENATOR JANSSEN: And I probably share Senator Schumacher and Sullivan's kind of...I hate to, I guess, give away that power, not that I have anything against our Secretary of State or think there's any ill intentions there, but when we stop and are holding the purse strings, if you will, how much does it cost to process? We're talking notaries. Does it cost more for Staffer A to do it than Staffer B because Staffer A has been here for 35 years and gets paid more? Does that go into the equation? Have we started a new program in the Secretary of State's Office and his overhead went up, so does that get...well, we need to increase the fees of the notary because my office operation went up because we added four different departments? [LB171]

SENATOR AVERY: Yeah. [LB171]

SENATOR JANSSEN: That's what scares me about it. [LB171]

SENATOR AVERY: Yeah, I can understand that concern. [LB171]

SENATOR JANSSEN: And that's where I... [LB171]

SENATOR AVERY: I don't think that would happen but I can see how it could. But I would remind you that the last time we raised notary public fees was 1994 and it went from \$10 to \$15. I don't know what they'd have to do to recover all...full cost but if they went up \$5, notary publics can charge to notarize a document and they could recover a \$20 fee pretty easily. [LB171]

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SENATOR JANSSEN: Thank you. [LB171]

SENATOR PRICE: Thank you, Senator Janssen. Are any further questions? Seeing no further questions, thank you, Senator Avery. [LB171]

SENATOR AVERY: I'm going to stay around for closing. [LB171]

SENATOR PRICE: Obviously, Senator. Thank you. We're going to move now to proponents for LB171. [LB171]

COLLEEN BYELICK: (Exhibit 1) Thank you. My name is Colleen Byelick, it's C-o-l-l-e-e-n B-y-e-l-i-c-k. I am the general counsel for the Secretary of State's Office. As Senator Avery mentioned, this bill directly impacts statutory duties within our office. And I just want to be on the record on behalf of the Secretary of State as saying that we support the bill. We do have roughly 29,000 notaries in the state of Nebraska, and we do believe that we are there to ensure that they are doing their duties responsibly and ethically. And we also license a variety of licenses, and debt management and truth and deception examiners are one of the two smaller areas that we license. We only have about 37 debt management companies in the entire state license and about 65 truth and deception examiners, which those are typically polygraph examiners. And, you know, although as we'd mentioned, it's hard to calculate what exactly costs are on all of these things but in addition to just reviewing a licensing application, for debt management companies we actually review all of their contracts and we review those annually, and those are the contracts that they're using with the consumer. For truth and deception examiners, there's actually an advisory board and there's a year-long internship period for an applicant where they actually have to administer 50 exams, and this advisory board comes in and actually reviews their polygraph charts that they've looked at. So there's a little bit more that goes into it than just kind of looking at an initial license application. There's also records, there's complaints, there's potential hearings if there's disciplinary actions, there's phone calls, there's correspondence. So it goes beyond just reviewing an initial application. Currently, we have a business services division that typically handles most of the notary functions, and then disciplinary actions are reviewed to myself as legal counsel to review. And this is the same division that handles all of our business entity filings and all of our UCC and statutory lean filings. We also have a licensing division which, in addition to handling these two licensing functions, also handles collection agencies, private detectives, athlete agents, civil litigation funding companies, credit service organizations. So we kind of have a broad umbrella of different occupational licensing that we're handling. I did want to clarify the fees a little bit. For the debt management license, our initial fee comes out to \$400. It's a \$200 investigation fee and a \$200 licensing fee, and then there's an annual \$100 renewal fee. For our truth and deception, the intern fee is \$15. The actual license fee is \$50, and then there's a \$25 annual renewal fee. For our notary public commissions, we

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receive \$15 for issuing the commission and \$15 for filing the bond, so it's really a \$30 total fee. And that's good for four years. So that's a very, very, very inexpensive license fee at this point. It's less than \$10 a year for you to be a notary in the state. We do believe that the bill is beneficial in several respects and that it does give us a little bit more flexibility to reevaluate these programs and set fees as necessary. You know, there was some concern voiced about whether or not that should be done administratively or whether that should be done through the legislative process. Especially for these smaller programs, it becomes a little bit more burdensome to go through the legislative process for an area of licensing where you have a minimal amount of licensing, and I think it's a harder burden to explain why that's necessary when you have a lower amount of licenses. But they are valuable programs and they are programs that you have to have staff that's trained and can handle them, and so there is a need there. In addition, anything that's done through rule and reg, notice is given to the Executive Board of the Legislature. There's also a public hearing process. And our office has always been very responsible in listening to citizen complaints and so forth. And so I don't...I'm not as concerned about a situation where we would try and, you know, double something or do something inappropriately. Our goal has always been to set fees that are reasonable that cover our service cost. And I would say that most of our other licensing functions, all of those other ones that I listed off, are actually set in rule and reg, and most of those have not been updated for a while either. But, so we already have that authority with many of our other licensing programs, and we're very responsible in that respect. So, again, we think that there's still a public policy input and we'd like to support this bill. And I can answer any questions you have. [LB171]

SENATOR PRICE: Thank you very much, Ms. Byelick. Are there any questions?
Senator Janssen. [LB171]

SENATOR JANSSEN: Thank you, Ms. Byelick. Very informative. Would you say, in your opinion, that the goal of this bill in reality if it were passed the people of Nebraska or the users of these programs would pay more overall in fees? [LB171]

COLLEEN BYELICK: Well, I don't know if they would initially. And some of these programs we don't even have mechanisms right now to even track these separately. They're all sort of part of our administrative program, and so that's something that we would have to go in and look at and think about and figure out. So I think our initial...when we initially reviewed this we thought, okay, what we're doing right now is covering everything, but wages, benefits, all of those things do go up over time. And, you know, like I said, I don't think our intention is to think, oh, wow, what can we throw in this hat and try and increase fees to. That's not our intention. [LB171]

SENATOR JANSSEN: But okay, initially no this doesn't take place this biennium as we look down. But I'm going to surmise that most likely this makes it easier to raise just because I think Senator Avery talked about it hasn't been raised since '82 or '95...

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[LB171]

COLLEEN BYELICK: Um-hum. [LB171]

SENATOR JANSSEN: But the main purpose of this is to allow flexibility and make it easier to raise fees which I call taxes on citizens of Nebraska. I mean, that's just...I just at least want to throw it out and I may or may not be... [LB171]

COLLEEN BYELICK: Well, and I don't know because when you go into talking about raising taxes for the citizens, the only people that are paying these fees are people that want to engage in this specific business. So this is a very limited scope. And even with some of, you know, the debt management and maybe even polygraph, some of these businesses are even out of state. So I don't know if we can make that leap, but... [LB171]

SENATOR JANSSEN: Sure. But I think we're still...it still would make it easier to raise the rates. I mean, that's the whole idea because it's tough to raise it through the...I sit on 1 of 49 seats. I know how difficult it is to get a fee raised. So I can kind of see what's going on here and that may or may not be the appropriate action. That's why we're holding the hearing. You brought up one thing in your...on your testimony about the advisory board comprised of polygraph examiners. [LB171]

COLLEEN BYELICK: Um-hum. [LB171]

SENATOR JANSSEN: ...and for voice stress examiners. [LB171]

COLLEEN BYELICK: Um-hum. [LB171]

SENATOR JANSSEN: That board, are they a full-time staff? Are they paid? Are they compensated? [LB171]

COLLEEN BYELICK: Oh, no, no, no, no. They are actually, what they are, they are licensed polygraph and voice stress examiners and they come in voluntarily when asked to usually sit in this exact room and review these charts, so there's no expenses to them. The expenses come in the staff time in compiling everything and maintaining all the files and then answering all the questions and handling any complaints. So, no, they're just an advisory board and they're called upon as needed. And most of them like being able to share their expertise. [LB171]

SENATOR JANSSEN: Okay. I just was getting confused if that was part of the cost, and in reality we're getting it probably for free or maybe with per diems or something along those lines. [LB171]

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COLLEEN BYELICK: Really the cost involved with that is studying the fact that you have to do a public notice that you're having an open meeting and those sorts of costs, but not...they're not getting paid a salary or anything to that extent. [LB171]

SENATOR JANSSEN: Should have been at yesterday's hearing for public meetings. Thank you. [LB171]

SENATOR PRICE: Thank you, Senator Janssen. Are there any further questions? Senator Schumacher. [LB171]

SENATOR SCHUMACHER: Thank you, Senator Price. To the extent this sort of sets a precedent for maybe future ventures down this road where agencies can set their own fees, and those agencies usually have broad regulatory authority of the people that they set their fees on, and agencies are constrained by costs. And our people generally don't like taxes and they don't like much for regulations. So if we just let an agency automatically adjust its costs and the fees accordingly, are we not taking away from the system a normal deterrent for expanding regulations, expanding government involvement because now they can afford to hire an extra person to do an extra regulation or to do an extra thing where otherwise that fee put an upward limit on how meddlesome they could be? Not saying the Secretary of State is meddlesome, but we're kind of setting a precedent here. [LB171]

COLLEEN BYELICK: Well, I don't think you're setting a precedent because the ability to set fees in rules and regs is there in other areas that even our office administers, so I don't know that that's true. As far as sort of broadening government regulation, our office can only administer a program that the Legislature has specifically given us to administer, and our regulations can only stay within those confines. And both the Attorney General and Governor have to approve any regulations before they even become final and become law. So I don't know that we can make that leap to say, well, if we can increase our costs, maybe we can hire another person and we can further heavily regulate an area that's already regulated because the confines of the regulation are already set forth in statute. [LB171]

SENATOR SCHUMACHER: Most of those statutes are delegated in very broad terms and one can always regulate more if one has the ability to regulate more. You know, these are three very minor areas, three very minor amounts of money. Why don't we just index them for inflation and forget about writing rules and regulation and coming back to the Legislature, just index them for inflation? [LB171]

COLLEEN BYELICK: Is that a...are you asking me a question? [LB171]

SENATOR SCHUMACHER: Yeah, a question. Why don't we just do...isn't that a simpler way of getting between Point A and B? [LB171]

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COLLEEN BYELICK: You know, I guess if that's an approach the committee wants to take, then that's kind of the approach they want to take. I think our thought process on it was that sometimes when you're getting into a smaller program that, you know, there's nothing going wrong with that program, there's really no other need to seek legislation on that specific program. Then it gets to be a little bit more harder to go and seek legislation simply to raise a fee \$5. That's the sort of thing that most senators kind of say, wow, that's kind of a minutia issue. And subsequently that doesn't happen for, you know, 30 years. So there's probably different ways to handle it. [LB171]

SENATOR SCHUMACHER: But if we just indexed them for inflation, there would be no need to come back. No further questions. [LB171]

SENATOR PRICE: Thank you, Senator Schumacher. Are there any further questions from the board? Seeing no further questions, thank you very much for your testimony, Ms. Byelick. [LB171]

COLLEEN BYELICK: Yes, you're welcome. [LB171]

SENATOR PRICE: Are there any others who would wish to testify as a proponent on LB171? Seeing none for proponents, do we have any opponents to LB171? Seeing none, do we have anybody would wish to testify in the neutral? Seeing none, Senator Avery, you are free and clear to close on LB171. [LB171]

SENATOR AVERY: I hate to admit it but I think the Secretary of State made the case better than I did, so I would have you focus on her testimony and consider advancing this to General File. [LB171]

SENATOR PRICE: Thank you very much, Senator Avery. Are there any comments or queries from the committee? Seeing none, thank you. [LB171]

SENATOR AVERY: Thank you, Senator Price. That closes the hearing on LB171. We'll now go to LB218. Senator Karpisek. [LB171]

SENATOR KARPISEK: Thank you, Senator Avery, members of the Government, Military and Veterans Affairs Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. LB218 increases the number of positions exempted from the state personnel system from 25 to 50 for an agency with over 5,000 employees. It provides the Department of Health and Human Services with the ability to have additional positions considered as discretionary which would allow the CEO to recruit, select, and supervise critical, confidential, or policy-making personnel without restrictions on selection, compensation, grievance privileges, and career protections currently set out in the classified system personnel

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rules and regulations or labor contract. It also allows DHHS the ability to move quickly in the selection of critical highly-skilled employees needed to support agency initiatives and to respond to shifting priority's requirements. It allows the department the flexibility to select critical staff with no ongoing obligation for long-term continued employment career protection when agency priorities or requirements are changed or no longer needed. Obviously I have brought this bill for the Department of HHS, and Mr. Winterer is here and will be able to answer questions much better than myself. I would like to say the reason why I have brought this bill is, to me, places like BSDC, those sort of places in the state where we might have a hard time competing with the private sector as far as wages, benefits, all those sort of things, I feel that those people at those institutions deserve the very best, and if the Director has to do something to recruit someone, to get someone, I feel that this would help him in that capacity. Again, I'd be glad to answer any questions but Mr. Winterer would be much better versed. [LB218]

SENATOR AVERY: Thank you, Senator. Any questions? Senator Sullivan has one. [LB218]

SENATOR SULLIVAN: Thank you, Senator Avery. Senator, I just wanted to clarify, to your knowledge, is the Department of Health and Human Services the only state agency that would be impacted by this? [LB218]

SENATOR KARPISEK: To my knowledge, yes, that is, and thank you for pointing that out. I meant to. Thank you. [LB218]

SENATOR SULLIVAN: Okay. [LB218]

SENATOR AVERY: Any other questions? See none. [LB218]

SENATOR KARPISEK: I will stay to close. [LB218]

SENATOR AVERY: Okay. Any proponent testimony? Welcome, Mr. Director. [LB218]

KERRY WINTERER: (Exhibit 1) Thank you. Good afternoon, Senator Avery and members of the Government, Military and Veterans Affairs Committee. I am Kerry Winterer, that's spelled K-e-r-r-y, last name is, W-i-n-t-e-r-e-r. I am Chief Executive Officer of the Department of Health and Human Services. I would like to thank Senator Karpisek for introducing LB218 on behalf of DHHS and I'm here to testify in support. Senator Karpisek actually made a very good case for this, so I'm going to be fairly brief in my comments so we can get to questions. Essentially this bill would amend state Statute 81-1316 by changing a number of discretionary positions from 25 to 50 for an agency with over 5,000 employees. Currently, DHHS is the only state agency with 5,000 or more employees. For comparison purposes, roads and corrections have around 2,100 employees each. The term "discretionary employee" refers to employees a state

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agency can hire who are not subject to the classified system personnel rules and regulations or applicable labor contracts. They are considered to be at-will employees. And as the statute itself states, "The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges." As an agency head, I can tell you that having the ability to hire discretionary employees is important and helps in managing a more flexible and accountable agency. I've been able to use this to recruit and hire individuals with specific skills and experience who are critical members of the agency's management teams. These include, for example, our Chief Information Officer and our Chief Operating Officer. All we are talking about here is increasing the number of these positions available in DHHS. The department consists of six divisions in one operating area. The current statute allows, on average, less than four of these discretionary positions for each of these divisions, and some of these divisions are larger in and of their own right than other agencies in the state. Increasing the number will allow for more flexibility and ability for division directors and me to manage the department more effectively, to build a team that can serve the agency's mission, to react more quickly to changing needs, and to hold them accountable for performance. I want to be clear, I'm not talking about increasing the number of total employees. The department still must operate within budget constraints and our longstanding policy of increasing efficiency and reducing our overall number of employees. However, increasing the number of discretionary employees will give the department more flexibility to make staffing decisions based on the needs of the department and the Nebraskans we serve. Thank you. I'd be happy to respond to any questions you may have. [LB218]

SENATOR AVERY: Questions from the committee? Senator Pahls. [LB218]

SENATOR PAHLS: Thank you, Mr. Winterer. The question I have is, you alluded that you could have hired or you did hire two individuals. [LB218]

KERRY WINTERER: Correct. [LB218]

SENATOR PAHLS: And I'm assuming you could offer them more money. [LB218]

KERRY WINTERER: That is possible because you can...you have more latitude in terms of compensation. But in each of those cases, it had much more to do in my estimation to the particular experience and skills that I was looking for that I wanted in each of those critical positions, and in fact in neither case was the salary that consideration. It was identifying a particular person that I wanted to recruit and hire. [LB218]

SENATOR PAHLS: So there was a preordained job description and you said that that's

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not the job description you were looking for, the personal feel that you want to be able to fill that in a different direction. [LB218]

KERRY WINTERER: There may have been a preexisting job description, but based on my own discretion I was looking for a particular job function and I was looking for a particular person that I thought fit that function, and it was important for me in terms of managing the agency. [LB218]

SENATOR PAHLS: Thank you. [LB218]

SENATOR AVERY: Any more questions? Senator Sullivan. [LB218]

SENATOR SULLIVAN: Thank you. Maybe I overlooked this in your comments, but do you currently have all 25 of those discretionary employees right now? [LB218]

KERRY WINTERER: I have one that is not filled. Actually, I have two that's not filled but one that will be filled and we still have one that would be available at this point. [LB218]

SENATOR SULLIVAN: So, and if this legislation were to pass, do you anticipate reaching that 50-position limit? [LB218]

KERRY WINTERER: No. I don't anticipate reaching that 50-position limit frankly in the near term. What we really need is we're bumping up against that ceiling. We have some other needs that I can see evolving over the course of the next two or three years. I don't see that we're going to have 50 of these positions filled in the next year or 18 months, but it provides that flexibility and the ability to hire and use those positions as we see fit. Right now we just don't have enough room to do what we need to do. But I don't anticipate filling those 50 positions any time in the near future. [LB218]

SENATOR SULLIVAN: And, again, did I understand you correctly, if you did, it's positions that exist right now but that are unfilled so you are not increasing staff or... [LB218]

KERRY WINTERER: No. To the extent that we would identify positions that we wanted to use these discretionary positions for, they would be...we would be using vacant positions that have not been filled. In other words, we're not asking about another...we're not anticipating another 25 positions...creating another 25 positions. They would be replacements. They would...we would take a position over here and we would not fill that in exchange for this discretionary position over here. We're not talking about more employees. [LB218]

SENATOR SULLIVAN: And who's involved in the process of determining that that position over there now becomes a discretionary position that fits, as you said, into your

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team? [LB218]

KERRY WINTERER: That would be a conversation that would occur between me and whatever division director there was that was involved in that particular...with that particular position or that particular function. It could involve HR in some cases and so on. There would be a process that we go through to identify that to manage the process. Ultimately it needs to be the division director or me who ultimately makes those decisions. [LB218]

SENATOR SULLIVAN: Is there quite a bit of salary difference variation between discretionary employees and those involved in the state personnel system? [LB218]

KERRY WINTERER: There is some but I don't think you would see a tremendous difference between those that are discretionary employees and others that are in the classified system, but there would be some difference, yes. [LB218]

SENATOR SULLIVAN: Okay. Thank you. [LB218]

SENATOR AVERY: Senator Schumacher. [LB218]

SENATOR SCHUMACHER: Thank you, Senator Avery. As a percentage of total agency employees, this is set at 25. Do you have any idea what the...what that represented of the total agency employees at the time this was initially set? [LB218]

KERRY WINTERER: This originally was set back in 2007 is when the 25 number was set, and that was a combination of three other agencies that came together to create what is now DHHS. I couldn't tell you what the employment numbers were at that point in time. Obviously the 50, if it increases to 50, that's still less than 1 percent of our overall employees would be in that discretionary pool. [LB218]

SENATOR SCHUMACHER: I have nothing further. [LB218]

SENATOR AVERY: Senator Brasch. [LB218]

SENATOR BRASCH: Thank you, Senator Avery. Thank you, Mr. or Dr. Kerry? [LB218]

KERRY WINTERER: Not a doctor. [LB218]

SENATOR BRASCH: Mr. Okay. [LB218]

KERRY WINTERER: That's fine. Or Kerry, that's fine too. [LB218]

SENATOR BRASCH: Kerry Winterer. [LB218]

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KERRY WINTERER: Yes. [LB218]

SENATOR BRASCH: Okay. Thank you. Do I understand that the discretionary funds gives you the director the ability to cut the red tape, to say you received a resume on your desk or you were at a meeting and you found some personnel that was very innovative, just would bring much advantage to your system, you would like to hire them. And there isn't anything on the books today of this position. It's being done in Oregon or another state, for example. But you would still have to work within your agency budget, correct? If you didn't have the funds, it didn't matter how good... [LB218]

KERRY WINTERER: Yes, certainly. [LB218]

SENATOR BRASCH: ...this person is or what your discretion was. [LB218]

KERRY WINTERER: Absolutely. [LB218]

SENATOR BRASCH: That money had to be there already. [LB218]

KERRY WINTERER: Absolutely. We'd have to... [LB218]

SENATOR BRASCH: It's not increasing any...okay. [LB218]

KERRY WINTERER: Exactly. We'd have to find a way to fund that position, if you will, inside... [LB218]

SENATOR BRASCH: Right. [LB218]

KERRY WINTERER: ...inside current budgets. [LB218]

SENATOR BRASCH: So it does not cost... [LB218]

KERRY WINTERER: No. [LB218]

SENATOR BRASCH: ...taxpayers any more. It just gives you the ability to act quickly to find talent or to contribute to your agency. [LB218]

KERRY WINTERER: Yes. [LB218]

SENATOR BRASCH: Thank you. Thank you. [LB218]

SENATOR AVERY: Thank you, Senator. Any other questions? I don't see any. Thank you, Mr. Winterer. [LB218]

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KERRY WINTERER: Thank you. [LB218]

SENATOR AVERY: Any other proponent testimony? Anyone wish to testify in support of LB218? Is there any opposition testimony? Welcome. [LB218]

JULIE DAKE ABEL: Good afternoon, Chairman Avery and members of the committee. My name is Julie Dake Abel, D-a-k-e A-b-e-l, and I'm the executive director of the Nebraska Association of Public Employees Local 61, which is affiliated with American Federation of State County Municipal Employees. As many of you know, we do represent a large number of state employees. I'm here today to testify to oppose LB218. As was talked about this bill would increase the number of exempt employees for those agencies over 5,000, and obviously that the major agency that that would affect and probably the only one right now would be Health and Human Services. I do not see any compelling reason as to why this change would be needed. This would remove the rights and protections of more employees and double the amount of patronage jobs. I don't think now is really the time, you know, to add 25 discretionary employee positions. I've heard some of the testimony today. I've, you know, heard Senator Karpisek talk about his concerns about Beatrice State Developmental Center, and we, of course, have shared those concerns. But they're...when they have trouble recruiting positions or they need certain types of positions, there is a mechanism under the union contract for them to do that, that we do have mechanisms for people to receive in-grade adjustments where the agency and the employer can come to employee relations. They come to us and we can look at the people if they have special qualifications or special skills that can receive, if compensation is an issue, a little bit higher compensation for a job which helps them in their recruiting efforts. And that's a lot of times the concern that they bring to us. We're having trouble recruiting for this position. We need people that are specialized. This person has a certain skill set that we may need. And we heard also, you know, that from Mr. Winterer as well. Positions like the Chief Operating Officer, those positions are already discretionary, so I don't see that that would be a big change in that. Unfortunately the more I listen to some of the testimony today and thought about it, you know, I really believe that exempting more positions, whether they say they're going to do it or not, this gives them the ability to circumvent the union contract. And I don't think that's a fair thing to do. You know, there are employees that are covered by union contract. There's also, you know, a fair number of employees that aren't covered by the union contract, and there are already mechanisms in place for that. So, again, I don't see any lodging or compelling reason to change the current law on this matter, and I did not hear a compelling reason from Mr. Winterer as well. So I would just urge the committee to not advance LB218. [LB218]

SENATOR AVERY: Thank you, Ms. Abel. Any questions from the committee? Senator Sullivan. [LB218]

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SENATOR SULLIVAN: Thank you, Senator Avery. Just needed a little background information I guess. We've got basically then three groups of people, those that are...employees, those are members of the union... [LB218]

JULIE DAKE ABEL: Um-hum. [LB218]

SENATOR SULLIVAN: ...those that aren't but they're still part of the state personnel system. Is that correct? [LB218]

JULIE DAKE ABEL: Correct. [LB218]

SENATOR SULLIVAN: And then you've got discretionary employees. [LB218]

JULIE DAKE ABEL: Yes. [LB218]

SENATOR SULLIVAN: Do you have any idea systemwide how many state discretionary employees there are? [LB218]

JULIE DAKE ABEL: I do not. [LB218]

SENATOR SULLIVAN: Okay. Okay. And what proportion of the remaining two are union and nonunion? [LB218]

JULIE DAKE ABEL: Well, there is...we represent approximately 10,500 state employees. [LB218]

SENATOR SULLIVAN: Okay. [LB218]

JULIE DAKE ABEL: Any of the people that are supervisor, management level are automatically exempt. So from that on up to regional directors, anybody above them, administrators, those are all exempt from the union contract and are currently not covered anyway. [LB218]

SENATOR SULLIVAN: I think the legislative staff probably are at-will employees, too, aren't they? Like our LA's? [LB218]

JULIE DAKE ABEL: Well, they are not. There are also certain groups that under, you know, when we certify and like when we're certified as a union that are not eligible to be in the union because of their status... [LB218]

SENATOR SULLIVAN: Um-hum. [LB218]

JULIE DAKE ABEL: ...such as legislative staff would be one of them. [LB218]

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SENATOR SULLIVAN: Um-hum. [LB218]

JULIE DAKE ABEL: There are certain, you know, people that may be in the Secretary of State's Office or some of the other offices that automatically are exempt because of the nature of their work. And so if there is ever, you know, a question about is a job appropriate for union contract or not appropriate for that, there's a mechanism for that to be handled, too, which can happen. [LB218]

SENATOR SULLIVAN: Okay. Thank you. [LB218]

SENATOR AVERY: Senator Schumacher. [LB218]

SENATOR SCHUMACHER: Thank you, Senator Avery. Just a quick question. You used the term "patronage employees." Could you define that a little bit and how many of those...how they differ from the normal process? [LB218]

JULIE DAKE ABEL: Well, I just think that then you're adding people that, you know, are more appointed-type employees, I mean, because that's essentially what you'd be looking at if we're talking, you know, we're going to have a resume and we're going to look at a resume and we want that person, you know, boom, right now, then we're not following the normal course of under even the personnel rules and regulations as far as hiring a person. So to me that adds the number of, you know, appointed people or top-level administrative people. [LB218]

SENATOR SCHUMACHER: I have no further questions. [LB218]

SENATOR AVERY: Any more questions from the committee? I don't see any. Thank you, Ms. Abel. [LB218]

JULIE DAKE ABEL: Um-hum. [LB218]

SENATOR AVERY: Any other opposition testimony for LB218? Anybody wish to testify in a neutral position? Okay. Senator Karpisek. [LB218]

SENATOR KARPISEK: Thank you, Senator Avery and members of the committee. I do want to thank Mr. Winterer and Ms. Dake Abel for testifying. And I do agree with Ms. Dake Abel that there is a mechanism in place. I don't know that it always gets them there and it may. I'm not saying it doesn't. It may but it can be difficult, cumbersome, and I think take time. And maybe some of these are not positions that we would want time to be taking a long time to wait. We might lose the employee. The other part about taking away union member jobs, and I'm not saying this for sure, but I'm not sure that a lot of these would be those type of jobs anyway. We're talking about the higher-end jobs

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that are already classified out. Now obviously not all of them or we wouldn't have this bill. But she is correct. There are mechanisms and I think they work a lot of the time and I think they do a good job, but of course you have to go back to the union and ask. If someone wants more, you have to ask. They can or don't have to agree or they could agree but then agree that everyone in that class is going to get the same rate. So those are the situations I think that we are up against. When I brought up BSDC, maybe I kind of got things spun out of control a little bit when I'm talking about one place and I put that in your mind. That's the type of situation why I bring the bill, not specifically that institution. And I'd be glad to take any more questions. [LB218]

SENATOR AVERY: Thank you, Senator Karpisek. Any questions from the committee? I think we're finished. [LB218]

SENATOR KARPISEK: Thank you, Senator Avery. [LB218]

SENATOR AVERY: Thank you. That ends the hearing on LB218. We will now move to the final item on our agenda, and that is LB172. And I will be turning the chair over to the Vice Chair, Senator Price. [LB218]

SENATOR PRICE: Thank you, Chairman Avery. Again, with a show of hands--with LB172 and a full room, can I see by a show of hands how many people are here as a proponent for LB172? Thank you. Can I see how many, who are here, who wish to testify, are in opposition of LB172? Okay, great. Again, I understand emotions could run high, and we have a lot we want to say and a lot we want to cover. And I would encourage that we follow the Chairman's guidelines, that we add new information, where possible, out of respect for letting as many people have an opportunity to speak before the committee. Again, welcome Chairman Avery, please open on LB172.

SENATOR AVERY: (Exhibit 1) I think I saw more hands raised in opposition than in support. No surprise. This is not an easy task. For the record, my name is Bill Avery, B-i-l-l A-v-e-r-y; I represent District 28. I am bringing to you a bill numbered LB172. This, you recall, was, in fact, a part of our discussions in this committee during the LR542 budget review process, and I'm not going to go over again what we were charged to do with that process. We decided in those deliberations to put on our options list the elimination of both the Latino-American Commission and the Indian Affairs Commission. During our discussions of those options, I suggested that I would be interested in seeing a proposal that would create a new commission that would represent the interests of all minority groups, and I prepared LB172 in order to do that. My purpose was to provide the Legislature with an alternative to complete elimination of these advocacy groups and to at the same time still capture some savings for the state. Remember, the LR542 process was a process designed to save the state money and to help us close a nearly \$1 billion budget gap. I felt that eliminating the two commissions would do harm to an important interest in this state, and that is that minority groups have as much

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representation as possible and as many opportunities as possible to have their voice heard in government. I also recognize, though, the painful reality of the need for us to find savings where possible. And I felt that if we could work out a way to combine the Latino Commission and the Indian Affairs Commission and expand membership on a new commission to include other cultural minorities, that we might be able to both save money, preserve the opportunities for those existing commissions to still be represented, but also expand the scope and the nature of the group so that Asians could be represented, perhaps Sudanese, and others. That's what my intent was. My intent was not in any way to diminish the opportunities for minority groups to be represented in state government. So I think we are aware that we have a more diverse state than we have had in the past. I think we recognize that we have a large and growing Asian and Sudanese communities. They do not have their own commission or advocacy group. It seemed to me that here was an opportunity to achieve several purposes at the same time. I have been asked why "Indian" is used in the title of the commission. Quite simply, I believe that we have a special relationship with the Native Americans in this state. They are not immigrants; we are. They belong here, and they were here before we came. They have sovereign status. They have some unique interests and concerns. So I propose to name this commission the Commission on Indian and Multicultural Affairs. If you look at the green copy of the bill, you'll see that the commission is designed to have ten members appointed by the Governor. I have an amendment here, if the pages will come and distribute it for me; this amendment is designed to answer some concerns that I received from the Latino-American community. As the green copy indicates, six members of this ten-member commission would represent the various Indian tribes in Nebraska, and the other four members would represent other cultural minorities, and one of which would be at large. So speaking with my friends in the Latino community, they said: Well, we would be so underrepresented, being the largest minority in the state and the fastest growing; we think that is unfair. So what I am suggesting with this amendment is that the at-large membership be increased from one to three. That will give the Latino community the possibility of having up to four members on this commission. That's no guarantee that they would get all three at-large positions, but it is possible that that might happen. I am open to other suggestions for amendments, if that becomes necessary. The commission is charged with promoting state and federal legislation beneficial to Indian and multicultural communities; coordinating existing programs in the areas of housing, education, welfare, medical, employment, and other related problems; working with other state and federal government agencies; and keeping the Governor's office and the public informed on Indian and multicultural issues. The act would become operative on July 1, 2011, and has an emergency clause. I want you to take a look at the fiscal note. The...when we were talking about this this summer--we were talking about eliminating both of these commissions--we were looking to capture savings of about, oh, close to half a million dollars. And I anticipated that the formation of a multicultural commission would not be free, of course, but that we would still be able to get some savings, of maybe, oh, \$200,000, because the new commission would cost money too. The...I am

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sad to say that the Latino-American Commission, when asked to come in with an estimate on what it would cost for this new multicultural commission, estimates that it will cost \$1.6 million over the biennium. That's over \$800,000 each year. The Indian Commission came in with an estimate of nearly \$1 million--\$948,000. Those are completely outrageous. They are not responsible numbers. They are cynical. And, in my opinion, they mock this committee. And I am not happy about it. And I want to say that. The Fiscal Office was a bit more responsible in their estimates. The Fiscal Office believes that we can do this for just over \$400,000 a year. And I would suggest to you that's considerably less than what the Governor thinks we can do it, it would cost to continue to operate these two commissions. But even if you take the Governor's estimates, which total about \$689,000 for the biennium for the two agencies, and you compare it to what the Fiscal Office thinks we can do it for, they are not all that different--maybe \$100,000 or \$200,000 different. The Fiscal Office estimates that we would need an executive director, a business manager, a public information officer, administrative assistant. These are not outrageous; it's not outrageous that you might want to have that many people in the office. But I would ask you to query people when they come up to testify as to how many people they now have on staff to do the job that they are doing. I do not believe that you're going to find that there are four full-time people in any of these offices currently. So I am suggesting that the fiscal estimate that came from the Fiscal Office is the maximum estimate that would be needed by a multicultural commission and that this is itself perhaps inflated, we can do it for less. But it is--it does not, in my opinion, advance the reasonable discussion of this very emotional issue and very important issue to have both of these commissions submit frivolous and irresponsible fiscal notes. That is an inconvenient truth. But I am sorry. That's how I feel about it. I'll be happy to take questions. [LB172]

SENATOR PRICE: Thank you, Senator Avery. Are there questions from committee?
Senator Pahls. [LB172]

SENATOR PAHLS: Just for a little background information--as the total committee, what was our goal of saving, not on this particular issue but overall on LR542? [LB172]

SENATOR AVERY: About \$4.6 million. [LB172]

SENATOR PAHLS: Okay, so we were looking at \$4.6 million. Now my next question is...because I do think these fiscal notes are probably out of line. But how many bills are we going to introduce in this committee? I know the Appropriations Committee can take a look at our bills and say we need to introduce these to get to that magical \$4 million-plus. How many are we going to introduce in this committee? [LB172]

SENATOR AVERY: Well, they're already--all of them already have been introduced. I think it comes to about a half dozen. [LB172]

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SENATOR PAHLS: But, I mean, what would be the total of that half dozen? [LB172]

SENATOR AVERY: You mean the amount of money? [LB172]

SENATOR PAHLS: Yeah, just approximately. [LB172]

SENATOR AVERY: Oh, it equals about \$4.6 million. [LB172]

SENATOR PAHLS: Okay. [LB172]

SENATOR AVERY: So this proposal here...I mean, the original plan for this committee was to eliminate both commissions. This bill that I've introduced... [LB172]

SENATOR PAHLS: Right. [LB172]

SENATOR AVERY: ...is a substitute to that. [LB172]

SENATOR PAHLS: Yeah, that I understand. But... [LB172]

SENATOR AVERY: You want to know how much--how important... [LB172]

SENATOR PAHLS: How many other bills would, I mean, how many...? Because we went--it seemed like we went through a number of different categories, as I can recall, as we were looking... [LB172]

SENATOR AVERY: We did. We did. [LB172]

SENATOR PAHLS: And... [LB172]

SENATOR AVERY: And the lion's share of what we proposed that would achieve some savings came from eliminating state aid to NRDs and state aid to municipalities. And I'll be testifying on that Friday before the Revenue Committee. [LB172]

SENATOR PAHLS: So this is--this falls in line--this wasn't just picked out and say, okay, we're going to do this and just because we're going to do it. It was in the overall plan. [LB172]

SENATOR AVERY: Right. We had to come up with laws that we could change that all together would equal \$4.6 million. We didn't actually recommend changes in statutes in all these agencies that--whose subject matter comes under our jurisdiction. We made choices. And what we tried to do, as you remember, was we tried to determine: Is this an essential function, core function, of government? Desirable? Absolutely, highly desirable. But is this something we must do in order to conduct the affairs of the state?

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And we...these were not easy. And it's not easy still. We're seeing it in every committee; you all are seeing it everywhere you turn. We all recognize that we have a huge budget deficit that we have to deal with, but...and we're all saying, yeah, we are in this together--until it's your turn to ante up. [LB172]

SENATOR PAHLS: Okay. [LB172]

SENATOR AVERY: And that's what's so frustrating. [LB172]

SENATOR PAHLS: So I'm just trying to make a comparison here for myself and also maybe for the audience. Name another major bill that will take a chunk of money--I mean, so it has a life to it. [LB172]

SENATOR AVERY: Well, the amount of money that we will save if the bill that I will talk about tomorrow in Revenue is passed--I think we'll save about \$22 million, because you're talking about aid to cities... [LB172]

SENATOR PAHLS: Okay. [LB172]

SENATOR AVERY: ...if you completely eliminate aid to cities. Or maybe I've got the wrong bill. [LB172]

SENATOR PAHLS: Counties? [LB172]

SENATOR AVERY: My bills are jumbled up in my head now; I forget... [LB172]

SENATOR PAHLS: Yeah, I understand. Okay. [LB172]

SENATOR AVERY: But I...the aid to NRDs is about \$4 million--\$3 million or \$4 million. [LB172]

SENATOR PAHLS: Okay. So there are major issues that will be affecting lots of people. [LB172]

SENATOR AVERY: That's right, major issues affecting lots of people. There are other committees that are looking at ending aid to counties, for example. We...I've said this all along: we have an opportunity here with the LR542 process to reshape government, to redo how--and to rearrange how we do things. I don't think, personally, that government is going to be seriously harmed if we go to a single commission that will emphasize our overriding commitment to Indians but will also allow for some multicultural cooperation and some multicultural--attention to other cultures in--minority cultures in our state. We don't now have it. We're probably not going to get it. This is the best opportunity. [LB172]

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SENATOR PAHLS: The point I'm trying to get across is that there are some things out there that we're going to be cutting that we do not want to cut. [LB172]

SENATOR AVERY: Absolutely. [LB172]

SENATOR PAHLS: And they, you know, they have some issues that we don't really want to raise, but it has to... [LB172]

SENATOR AVERY: Well, you're having to deal with it in your own committee. [LB172]

SENATOR PAHLS: Right. [LB172]

SENATOR AVERY: Yeah. [LB172]

SENATOR PAHLS: Right. Okay, thank you. [LB172]

SENATOR PRICE: Thank you, Senator Pahls. Senator Janssen. [LB172]

SENATOR JANSSEN: Thank you, Vice Chair. Chairman Avery, I appreciate what you said about everybody has to ante up at some point, because I know how tough that can be, when you put something forward that's not necessarily very popular. I have certainly no issues with advocacy groups, which I don't believe you do either, just from knowing you. I support some personally on my own. Fundamentally, I don't think...and I want to hear your--as my de facto government teacher, if you will, professor, from your previous career. This summer, then fall we talked about what is--and we tried to get down to what is the true role of government and where are we at. And I think you talked about wants, needs. And I think we agreed in this committee at least, for LR542 purposes, that this was a want--these commissions--and not necessarily a need. I recall saying, if it is a need, why don't we have a German-American--why don't we have an African-American commission and so on down the line? So first I'd kind of...well, I'll keep asking the question, you can kind of throw it back at me--but ask you: What do you think is the basic goal of Nebraska government overall? And then talking about this new commission, I don't know how that would work, even if we did do it, if that...just from sitting on this committee, there was so much infighting even between what was known as the Mexican-American Commission and the faction that wanted to make it the Latino-American Commission. And that was within their own commission. And I don't--I know you ran an amendment, but still I don't think it's representative of the minority groups throughout the state, as far as representation goes. And you explained why, but I still... [LB172]

SENATOR AVERY: But that--the membership could rotate among groups... [LB172]

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SENATOR JANSSEN: Right. [LB172]

SENATOR AVERY: ...among those other four. [LB172]

SENATOR JANSSEN: Right, and I'm just...if that did come to fruition, I think I would probably have issue that it would appear to me that the Latino-Americans are being underserved on that committee and African-Americans are being underserved on that committee, as a percentage of our population in Nebraska. And that's maybe getting the cart ahead of the horse. But I threw a lot at you, and I'm just going to shut up for a while and let you talk. [LB172]

SENATOR AVERY: Well, you ask a really tough question. And I'm going to try to answer the first one, about what are the core functions of government. Public safety, obviously; providing for general welfare, particularly paying attention to the most vulnerable in our society. And so those are the kinds of things that this committee looks at as core functions of government. Then you have a plethora of very desirable things that we do. And it's...we'll probably always disagree about whether...what I consider desirable you might consider essential, or what you consider essential I might consider desirable but not essential. And that was always the toughest thing we did in this committee in those discussions. And I suspect that if this bill gets to the floor, it will cause quite a dustup. I expect that, because people feel passionately about this; they feel that it's something that we--that's essential for government to do and that we cannot do it with a blended committee. I had some people say to me: Well, Mexicans can't work with Indians. My question was: Why not? Why not? And you want to boycott it? Then I suspect there are plenty of Hispanics in this state that are not Mexicans that would be happy to serve on the commission and would be willing to work with other minorities. We need to bring minority groups together along with the rest of the population so that we can learn to get along. And the more we separate out and say, well, this is your interest area and this is your interest area and this is yours and we're never going to be able to get along because we're not even going to talk to each other or try to cooperate--I think that is counterproductive. So what I'm trying to do is save a little money, preserve some representation by minority groups in government, maintain the voice, and expand for representation to groups that are not now represented. Thank you for your question. [LB172]

SENATOR JANSSEN: Thank you, Senator. [LB172]

SENATOR PRICE: Thank you, Senator Janssen. Are there any other questions? Oh, we'll just go down the line. Senator Sullivan. [LB172]

SENATOR SULLIVAN: Oh, okay. Thank you, Senator Price. Senator Avery, of course the Governor has, in his recommendations, kept the two commissions separate. Now did I understand you correctly? His recommendation, then, is about \$690,000, and

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yours is about \$400,000? [LB172]

SENATOR AVERY: His would be over the biennium... [LB172]

SENATOR SULLIVAN: Um-hum. Um-hum. [LB172]

SENATOR AVERY: ...to maintain both commissions--would be \$689,641. [LB172]

SENATOR SULLIVAN: Okay. And your recommendation is... [LB172]

SENATOR AVERY: And my recommendation...the fiscal note on this...by the way, that number from the Governor's budget is reducing the budget request for both agencies by a significant amount, maybe to the point where they can't operate. I think the Indian Affairs Commission would be down to under \$165,000 per year. And the Commission on Latino-American affairs would be reduced down to \$212,000, and that includes \$35,000 in cash funds; I'm not quite sure where the cash funds come from. But state aid would be about \$177,000. So the Fiscal Office thinks that the blended commission--the multicultural commission--would cost a little bit more than what the Governor is anticipating to maintain the two at bare bones. The Fiscal Office did not give us a bare-bones fiscal note. What they gave us is a fully fleshed-out commission, with four full-time-equivalent positions; and I'm not sure that those are necessary, nor would the Appropriations Committee necessarily fund them at that level. I think we can achieve a number of important goals and save some money. The actual fiscal note estimates that we would save about \$86,000 a year with this blended, multicultural commission. [LB172]

SENATOR SULLIVAN: Okay. Thank you. [LB172]

SENATOR PRICE: Thank you, Senator Sullivan. Senator Schumacher. [LB172]

SENATOR SCHUMACHER: Thank you, Senator Price. Senator Avery, just so I have the bottom line in my head--under your proposal, it's about \$85,000 a year in savings. Is that correct? [LB172]

SENATOR AVERY: \$86,000, \$85,000, yeah. [LB172]

SENATOR SCHUMACHER: Somewhere in that neighborhood. And under the Governor's proposal, what...I haven't been able to quite get a handle on what... [LB172]

SENATOR AVERY: Under the Governor's proposal, you would keep the two commissions, and you would drop their funding down to about \$164,000 for the Indian Affairs Commission and \$177,000 for the Latino Commission. [LB172]

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SENATOR SCHUMACHER: That saves us how much then? I... [LB172]

SENATOR AVERY: Well, if you do the biennium--you add the two together--it comes to almost \$700,000. If...and I'm just not considering the estimates from the two commissions on what it would cost to staff a multicultural commission as serious proposals. I just reject them, because they're not serious. But the Fiscal Office estimates \$436,000 per year, and they believe that would lead to a savings of about \$87,000 in 2011-12 and \$82,000 in 2012-13. So you're looking at some savings with a blended commission. If you prefer the Governor's budget, I suspect that \$165,000 is not going to be very much money to run a commission. You might have--well, you'd have a crippled agency, a crippled commission, probably unable to do the things that they need to do. [LB172]

SENATOR SCHUMACHER: I have no further questions. Thank you, Senator Avery. [LB172]

SENATOR PRICE: Thank you, Senator Schumacher. Senator Pahls. [LB172]

SENATOR PAHLS: Thank you, Senator Price. Okay, then, this is becoming a little bit clearer to me. So it looks like the choice is either a blended or a...if the Governor goes--if we go the Governor's route, it will be significantly reduced. It will not...apparently, life is not going to stay the same. [LB172]

SENATOR AVERY: No. I don't think it would. [LB172]

SENATOR PAHLS: So I think the...those people who will be coming up--they're going to have to be making those decisions in their mind. If we...it won't remain as is, because if we--if something...or this may not be the exact thing that comes out of this committee, but something, let's say, similar... [LB172]

SENATOR AVERY: I had a motive here, Senator Pahls, and that was to provide the Legislature with an alternative to eliminating those agencies. [LB172]

SENATOR PAHLS: Okay. [LB172]

SENATOR AVERY: There's nothing to stop the Legislature from amending the... [LB172]

SENATOR PAHLS: Okay. [LB172]

SENATOR AVERY: ...whatever. I mean, I don't even know what the Appropriations Committee is going to do. [LB172]

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SENATOR PAHLS: Okay. [LB172]

SENATOR AVERY: But they may not...the Appropriations Committee may come back and say: We're not allocating any money for these agencies--or commissions... [LB172]

SENATOR PAHLS: Okay. [LB172]

SENATOR AVERY: ...in which case this bill would become a viable option. [LB172]

SENATOR PAHLS: Okay. Okay. [LB172]

SENATOR AVERY: You understand what I'm worried about. [LB172]

SENATOR PAHLS: Yeah, I understand. Okay. No, I'm just trying to...so, really, we're trying to put some options out there, and this is one of them. Okay, thank you. [LB172]

SENATOR PRICE: Thank you, Senator Pahls. Are there any further comments from the committee? Seeing none, we will move forward to any proponent testimony for LB172. Seeing none, we will move on to opponent testimony for LB172. Please. [LB172]

JUDI gaiashkibos: (Exhibit 2) Okay. Ahm-pa-tu-ah-shtay chim-ee-gwitch. Thank you for having me here before the committee. I would like to introduce myself. I am Judi gaiashkibos, J-u-d-i g-a-i-a-s-h-k-i-b-o-s. I am the executive director of the Nebraska Commission on Indian Affairs. I'm an enrolled member of the Ponca Tribe of Nebraska, and I am Santee. It has been my honor to serve the sovereign nations of the state of Nebraska for the past 15 years. Our agency has existed for 40 years. I appreciate Senator Avery's introduction of LB172, and I appreciated his recognition of our unique sovereign status. However, I rise and must go on record in opposition to LB172 and what we are calling a merger bill, to merge our agency with the Latino Commission and to include other minorities. I believe that the testimony that will be presented today will demonstrate that the savings do not merit the merger. Furthermore, I believe that as Senator Avery was offended by my budget that I submitted, we as Indian people are offended when we are included as minorities. We are not minorities; we are the first peoples. We welcomed all of you, all immigrants, to our state, and we continue to do so. And we as the Indian Commission, with a small staff, I believe perform miracles on a daily basis. We have a base budget currently of \$182,000. And Senator Avery has kind of thrown a wrench into my testimony, if you will. I feel like I had everything prepared to what I was going to say, but I feel like now the focus has gone to the budget. And the people in the audience here aren't really familiar, and we ourselves only received the legislative office fiscal note yesterday. So we're kind of at a disadvantage, as you are as well. So what I'm going to try to do in three to five minutes is to talk about the uniqueness of our agency and--as well as address the budget, so that you all can understand why we submitted what I believed was a reasonable budget to accomplish

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what I thought was not a reasonable scenario of one plus one does not equal two in this case but one plus one equals three. The budget that we submitted was \$470,356 a year. Combined, it's less than \$1 million. That I don't believe was ridiculous. Currently we have myself, an executive director; a PIO; and a secretary. The new budget would have been one executive director to carry out the strategic plan of the board of directors; one administrative assistant III to assist me; three administrative assistants, one that would work with fostering government-to-government between the Nebraska tribes and the federal government, two AA IIs to assist in the minority constituencies which would be added on to my duties--the Latino, African-American, Asian, Sudanese, and others; one public information officer to fulfill our Web site, etcetera--public relations; and, lastly, one administrative secretary that would be bilingual. So I don't think that's really a ridiculous staffing to accomplish what we were charged to do. So I wanted to say that the budget that the legislative office put forward was \$290,664, \$295,337. The savings was \$86,718--\$86,718--that's not a lot of savings. In the Governor's budget--his scenario--as you had heard, we would get a much smaller budget. The savings there would be \$51,329 the first year, second year \$52,311. Yes, that would greatly diminish our agency, but per statute we can take other monies to grow our budget. And we currently already have done that. To be where we are with a staff of three, we had to receive outside funds, which we are allowed to do. So we sought monies from a tribe in Minnesota, the Shakopee Mdewakanton Sioux. We would not be surviving without that money. So what would we do to address this? We would continue to write grants, as we are. We are currently administering LB1002A, the funds for Whiteclay, as well as monies to write grants. We've submitted a \$1.4 million grant to the National Institute of Health. So we're going to continue to be proactive and do that. So I hope that kind of gives--puts some rest to--that I had no ill intent; I didn't do this to offend you, the committee. I did what I thought was what I needed to do to fulfill the task and not put, you know, undue weight on my current staff. So that aside, I'd like to briefly just say--in about one and a half minutes--what we currently do; and then my testifiers, I think, will give you more information. Again, our agency is unique in that we work for the first peoples, the sovereign...the red light is on. We fulfill the Governor's memorandum of government-to-government. We have a small budget. Lastly, what is the harm to our constituents? Well, over the years--I have for you here a list of all the legislation, all of the different work that we do. We have outcomes. Currently we are working on a Ponca festival at the National Museum of the American Indian. That will occur in a year. We are...without the facilitation of the Indian Commission, that would not have happened. What does that do for Nebraska? That propels our state, our Indian people, and all people to see Nebraska as a good place to visit, a place where you have a rich culture that is respected. Furthermore, yesterday I just found out that the Standing Bear's Footsteps documentary from Nebraska Educational Television has been picked up by PBS. Next November all across America, people would be sitting in their homes and learning about the story of Standing Bear, learning about Indian people, the first people, and about the great state of Nebraska. So in addition to that, we have worked on legislation--numerous bills. One was for language, LB475; what that allowed was elders

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to teach the language without being a certified teacher. We are the first people that lost our language, the people...this is our homeland; we can't go to Spain to learn our language; we can't go to Italy, where you may all--can do that. So we are really at a disadvantage. Other bills that we have worked on: LB97; that amended the human remains bill. We are the only people that have to return human remains. LB34 created the State Tribal Relations Committee. We are unique in that we interface with the State Tribal Relations Committee, because we are sovereigns. The impact to the state by doing what you're considering would greatly impact every agency within state government and, I believe, every institution--the University of Nebraska, Union Pacific--all the different partners that we work with. Through our...my job as not only an advocate, I am a mediator, I am a liaison, I am a facilitator, I am a legislative assistant, I am an educator, I mentor, and I am an ambassador. And I believe that we, our sovereign nations, currently are enjoying a peaceful, positive relationship with our state, based on our small staff and our small funding--and through the 15 years that I've been the director; and I want to continue doing that. So thank you so much. Chee-mee-gwitch-ah-now. I'll let you hear from our other testifiers, and I would be happy to answer questions. [LB172]

SENATOR PRICE: Thank you very much. Are there any questions from the committee? Senator Pahls. [LB172]

SENATOR PAHLS: Just so this is clear to me, even with the cuts from the Governor's budget--I mean, let's say that's where it ended up--you can get enough grants to make you a viable organization. Is that--did I hear that correctly? [LB172]

JUDI gaiashkibos: What I would like to propose is that I will go before Appropriations, and I would like to be funded at the same level as the Latinos were. We currently have--the budget would be \$164,079; theirs \$177,000. But, yes, I believe that I have the capacity to find other funds to maintain our level. Now, I don't know if we'll be able to keep a staff of three. That is a real hardship for a small agency to have to do. But I do think it is doable. And I think that we have demonstrated that with very little monies, that we are not only essential but we are desirable. [LB172]

SENATOR PAHLS: Okay. Thank you. [LB172]

SENATOR PRICE: Senator Sullivan. [LB172]

SENATOR SULLIVAN: Thank you, Senator Price. Thank you, Judi, for your comments. But granted, it's a bit of a balancing act and some risk taking. You say you're prepared to go before the Appropriations Committee, who is going to undoubtedly be faced with some hard decisions there. You have an alternative here of--it's obvious...or am I correct in thinking that you're willing to take your chances and go before the Appropriations Committee? [LB172]

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JUDI gaiashkibos: This is--it's a very difficult question that you ask and put me in this position. As I said, we only saw the fiscal note yesterday; we were never included, you know, in the process. So it would seem as though this might be a better alternative, but I do believe that my 14 Indian commissioners and my tribal sovereigns, that it is not their desire to be merged in with minorities and others. And we believe that we should be maintained as a separate entity, advocating, legislating, educating, making policy, assisting the state for our tribal people, who are the first people. So I guess I am a risk taker. And this--it's, you know, sometimes I wonder, a long time I never saw this scenario, ever, in the 15 years I've been here. But I feel that I am equipped and ready to do what I have to do to continue the fight for our people. [LB172]

SENATOR SULLIVAN: Thank you. [LB172]

SENATOR PRICE: Thank you, Senator Sullivan. Senator Schumacher. [LB172]

SENATOR SCHUMACHER: How did you know? I didn't even raise my hand yet. (Laugh) [LB172]

SENATOR PRICE: I'm learning. [LB172]

SENATOR SCHUMACHER: Thank you, Senator Price. As I sit here and look across the desk, what I see is two sovereign entities. Your folks came across that Bering Strait 10,000, 40,000 years ago, whatever the number was, and settled the land. We invaded you. We now have a situation where we have two sovereigns. And am I understanding this right? That these two kings that are sitting here are splitting hairs over \$86,000 a year? What can we do to help you make a respectable portion of that \$86,000 a year...is there things that we could do, instead of trying to cut down to bones and do away with programs that may be desirable, to enhance your net worth or our net worth so that looks like the peanuts it is? [LB172]

JUDI gaiashkibos: Well, I might propose one possibility. And, again, I do this at great risk. Just thinking off the top of my head to answer your question, as you know, we have this little subject out--topic out there in our state: Whiteclay. You know? And the tax revenues generated off the sale of the beer there go into the general coffers. Perhaps they could be earmarked--I know earmarks aren't popular--but to address that deficit. That seems like a small amount of money. And we haven't really done a whole lot in addressing that issue out there. So that's one possibility. That just comes to mind. But if you give me a little more time, I think I can think of some others. [LB172]

SENATOR SCHUMACHER: Is it unrealistic to think that, by some hook or crook, the sovereign nations, the state of Nebraska, and the Latino folks can come up with--without taking it out of the General Fund, without making up some fees--can come

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up with \$85,000 a year and just leave life the way it is? I mean, am I being unrealistic in thinking that thought? [LB172]

JUDI gaiashkibos: I don't believe you are. And I think that, you know, if you look at all that I have presented to you, with our--what we do for the state of Nebraska, I think that it's worth that \$86,000. [LB172]

SENATOR SCHUMACHER: No, I don't mean--I'm not talking about anybody spending what they don't have now. How can we work together to generate that and much more? And we maybe need to figure out how we can increase public wealth. [LB172]

JUDI gaiashkibos: I appreciate your support. [LB172]

SENATOR PRICE: Thank you, Senator Schumacher. Do we have any...? Senator Karpisek. Whoa. Senator Brasch. Thank you, sir. Thank you. Senator Brasch. [LB172]

SENATOR BRASCH: Thank you, Senator Price. Thank you, Judi. I was very excited and pleased when I heard you say: We found money--be it Minnesota, somewhere. I've been an advocate of groups of people regardless of what their special needs are, their causes, to be self-sufficient and less reliant on government, because, I think, that's why we're in trouble today: government keeps growing, the costs keep growing. I did want to commend you when you said: We found money. In respect to Senator Schumacher, how can we...it doesn't always have to be government. We live in a rural community, and people, you know, every day roll up their sleeves and go to the rescue of a family in need or a, you know, farmer who has passed away, and we all combine his field for him and help the family. We needed a community center, so we've privately raised it. And I'm hoping that more groups here go to private funds as well. I mean, you're very resourceful, very talented, work miracles--I heard you're a miracle worker. I think it can be done. I think we underestimate our abilities to reach out and get people to roll up their sleeves. There's something very rewarding in being self-sufficient. You know, it's not solving what you're looking at here today immediately. But I think, in the big picture, the more self-reliant, less dependent on tax dollars and government funding, the stronger a nation we will be, the healthier our families will be, knowing it's, you know, from our own sweat equity and our own wherewithal rather than relying on tax dollars and government funding and being subject to being cut. I'm very surprised that everyone wants to be a state agency. I would think... [LB172]

JUDI gaiashkibos: I would like to address that. [LB172]

SENATOR BRASCH: Okay. [LB172]

JUDI gaiashkibos: It is imperative that we maintain a state agency, because if we were a nonprofit, we would not have access that we do currently to the congressional

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delegation, to the Legislature. People do not have to respond. I work--right now I'm working on a case at the Lincoln Indian Center with Senator Conrad. So we facilitate that dialogue. If we are a nonprofit and not a part of state government, we cannot do what we currently do. The National Museum of the American Indian is not going to be responsive to someone that is with a nonprofit as quickly as an employee of the state of Nebraska. And the Legislature can support our agency as we do all these good things to help the state of Nebraska. Tourism--we're having a big impact on the state of Nebraska. Our tribes have a lot of money that come into this state from the Bureau of Indian Affairs. We employ many people throughout the state--our tribes do. And that money is coming in, and it's a positive impact on our state. So, no, we do not want to be solely dependent on private dollars and become a nonprofit. But what we do want is a base that will allow me not to constantly be living in fear and having to raise money. I want to, instead of...for the last month, I've been working on this. Instead, I want to meet tomorrow with the NMAI and all these other people and do the good things that are going to make all of us be--feel proud to be Americans and Nebraskans and Ponca and Indian people. But when you keep people this desperate and you try to balance the budget of the state of Nebraska on the poorest and the first people, I don't think that's something to be proud of. So I will do everything in my power to work with you all to help us do what we need to do as a state agency interfacing with the state tribal committee. But I do not want to become--and become minimized and be a nonprofit and minorities. We are not that. [LB172]

SENATOR PRICE: Thank you. Thank you, Senator Brasch. [LB172]

JUDI gaiashkibos: I'm sorry I'm a little bit passionate, and I apologize. But thank you very much. [LB172]

SENATOR PRICE: Thank you. Senator Karpisek. [LB172]

SENATOR KARPISEK: Thank you, Senator Price. Ms. gaiashkibos, thank you very much. I really liked your idea about the alcohol taxes being raised and put back to help Whiteclay and being put in. I think we tried that last year, something like that, didn't we? Yeah, it was a good idea. Anyway, the money that you get from the--from Minnesota... [LB172]

JUDI gaiashkibos: The Shakopee Mdewakanton, um-hum. [LB172]

SENATOR KARPISEK: And where do they get so much money that they... [LB172]

JUDI gaiashkibos: The state of Minnesota is an exclusive gaming state for Indians only. And they are a sister tribe to the Santee; they're Dakota. And therefore they have a casino, Mystic Lake Casino. And by virtue of their location--access, you know, in real estate--every tribal member is a millionaire. They are a very successful tribe. And since

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they started gaming, they have granted \$165 million to the state of Minnesota, to tribes in Nebraska, to entities throughout the United States and the world, for that matter. So we were very fortunate that they were able to assist us. And we were able to put that into our budget this year, but we can only do that with up to \$10,000. So it's a really difficult process when you're penalized for raising money to meet your basic needs. And so we're working right now with the state to try to facilitate that and make that something that we can continue to do. [LB172]

SENATOR KARPISEK: So Native gaming there is working very well, it sounds like. [LB172]

JUDI gaiashkibos: Yes, it is. They, you know, have--as all gaming throughout the world has--had some, you know, losses due to the financial state of the economy. But they are doing very well. [LB172]

SENATOR KARPISEK: Thank you. Quickly, could you tell us real quick--because we have a lot of testifiers--a little bit of what you have done at Whiteclay lately to try to help some of the things that are going on there? [LB172]

JUDI gaiashkibos: Well, yes. With our monies, we posted on our Web site--and it was quite a process--but we had an RFP out, and we had grant applications. We've awarded one grant for \$10,000 to the Sheridan County sheriff to do more governance to help deal with that issue. And we have some other grants that are out there. The challenge to LB1002A was that it required a political subdivision be the fiscal agent. And some of the nonprofits that were hoping to do that, such as the ABOUT nonprofit with Bruce BonFleur, that would have funded Indian people from Pine Ridge, they would come down and be there at--and utilize his facilities. We would fund a quilt machine for them to make quilts. In turn, the Indian woman that did that would sell the quilts back to the tribe for gift-giving, etcetera. So it would be--help give her self-sufficiency, employing people. So we may have to go back this session and amend that so that it takes out that requirement, because it's been very difficult. We also have provided two grants trainings. Out at Chadron state community college--again, we partnered: we utilized a grants writer from the University of Nebraska, Nathan Meier, that--Prem Paul donated his time. He went out there, and he provided training to nonprofits, both Indian and non-Indian. And then we had--hosted a training here at Southeast Community College, where we had over 15 people from all over the state come in and take advantage of the grant-writing training, because we realize that throughout Nebraska there are many nonprofits that could benefit from capacity building. So the Indian Commission helps all constituents: we serve our 20,000-plus tribal members, the first peoples, but we serve all of you as well. [LB172]

SENATOR KARPISEK: Thank you. And I just want to make the point that although Whiteclay is a real issue and it's going to take a lot of work, at least I--we're started and

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we're moving, and I appreciate your help with that. And I have just...I think we are moving the right way. Again, I appreciate your help. And it's been very frustrating at times but also rewarding. Thank you. Thank you, Senator Price. [LB172]

SENATOR PRICE: Thank you, Senator Karpisek. Are there any further comments? Seeing none, thank you for your testimony. [LB172]

JUDI gaiashkibos: Thank you. We have five other formal testifiers. We hope that that will take 20 minutes, and we'll let you go. [LB172]

SENATOR PRICE: Thank you. Will the next opponent...? Welcome. [LB172]

ROGER WELSCH: (Exhibit 3) Thank you. I'm Roger Welsch, R-o-g-e-r W-e-l-s-c-h, from Dannebrog, Nebraska. And mostly right now I'm hoping my wife never figures out how to install a light system like this in our home. I'm grateful to the committee for letting me say a few words today on behalf of the Indian Commission. While I'm not born to Native blood nor an enrolled tribal member, I've been assigned by the Pawnee Nation to represent them in Nebraska and in their ex officio seat on the Indian Commission, which I am pleased and honored to do. My interest and association with the Nebraska Indian community began 54 years ago, in 1957. This long and enduring relationship has convinced me that we all have much yet to learn from Native history and culture, and I am forever grateful that I've been given Indian friends who are willing to call me friend and family. As a result, too, I've followed closely the work of the Commission on Indian Affairs, which I have seen now as an outside observer and in recent years from the inside, from the Pawnee seat at the table. When I hear someone complain about taxes, bureaucrats, or government inefficiency, I immediately note that that certainly is not the case with the Nebraska Commission on Indian Affairs, where the Nebraska citizen is getting more than his money's worth. I don't believe I've seen anyone, inside or outside of government, work as hard as Judi gaiashkibos and her staff in the commission office. I've seen them deal with problems large and small within the Indian community, between the Indian community and the mainstream, and with non-Indians seeking information about or help in dealing with Indian issues--and not just in the office or during working hours. The commission staff seems to be everywhere, always representing the commission, the Legislature, and the state with dignity and forthrightness that brings respect to us all. But the commission staff is only that: a small team that handles the business of the commission. The heart of this agency is the commission itself. The staff's work enables the commission, a panel of experts, representatives from the various tribes and regions of our state, to sort out problems, to respond to questions, and deal with issues. Actually, I've been surprised this afternoon to hear us described as an advocacy group, because that certainly hasn't been my impression from the inside. I've seen this commission deal with problems--solving them, trying to keep them from getting bigger and going somewhere else in another agency--but actually is almost an end for solving the problems rather than a group that

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is carrying problems someplace else. It's no secret: tribal politics are notoriously contentious--between tribes, between clans, between families. These days a lot of that has been reduced to little more than grist for the humor mill, but there are still lingering tensions. I've seen none of that in the workings of the commission. While the commissioners represent the opinions and ideas of their own tribes and tribal governments or a Native point of view vis-a-vis the non-Indian world, it is my clear and constant impression that the panel works vigorously in the interests of the greater good of the people of Nebraska and, not insignificantly, for this Legislature. The commission is essentially a task force, as I said, that wrestles with the problems at tribal and Native level, smoothing out rough spots before they become real potholes, bigger problems that the state itself will have to deal with, whether at the executive, judicial, or legislative level. The commission does constitute a panel of experts, an unequaled resource for the Legislature, saving time, energy, and probably not a little frustration while at the same time giving voice to groups who have long felt voiceless. The problems of the Indian community are not the problems of the Hispanic community or the African-American community or of my own German-Russian community. No, we cannot have a separate agency for every segment of the Nebraska population. But in the case of Indians, we have a unique cultural and historical population. No other group has the kind of relationship that Indians have with the federal government. No other segment of our society has issues like the repatriation of human remains and therefore negotiations with museums and collectors, retrocession of tribal governments, tribal legal systems, reservations, gaming, disposition of cultural and sacred items like the sacred pole of the Omaha or sites like the Pawnee hill Pahuk south of Fremont. There are ancient villages, camps, and burial sites excavated scientifically or unearthed inadvertently and under threat, like those currently in the path of the pipeline proposed across Nebraska and directly through Pawnee historical sites. I strongly support Nebraska's diversity and certainly don't want to take anything away from Nebraska's new communities--Somalis, Hondurans, Iraqis, Bosnians, or my own German-Russian people. They all have their unique contributions and needs. But no group has the kind or number of issues facing the Indian community, which is why this important community needs its own separate entity. If I may offer just one example of the kinds of issues the Nebraska Commission on Indian Affairs deals with that no other group in the state has to consider, a little over a year ago the Nebraska State Historical Society came to the Indian Commission with a problem. It had six sets of human remains, Nebraska Indian remains, in its collection that could not be directly associated with a specific tribe. The society wanted guidance about where to turn to arrange for the remains to be repatriated and reinterred, as required by state and federal law. The commission sent out a communication to Nebraska tribal representatives asking if anyone would be willing to take on the responsibility of clearing the paperwork covering the expenses and going through...yeah, sorry. [LB172]

SENATOR PRICE: Okay, we're going to have to wrap it up, please. [LB172]

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ROGER WELSCH: Okay....and going through all of this. And the Pawnee agreed to take on this task, and they did it, but it could not have been done without coordination from Judi and the Indian Commission. Asking a professor to do something in five minutes is (laughter)... [LB172]

SENATOR PRICE: Mr. Welsch, I do appreciate you staying with us and amending your testimony. And if you want to hand that in to put as a part of the record, you're very welcome. [LB172]

ROGER WELSCH: Okay. [LB172]

SENATOR PRICE: Are there questions from the committee? Seeing no questions, thank you for your testifying, sir. [LB172]

ROGER WELSCH: Okay. [LB172]

SENATOR PRICE: Can we have the next opponent, please, in their line? [LB172]

CHARLES WRIGHT: Senator Price and members of the committee, my name is Charles Wright; I go by "Charlie." [LB172]

SENATOR PRICE: Could you...? [LB172]

CHARLES WRIGHT: And I am a recovering lawyer. [LB172]

SENATOR PRICE: Can you hand your sheet in too? I have to make sure all the sheets get handed in. [LB172]

CHARLES WRIGHT: I will. I will. [LB172]

SENATOR PRICE: We won't start your time till that's in. (Laughter) [LB172]

CHARLES WRIGHT: All right. [LB172]

SENATOR PRICE: And, of course... [LB172]

CHARLES WRIGHT: I sort of, before I do my--I kind of want to cut to the chase on the numbers. If the motivation for merging the two committees and doing away with the existing structure is to save money, I'm not real familiar what the bottom line is. [LB172]

SENATOR PRICE: Could you spell your name for the record, please? [LB172]

CHARLES WRIGHT: W-r-i-g-h-t. [LB172]

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SENATOR PRICE: Thank you, sir. [LB172]

CHARLES WRIGHT: I see in there a "racial profiling" organization and "the State Archaeology Office." I don't know if there are financial significance to those two entities. So I just figured it would be helpful if we could come up with some clear idea if there really is some saving. I'll stop with my organized remarks and say I noticed Senator Brasch's comments about outside assistance. For the past seven years I've worked hard to establish scholarship and mentoring programs--to provide Standing Bear scholarships for Native students at the law college. Its mission is to provide Native lawyers and tribal leaders for our state and its significant Native population. You'll hear from one of the Standing Bear scholars later on. To date, there have been two outstanding graduates, who now practice law with law firms in the state of Nebraska. And we have a second-year law student who is doing the same and also working, as with Judi, on the advisory committee for the Great Plains Art Museum. We're going to establish a Native art fair that will happen every other year and develop significant art collections from each of the four recognized tribes as well as perhaps the Pawnee and others. This will help the art collection draw in people, because it will give it a theme. It will also, I believe, enhance the market for Native art in Nebraska, as has become very popular in other jurisdictions. And I know of other people who are willing to contribute to the scholarship program. And this has been a very significant feature in many law schools--at Oklahoma, University of Denver, University of Arizona, University of South Dakota, and the University of North Dakota. When I set out to set up this scholarship, I really knew nothing of the Native culture in this state. I graduated from Scottsbluff High School, and I'd lost touch with the history. I actually really never got in touch with it, because while we had a wonderful high school, information about the Native history in this state was not part of the curriculum. When I spoke at the 55th anniversary of my high school class, I told them this information. They're fascinated, and just dissemination of information about this helps people relate to the Indian cause. When I was trying to set up scholarships and we weren't getting any applicants, I talked to the tribes: I went up to Macy; I went up to Winnebago. Went up to Vermillion, talked to the law school there. And the one thing--message that I got back from talking to law students and professors and tribal leaders was: If you want to have Native students come to your program and succeed, you have to have a support group. And it's not a support group that solves their everyday--they need somebody of their own people that they can talk to and relate and a place to go and--if they do nothing more than hang out. And we've since put together sort of a support group--but we've got a mentoring operation here in Lincoln for the law students. To come to a conclusion, I think there are two issues here: Natives respect their identity, and they also need respect from other groups; they cherish that above just about anything else in their life. And I think that the Mexican-American Commission and the Indian Commission have different issues. And this is perhaps illustrated by the comments that were made earlier that they're concerned about equal representation or overrepresentation. They do have different

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issues. And I have no quarrel with the Mexican-American Commission, because I feel as strongly about the Mexicans as I do the Natives. I grew up in high school--I had 20 Mexicans in my class. As a group they were probably the best behaved; they did their studies; they participated in activities; and they come back to reunions. But I think, in trying to amalgamate these two organizations, you'll come up with a lesser product and increase the expense. And from the area in which I'm really interested in--is in Native education and Native art--just having the existence of this Indian Commission provides a good structural base, good foundation, for going out and creating liaison with the various tribes and encouraging people to make contributions that will be for their benefit. And I would urge you to consider very strongly whether...even if you save \$85,000, I think you'll come up with an inferior product. [LB172]

SENATOR PRICE: Thank you, Mr. Wright. Are there any questions from the committee? Seeing none, thank you for your testimony today, sir. Can we have the next opponent? And do we--did you get the sheet? And, sir, there was an agreed-upon... [LB172]

MARTY RAMIREZ: Oh. [LB172]

SENATOR PRICE: ...I believe, order. Can we get the next one who was agreed upon, unless they have all met their order? Is there...? [LB172]

MARTY RAMIREZ: I have to leave; that's why... [LB172]

SENATOR PRICE: We'll...it'd be five minutes; I'm keeping people to it. [LB172]

MARTY RAMIREZ: Okay. [LB172]

SENATOR PRICE: Thank you for your patience, sir. We'll have to make sure you hand in your document there and... [LB172]

JOE STARITA: I'll do that afterwards. I actually did not fill one out. Can I do that afterwards, in the interest of time? [LB172]

SENATOR PRICE: We'll let this happen now. We'll just try to keep things moving. [LB172]

JOE STARITA: I'm sorry. [LB172]

SENATOR PRICE: Go ahead, please. [LB172]

JOE STARITA: I apologize for that... [LB172]

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SENATOR PRICE: Please, go ahead. [LB172]

JOE STARITA: ...I had other things. My name is Joe Starita, J-o-e S-t-a-r-i-t-a. One of my favorite writers is a Kentucky essayist by the name of Wendell Berry, who once wrote: If you don't know where you are, you don't know who you are. If you don't know where you are, you don't know who you are. And I think that's perfectly applicable for everybody here, because whether you grew up in Fremont or Wilber or Omaha or Lincoln or Dannebrog, what happened in those communities--the churches you went to, the high schools you went to, the neighborhoods you lived in, the paper route that you had--the community as a whole had a great deal to do with who you are. And I think that this is--I bring this up because I think it's a very important issue as far as this discussion goes, as far as this issue goes, because I think it--there is a identity issue. And I think it's, from a personal standpoint, I think it's very vital that this organization, this commission, retain its identity as a sovereign agency. And I want to speak to you in my allotted time both from a personal standpoint that I have had with the commission and also the partnerships that's been created between this commission and the University of Nebraska, of which I am an employee. And I will just start by saying that I spent three years working on this book, called I Am a Man. It's a biography of Chief Standing Bear. So I will talk to you personally what my experience has been and to state that this book would not have been possible in any way, shape, or form without the relationship that I have had with Judi gaiashkibos and the commission. I think this is important because I think there is a really good return on this investment. I think that there is a great hunger for Native history, Native knowledge, Native culture. And I think that it's a very valuable export that we have in this state. It's a valuable export like corn is, like wheat is, like milk is. You can't put a dollar amount, you can't measure the impact that this has had across the country as you can a bushel of corn. But I can personally tell you that because of the work that occurred with Judi personally, because of the doors she and the commission opened, that this story of a Native Nebraskan who represents equality under the law, which is carved into the--one of the most beautiful chambers of any statehouse in the world, has had a tremendous impact all over. This is a book that is being used in classrooms--in high school and college classrooms--in Florida, in Tennessee, in Michigan, in the industrial Northeast, all over Nebraska, at the University of Nebraska, in public schools, on the West Coast. And it's a story that resonates with all kinds of American values and all kinds of American issues. But there is a great hunger to learn about these kinds of people and these kinds of issues; and this story would not have been given birth to were it not for this relationship with this commission, because Judi and her commission was able to open the doors and hook me up with tribal elders who knew this story, who make this story more emotional and more powerful and more moving. That has been represented by all kinds of things. You heard Judi testify earlier that it was announced Monday that the Corporation for Public Broadcasting in New York is now going to embrace the story of Chief Standing Bear and export that great Nebraska story of a courageous Nebraskan who stood up for all kinds of things at a unique moment in our history. And now through this network of PBS

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stations across the country, that story is going to be told. So that's a very good thing. I don't know how you can put exactly a dollar amount on that, but it's a very valuable export that we have--this hunger about who we are, where did we come from. The second thing, in terms of a partnership with the University of Nebraska that I think is very important--and I think you have this: this is a magazine that took a year and a half to produce. It's called Native Daughters. It was produced by an elite group of students, all of whom, incidentally, graduated from Nebraska high schools. The people at the University of Nebraska, the students, who put this together came from Scottsbluff; they came from Albion, Broken Bow, Hickman, Omaha, and Lincoln. For a year and a half they worked on this book and this magazine, and this is a focus on the role that Native American women have played historically in Native culture. And we operated from the assumption that you cannot really know American history unless you know Native history, and you cannot really know Native history unless you know the role that Native American women have played in that history. So because Judi was a member of this team that put this together, we were able to get access to the four reservations that were critical in being able to produce this--the Pine Ridge Reservation, the Winnebago, the Omaha, and the Santee reservations. And now, this was always envisioned as, ultimately, an educational vehicle. We wanted to get this magazine integrated into high school curricula all over the country, and that is happening. That is happening. We got a call last week from the Smithsonian Institution; they want this magazine to sell. Lincoln Public Schools--one of the gentlemen in the audience--just bought 70 copies; it's going to be in every media resource center in Lincoln. We've had meetings with Dr. Roger Breed, and they are very interested in integrating it into the public schools throughout the state of Nebraska. So this magazine would not exist, though, and the people who produced it, graduates of Nebraska high schools, are now giving back to Nebraska high schools. And the bridge that made that happen was the Nebraska Commission on Indian Affairs and the relationship that Judi has with these tribes and her partnership with our college. So I don't want to pit one ethnic group against another. I just want to talk about the value that this commission has served both in expanding the audience for a remarkable story about a Native American who comes from the confluence of the Niobrara and Missouri Rivers and the impact--the opportunity to now influence thousands and thousands of students in hundreds of public schools for decades to come. And... [LB172]

SENATOR PRICE: Thank you. [LB172]

JOE STARITA: ...that is--I don't know how you put a dollar amount on that. I thank you very much. [LB172]

SENATOR PRICE: Thank you, sir. Are there any questions from the committee?
Senator Schumacher. [LB172]

SENATOR SCHUMACHER: Thank you, Senator Price. As I look at these numbers--we

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got \$170,000 over two years, \$85,000 a year, which is roughly divided between the two groups here, \$40,000 apiece. That's what the state of Nebraska is being asked to front to keep things as it is. How much money do those things bring in, and can we get our money back? [LB172]

JOE STARITA: From the sale of the books? [LB172]

SENATOR SCHUMACHER: From all this value that you're talking about: from the sale of the books, the art rights. I mean, we're not talking about much money. [LB172]

JOE STARITA: Yeah. Yeah. [LB172]

SENATOR SCHUMACHER: So how can we get our investment back and keep everything the way it is? This is such a pittance of money... [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR SCHUMACHER: ...and if you say this has got lots of, lots of value and thousands of people across the country are buying this thing, let's figure out just how to resolve it. [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR SCHUMACHER: I mean... [LB172]

JOE STARITA: Well, I mean, I--I mean, to...I... [LB172]

SENATOR SCHUMACHER: ...can we get into that revenue stream? [LB172]

JOE STARITA: ...on the dollar, I mean, the reason--the way you get your money back on this is to get it into the schools. I mean, the--this is something that goes into the schools. What I've personally done--I mean, I'm just going to tell you a personal aside--is every penny that I make off the sale of this book that comes to me I put into a scholarship fund for Native American Nebraska high school graduates to continue their education, whatever it may be--med school, auto body repair, hair salons--doesn't make any difference. So I'm only saying personally what I know, and what I get from the book that's sold goes right into the scholarship fund. In the bigger picture, I don't have a specific answer to that question. But I would be very motivated to work with you or anybody else if there is a way to close that minuscule gap, really, in the big picture. [LB172]

SENATOR SCHUMACHER: Unfortunately, we can't deposit the negative--or that esoteric or intangible thing in the bank, and there's going to be people who want checks

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written over the next two years. [LB172]

JOE STARITA: No, I understand that. [LB172]

SENATOR SCHUMACHER: So we've got to figure out a way, if we're not going to cut, how we can increase revenue. [LB172]

JOE STARITA: I understand that. [LB172]

SENATOR PRICE: Thank you, Senator Schumacher. Senator Brasch. [LB172]

SENATOR BRASCH: Thank you, Mr.... [LB172]

JOE STARITA: Starita. [LB172]

SENATOR BRASCH: ...Starita. I don't think anyone in this room can dispute the value and the importance of the role of our Native American Indians--the ancestry, the culture. Right now the problem is the expectations of government, of our state. [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: \$86,000. That's a lot of money; don't call it pittance, please. How many people can that feed? Oh, my word. We have elderly; we have small children; we have all kinds of needs wanting that \$86,000. [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: What I'm hoping is that every group somehow can be their own power resourceful. I don't think you have to be a state agency to be important. Nebraska Cattlemen--they're not a state agency, and people pay attention when they walk in the room. [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: Same with Farm Bureau. There's a lot of groups out there who are self-funding. They have a lot of resources; people respect them. I don't know. I mean, if that's what the groups need--to be a state agency... [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: ...so be it. [LB172]

JOE STARITA: Um-hum. [LB172]

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SENATOR BRASCH: But I don't see the importance of being a state agency. And I am a new senator; maybe somebody is going to pull me over and, you know, hit me on the head and say, everybody wants to be a state agency, you must be a state agency... [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: ...or you're not a valid entity. But, yes, you know, I've, you know, I've read several of Mr. Welsch's books... [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: ...they're great, you know. [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: I, you know, I've talked with some Winnebago schools where they're getting some funding for some of their programs from private people in Arizona. It's wonderful. [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: And what you're doing is wonderful, and that book is wonderful. But the picture of state government has changed. [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: Tax dollars comes out of your pocket and your pocket and your pocket. And right now those pockets are getting empty and empty... [LB172]

JOE STARITA: I understand that. [LB172]

SENATOR BRASCH: ...and the burden is getting heavier and heavier... [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR BRASCH: ...to provide for everyone. And \$86,000 is a lot of money. And so if there's any possible way that we can change expectations of state government and where the money comes from and be creative, you know. I, you know, Judi had mentioned, you know, the culture, you know, she said greetings, and it's all very nice. [LB172]

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JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: I'm also, you know, I have a culture. I'm a first-generation American. [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: You know, I can respond, doh-vee-deng-hock-veh; you know, I can also, I have...but I also understand I need to carry, you know, my responsibility, my weight, contribute, you know, what I can; and, especially today, it's essential to ask very little. But what you're saying, yes--and I agree. I love the culture, you know, read several books. [LB172]

JOE STARITA: Um-hum. [LB172]

SENATOR BRASCH: I live in Bancroft; the Neihardt Center is, you know... [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR BRASCH: ...you know, very close by. [LB172]

JOE STARITA: Right. [LB172]

SENATOR BRASCH: But, you know... [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR BRASCH: ...I thank you for your testimony... [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR BRASCH: ...and I think the intent of this group is to say that the funding is getting less and less. And our surrounding states are seeing it worse than we are. [LB172]

JOE STARITA: That's true. [LB172]

SENATOR BRASCH: We're trying not to get to that point. You know, that's what we're fighting. We're saying we're resilient; we are strong. You know, we can make it through this period because we're not going to depend on everyone else. [LB172]

JOE STARITA: Yeah. No, I understand all of that. I didn't come here as a policy analyst. And I understand. I didn't hear any of these numbers until two hours ago. But I did want

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to just give you tangible evidence, just in the last two years, of what one book and one magazine that is based in Nebraska has done in terms of reaching a market. And people, in talks that I've given at the Miami book festival, at the Chicago Tribune festival, people coming up afterwards and being really angry that they hadn't heard these stories before, I mean: That's a great story; why haven't I heard...why wasn't that in my high school textbook; why am I just now at age 56 learning about this chief who walked 600 miles home in the dead of winter to bury the body of his only son? Because Nebraska was home, because that's...he, you know--if he didn't know where he was, he didn't know who he was; well, he knew that he had to bring his son back to Nebraska. People want to know that story, and they're appreciative of that story, and that is an export that we have, and I can't put a dollar number on that. I just merely want to say, I know in the last two years that the Lincoln Public Schools and the Nebraska public schools are hungry to get this information and use it in their classrooms. They're hungry to know about Danelle Smith, a Winnebago girl who at the age of 15 was pregnant and an alcoholic, and today she put herself through law school at the University of Iowa, raising three boys under the age of ten as a single parent and now has a prestigious job at an Omaha law firm. There are lots of teachers in Lincoln who are hungry for that story, to give it to their students as an inspirational tool to all of the 15- and 16-year-old Native students who are in their school. And I don't know how you put a dollar value on that; I'm saying there's some kind of social value on that. And I understand your \$86,000 question perfectly, but I'm saying there's also some kind of value about using Danelle Smith to inspire some 15-year-old girl at Lincoln High who's teetering on the edge of dropping out but may not do so if her teacher gives her this magazine. [LB172]

SENATOR BRASCH: And you have responded, become an agent of change, and that's wonderful, and that is commendable. What we need to see are more people like you that can come forward, you know, with resources, give to places, and not come saying that, you know, we need more government, we need more funding--because we have x amount of dollars in our...and it's diminishing. Until the economy recovers and things like that--you know, I think everyone is in support of all the commissions, and... [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR BRASCH: ...but there's just not the funding. My mother used to say: No money. You know... [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR BRASCH: ...that kind of thing. It's it. [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR BRASCH: You know, the ATM has to have money in it; you know, the bank

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has to have money in it. Right now it's people like you and Judi and everyone who can do more with less and be philanthropists and entrepreneurs and innovators. Now the time has come. So thank you so much... [LB172]

JOE STARITA: Yeah. [LB172]

SENATOR BRASCH: ...Mr. Starita. [LB172]

JOE STARITA: Starita. [LB172]

SENATOR BRASCH: Thank you so much, Senator Price. [LB172]

JOE STARITA: Thank you. And... [LB172]

SENATOR PRICE: Thank you, Senator Brasch--and Mr. Starita, for your testimony today. [LB172]

JOE STARITA: And I'll fill that out. I just want to say very quickly--this is corny as all get out, I realize that--but this is pretty cool to be able to sit here with people from diverse backgrounds, with Hispanics in the audience, with Native Americans in the audience and African Americans in the audience, and be able to have this discussion. I mean, it's not happening in Yemen right now. (Laugh) So I think it's just kind of cool that we have these opportunities. I appreciate the opportunity that I've had to speak before you. And I hope we can work this out. And I'm pretty confident we will. Thank you. [LB172]

SENATOR PRICE: Thank you, sir. If we have someone in the next in line--in the agreed...again, I would ask you to respect the time that we have and the people who are here by staying with the lights. [LB172]

MICHAEL SMITH: (Exhibit 4) Good afternoon. I'm Mike Smith; I'm director of the Nebraska State Historical Society. And that's spelled M-i-k-e--or M-i-c-h-a-e-l, to be more formal--S-m-i-t-h. And I'll try to be brief this afternoon. I do come in opposition to LB172, and it's really based on two things. One is the strong feelings that I have and my organization--Nebraska State Historical Society's board and staff have for the value of the and our experience with the Native American commission, the Commission on Indian Affairs, and also, certainly, the respect we have and the relationships that we are building with Nebraska's Latino community. But secondly, because I have a lot of--I have a academic background in management and a lot of experience in management, I like to see things that come forward that have an absolute chance of succeeding. I suggest that the combination of organizations, the combination of people, the combination of needs, the combination of desires, the combination of wills that are suggested or put forth in LB172 has a very little chance of actually being an effective agency down the road. But I'd like to talk maybe more--more and maybe more...I'd like

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to talk more about something that was going on 20 years ago. And I think, between the passage of time and the results of term limits, I doubt there is anybody in the Legislature now who was here 20 years ago when there was a virtual war going on between the State Historical Society, the University of Nebraska, various museums on one hand here in Nebraska and the several tribes of our Native Americans--were locked in a very bitter battle over the ownership and ultimate fate of both exhumed remains of Indian peoples and the buried goods found with those remains as well as sacred objects of Native Americans. Those were held in our institutions at that time going way back into the 19th century through processes of archaeology and fairly aggressive collecting. The heated dispute as to who owned and had ultimate rights to these remains and the objects was fought in the courts, and it was fought here in the Legislature. The leaders of the historical society at that time claimed scientific and other justifications for keeping the bones of the early people and their culturally significant objects. The Indian people, armed with federal laws and a moral imperative to protect and honor their ancestors and their history, fought to regain their heritage. The costs of lost time, legal fees, hard feelings, and growing bitterness would be impossible to calculate. And there were members of the Legislature who were personally involved in trying to resolve this. It's a situation and a cost that no one wants to reintroduce in any way at any time, and of that I'm absolutely certain. In the end, the dispute was settled. The bones of the people have been returned to the earth. Procedures were instituted in statute and practice that now guarantee that never again will burials be willingly disturbed and objects hauled off to laboratories and warehouses. As part of the settlement, the Nebraska Commission on Indian Affairs was given responsibilities for facilitating the return, and Mr. Welsch spoke to that. I won't go any further into that, except to say that under the leadership of Judi and her commission, this works very well in the state of Nebraska. We are not wasting time and fighting over those kinds of things. Of course, the Nebraska State Historical Society has also changed. One of my foremost goals when I came here to serve as director in 2006 was to strengthen our ties and improve the working relationship between my agency, as keeper and educator in Nebraska history, and the Native American tribes. The Commission on Indian Affairs has been extremely helpful in that. Working with them as a partner, we have improved our working relationship with the tribes tremendously. We have put staff time, money--federal money, actually--and a lot of effort into helping the tribes develop to the point where they could have federally recognized historic preservation officers. That means that the tribes--two of them now have them, two of them are working on them--have the opportunity and the right to manage their own cultural resources. It empowers the tribes. The Commission on Indian Affairs has been extremely helpful as a wonderful partner in working with this. I'll tell you another story. I know a number of you are involved in one way or the other in the pipeline. We have been involved in the pipeline, primarily through our responsibility to ensure that the federal agency takes into account the cultural...in this particular case--and Roger, again, spoke to that--the Indian sites, the burial sites, particularly of the Pawnee...which in this particular case. I took a call last year just before Thanksgiving from a gentleman at the United States Department of State in

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Washington, D.C. He's responsible for relationships with the Native Americans in regard to siting the line of this pipeline. He asked: What do the Indian tribes mean when they ask for government-to-government consultation in regard to siting these pipelines? He said: I'm new; I don't understand it. Well, about 45 minutes later I thought he had a better understanding. And I tried to explain to him--I said: You know, they are sovereign nations. Well, he wasn't quite sure what that meant. I pointed out that if his Department of State was seeking to implement a major project, for example, in Central America--name any country, El Salvador, for example--surely he would think about sitting down with representatives of that nation to consult and jointly seek to work out the arrangements that would recognize and address the history and culture of the people of that nation. Yeah, he thought they probably would. I said that's what the tribes are asking. And I am pleased to say that the meeting actually did proceed and take place, and I certainly wasn't sure it was going to when he started that conversation. [LB172]

SENATOR PRICE: Mr. Smith, I remind you the red light is on. [LB172]

MICHAEL SMITH: Ooh, I'm sorry. My point is simply that this is an important commission. We would like to see it remain independent. We want to work with it; they work with us very well. But I do think that in the end the bill that's before you as is presently constituted would not serve anyone well, not the Indian people, not the Latino people, and certainly not the people of Nebraska. Thank you. [LB172]

SENATOR PRICE: Thank you so much for your testimony. [LB172]

MICHAEL SMITH: My pleasure. [LB172]

SENATOR PRICE: Are there comments from the committee? Seeing no comments, again thank you very much, Mr. Smith. [LB172]

MICHAEL SMITH: You're welcome. Thank you. [LB172]

SENATOR PRICE: Can we have the next opponent, please? Welcome. [LB172]

JENNIFER BEAR EAGLE: Thank you. My name is Jennifer Bear Eagle. That's J-e-n-n-i-f-e-r B-e-a-r E-a-g-l-e. I am a member of the Oglala Sioux Tribe, and I'm also the chair of the Nebraska Commission on Indian Affairs. As one of the earlier testifiers noted, Charlie Wright, I actually am the recipient--one of the recipients of the Standing Bear scholarship. I did graduate from the University of Nebraska College of Law, thanks in no small part to Charlie's efforts as well as Judi's. And I also would like to thank Senator Avery for recognizing the need for the role of the Indian Commission, and I really do appreciate that. However, LB172 diminishes the important role of the government-to-government relation and tribal sovereignty. And this is something that

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you've heard all afternoon, and I will try to explain that a little bit more. The functions of the two commissions, though both important, are very different and serve completely different populations. Adoption of this bill in its present form would demonstrate that the Nebraska Legislature does not respect or recognize Indian tribes, tribal sovereignty, or the unique struggle faced by Native peoples. The Indian Commission serves as--one of its functions is to serve as the state liaison between the four Nebraska Indian tribes and the state, and it helps to ensure that the sovereignty of both tribal and state governments are recognized and acted upon in a true government-to-government relationship. This unique legal and political relationship with Indian tribes has been established through and confirmed by the Constitution of the United States, treaties, statutes, executive orders, and judicial decisions. An entire title of the United States Code is dedicated to Indian tribes--that's Title 25. Throughout the federal government there are several departments whose role is based solely on that unique legal and political relationship, to ensure that treaties are honored and to work with Indian tribes on a nation-to-nation basis. Nebraska's own Senator Mike Johanns serves on the Senate Committee on Indian Affairs, and that is an extremely important committee. As such, he has an obligation to meet with Indian tribes, particularly Nebraska tribes, and he has worked with the Nebraska Commission on Indian Affairs diligently to facilitate these meetings. I have personally attended three of these such meetings just in my short time on the commission on behalf of the Nebraska tribes. And, in fact, the Indian Commission has worked with other tribes outside of Nebraska on this particular issue. States, the federal government, federal courts, including the United States Supreme Court, and, you know, and state courts have all recognized and understand that Indians have a special status that is not based on race but on their unique political status. And I really want to emphasize that. They have dual citizenship both on and off the reservation--that's citizenship with their sovereign tribal nation and the United States. Therefore any cries of racial discrimination or violations of equal protection really do have no legal standing. However, I would also like to point out that Indian people are also citizens of Nebraska. In November 2009, President Obama reaffirmed President Clinton's Executive Order 13175 from November 6, 2000. And that had been reaffirmed by President Bush after him. Now, this executive order, Executive Order 13175--under it executive departments and agencies are charged with engaging in regular and meaningful consultation and collaboration with tribal officials and the development of federal policies that have tribal implications and are responsible for strengthening the government-to-government relationship between the United States and Indian tribes. Even independent agencies that are not required by executive order, such as the FCC, have adopted this policy. Now, I use this example of the executive order, which applies to the federal government, but I do want to stress that Nebraska cannot simply ignore its own government-to-government relationship with the four Indian tribes located in the state. Nebraska must work together with its Indian tribes and keep them in mind in every important issue that is faced in this Legislature. The intricate relationship between tribal governments, state governments, and the federal government is both complicated and important. There are four federally recognized Indian tribes in Nebraska, who

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must--who must--be considered when it comes to issues such as education, jurisdiction, taxation, public safety, gaming, human remains, and several others, just to name a few. And there are also--there are federal laws with parallel state laws that Nebraska is required to comply with, such as the Indian Child Welfare Act. I'll try to wrap this up. [LB172]

SENATOR PRICE: Thank you very much. [LB172]

JENNIFER BEAR EAGLE: I'll just really quickly--I just want to add that with such a vital role in the state capital, Nebraska would be remiss to decommission the Indian Commission or even change its present form. Decommissioning it or changing it would--that would not take away from the government-to-government responsibility or change the legal status of Native peoples in Nebraska. Nebraska would still be required to work with the tribes but would be left without a necessary and vital resource, this liaison, this office's vehicle for that government-to-government consultation and cooperation to happen. And finally, I'm just going to leave you with these words from Article VI of the U.S. Constitution, to point...and this is an oath that I'm sure you've all taken--I, as a member of the Nebraska Bar, have taken--to uphold the Constitution, and that is: All treaties made, or which shall be made, under the authority of the United States shall be the supreme law of the land. And that is something to keep in mind. Thank you. [LB172]

SENATOR PRICE: Thank you, Mrs. Bear Eagle, for your testimony. Are there any comments? Senator Sullivan. [LB172]

SENATOR SULLIVAN: Thank you very much. And thank you for your testimony. So in this government-to-government relationship, can you--does most of that flow through the Indian Commission as it now stands? [LB172]

JENNIFER BEAR EAGLE: As it now stands, the Indian Commission does facilitate a lot of the necessary interactions. And it's not just between the federal government and the tribal governments, but, as I'm sure many of the senators here who have Indian tribes within their districts realize, that this also happens at a local and a state level. And so one of the things that the commission does is facilitate that. And I've personally been involved with these sorts of meetings that Judi has helped set up and made contacts with all the tribes. [LB172]

SENATOR SULLIVAN: Thank you. [LB172]

SENATOR PRICE: Thank you, Senator Sullivan. Are there any other comments? Thank you very much for your testimony, Mrs. Bear Eagle. [LB172]

JENNIFER BEAR EAGLE: Yes. [LB172]

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SENATOR PRICE: Thank you very much. I was going to invite you up, Mr. Spindola, because I appreciate your patience in the activities of today. Make sure that we get a handout. We'll kick the tires and light the fires. [LB172]

_____ : Thank you, Senator. [LB172]

LAZARO SPINDOLA: (Exhibit 5) Good afternoon, Senator Price, members of the Government, Military and Veterans Affairs Committee. My name is Lazaro Spindola; that would be L-a-z-a-r-o S-p-i-n-d-o-l-a. I come this afternoon in opposition to LB172. There are approximately 160,000 Latinos in the state of Nebraska. At a price of \$1.11 per Latino individual, Nebraska gets the only statewide agency providing a direct liaison with all of them, an agency that facilitates, promotes, and enables Nebraska's largest minority in the areas of education, economic development, and healthcare. As far as education is concerned, we have made much progress since our commission was established 38 years ago. Our school graduation rates have increased from less than 50 percent to about 77 percent. But this is just not enough. The commission sponsors four leadership conferences every year. And in 2010, over 2,000 young students were impacted and motivated to pursue a higher education. We have seen this number grow exponentially year after year. As far as healthcare, the commission partners with the Nebraska Health and Human Services System and with the Office of Minority Health in outreach education and prevention activities. The commission links low-income Latino individuals to Federally Qualified Health Centers, about 100 every month, in efforts to provide them with access to medical treatment without the need to go to the emergency room and incur emergency medical costs. And this is an average savings of about \$7,000 per individual. The commission's director--that would be me--chairs the Minority Health Advisory Council and is a member of the Nebraska HIV/AIDS Prevention Consortium. In economic development, there are over 3,000 Latino-owned businesses in Nebraska generating \$783 million a year. That's an 80 percent increase over the last few years. This is the fastest-growing segment of Nebraska's economy. The commission collaborates with Nebraska's business development corporation and the Nebraska Rural Enterprise Assistance Project. The commission's director has been invited to become a board member of the Center for Rural Affairs. In addition, the commission's director is also a member of the Minority Justice Committee and the Crime Commission's Racial Profiling Committee. Eliminating the commission will eliminate all these established positions of representation and networks of collaboration. Despite all the progress, Latinos are still the most vulnerable population in Nebraska. We face high poverty rates, the highest ratio of uninsured individuals, and low educational attainment levels. Eliminating the Latino American Commission will effectively silence the voice of Latinos in the Nebraska state government. The current political dialogue has prompted an average of 1,400 calls per year by constituents worried and concerned about legal issues, immigration issues, labor issues, and allegations of discrimination. Some of these concerns have made their way through the

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court system, the last one of them settled for \$180,000. Who will attest to their concerns? And, more importantly, who will adhere to their concerns? Allow us not to lose 38 years of cultural understanding of a population so diverse that it represents 20 countries with categorical identities and diversity in culture, also equality in their belief in the good life (inaudible) in Nebraska. The traditional role for the commission--and this is important--has been based on the original mandates, predominantly focused on the activity of advocacy. It is our belief that a public-funded agency must be more involved in the solution of the problems rather than in the identification of the problems. And in that sense, the role of the commission has been redefined. The issues faced by our community are far too complex. And the commission must participate in implementing a solution, identifying modes of intervention, and seeking outside funding in efforts to carry forward and cover expenses. We realize that the Latino community must be engaged in solving the issues we have identified, and achieving this involvement is now one of our goals that we continuously work to accomplish. We have had great success from the quantity point of view; now we need to work on the quality. In 1838 in Philadelphia, African Americans said: We claim a right to be heard, according to our numbers, in regard to all those great public measures which involve our lives and fortunes. Nebraska faces a difficult budget constraint that is slow in moving forward. But we must not allow this to let us fall behind. The commission has provided for budget cuts and is considering several options. But there are some things that you just cannot live without: hope, pride, the right to have your voice heard. Eliminating the commission will further ostracize and marginalize almost 10 percent of Nebraska's population and send a negative message that will deter acceptance and understanding. Senator Schumacher, I am really impressed by the figure of \$80,000 that you keep using, because last year I wrote two grants for \$80,000. And the reason why I did not submit them was that, one, I am a grant writer and grant reviewer, and the big trap that grant writers fall into is writing a grant just for the money and not stopping to consider whether the grant maker is funding something that fits into your plan, into your goals. So after I took a second look at those grants, I figured it would not be honest to submit them. So, yes, we are looking actively into alternative funding sources. There are 3,000 Latino-owned businesses; if each one of them gave us \$10, that's \$30,000. The largest businesses in Nebraska--the bulk of their work force is Latino. There are private and other public sources of funding. What we don't want to do is become fully dependent on outside funding, because then how are we going to be answerable to you, if somebody else is funding us? And we believe we have a responsibility with this Legislature to guarantee a mature and a logical and a decent dialogue in these times that we're living right now. Thank you. [LB172]

SENATOR PRICE: Thank you, sir, for your testimony. Senator Pahls. [LB172]

SENATOR PAHLS: Okay. Just to recap what I've heard from two directors... [LB172]

LAZARO SPINDOLA: Say again. [LB172]

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SENATOR PAHLS: ...what I've heard from two directors today, that you prefer the direction that the Governor is going...I mean, you don't prefer it, but that is a better route to go than to combine both--several organizations together: it's better to go separately. And you'll probably have to come up with some additional monies. [LB172]

LAZARO SPINDOLA: Um-hum. Absolutely. [LB172]

SENATOR PAHLS: Okay. [LB172]

LAZARO SPINDOLA: I come from public health. [LB172]

SENATOR PAHLS: Yeah. [LB172]

LAZARO SPINDOLA: That was my way of life. [LB172]

SENATOR PAHLS: Okay. So that's what I'm taking right now, is that you prefer separations of each other, which I'm not arguing against, but also realizing that monies will need to be found, probably from... [LB172]

LAZARO SPINDOLA: Oh, yeah. [LB172]

SENATOR PAHLS: ...both...that's... [LB172]

LAZARO SPINDOLA: Oh, yeah. [LB172]

SENATOR PAHLS: That's what I need to hear. Thank you. [LB172]

LAZARO SPINDOLA: I would like to make a disclaimer, though. As Judi mentioned, I saw the fiscal impact note yesterday. When I was asked to write this fiscal impact note, I had no reference to go to, because I had no idea what was in the plans. So what I did was that I looked...there are 3 other states that have a multicultural commission; 27 have a Latino American commission. So I looked into one of them that is contemplating this possibility. And what the thing was, that they created a super-multicultural commission with four different subcommissions and allocated funding for each of them. And that is why I came up with that huge fiscal note, because I thought that was, was one that works. [LB172]

SENATOR PAHLS: Right. Yeah, apparently it was a misunderstanding on all our... [LB172]

LAZARO SPINDOLA: Yeah. Yeah. [LB172]

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SENATOR PAHLS: And I--and we need just to move off that. [LB172]

LAZARO SPINDOLA: There was no intention... [LB172]

SENATOR PAHLS: Yeah. [LB172]

LAZARO SPINDOLA: ...to be wise to anybody. I mean... [LB172]

SENATOR PAHLS: Yeah. Thank you. [LB172]

LAZARO SPINDOLA: Okay. [LB172]

SENATOR PRICE: Thank you, Senator Pahls. Are there any comments? Senator Schumacher. [LB172]

SENATOR SCHUMACHER: Thank you, Senator Price. Mr. Spindola, if our assumptions are right...and I just want to see if we can get this all in context. The proposal on the table in this particular bill saves about \$170,000 a year--a budget: \$85,000 a year. [LB172]

LAZARO SPINDOLA: Um-hum. [LB172]

SENATOR SCHUMACHER: Are...is the thought unrealistic that the Native American community and the Hispanic community, in order to keep things as they are now, could each privately raise roughly \$42,000? And the state would still be kicking in the majority of this budget, so you'd still be accountable to us. [LB172]

LAZARO SPINDOLA: Yeah, well, we need the state's funding to provide the backbone from where to initiate this development process. Fund-raising has not been a priority until now. But now...I don't know who was it that said that we need to re-engineer government and go more towards the private sector in order to provide funding for activities. So I can assure you, today, here, that we will get the money. Oh, Judi is gone. I am pretty sure that she will get it. [LB172]

SENATOR PRICE: Thank you, Senator Schumacher. Are there any further comments from what remains of our committee? Seeing none, thank you for your testimony... [LB172]

LAZARO SPINDOLA: Thank you. [LB172]

SENATOR PRICE: ...and your patience today, sir. [LB172]

SENATOR SCHUMACHER: Thank you. [LB172]

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LAZARO SPINDOLA: Say again. [LB172]

SENATOR PRICE: Thank you for your patience today. [LB172]

LAZARO SPINDOLA: Oh. (Laugh) [LB172]

SENATOR PRICE: Can we have the next...? [LB172]

LAZARO SPINDOLA: Thank you for your patience. [LB172]

REBECCA VALDEZ: (Laugh) Yes, thank you. [LB172]

SENATOR PRICE: All right. Next testifier, please. [LB172]

REBECCA VALDEZ: Thank you very much. Good afternoon, I am Rebecca Valdez. And I am the chief executive officer of the Latino Center of the Midlands in Omaha, Nebraska, and I'm also a member of the State Board of Education, representing District 4. So I understand what you're going through, so I'll make my comments brief. When I was asked to come and oppose this, I was trying to frame it in a way that, you know, Lazaro talked about--we're the majority, and that's all well and good. But it's like, okay, what exactly does the commission really do? And how can I frame it for you in a different perspective? And so when I thought...we did three things: We do education capacity building; we provide opportunities for scholarships; and we also encourage higher education and also postsecondary education. And I thought, all right, what national organization could I compare us to? And the first thing that came to my mind--and I have a personal reason for that--was the American G.I. Forum. If you're familiar with the G.I. Forum, it was established to assist Latino veterans who came out of World War II who needed guidance on housing, education, postsecondary ed. And my dad was a B-24 gunner--Liberator. I brought some of his medals here, because I have--they're close to my heart. And he, basically, was able to go back, go to the University of Texas, get an accounting degree. And here I am, because of all his hard work. So I liken the commission to the American G.I. Forum, where we do lots, lots of education and capacity building, so much so that in 2000 Senator Matt Connealy approached the commission and asked for a study to be done about: To what degree are Latinos or, slash, Hispanics integrating into Nebraska successfully? And I know as a State Board of Education member that the Department of Education also turns to the commission to do reports on the state of education of Latinos and what can we do about it. So I just want to end briefly by saying, if you take away our ability to be the Latino Commission, we don't have any other way to be able to assist individuals. We don't--as a Latino community, we don't have an NAACP; we don't have an Urban League; and we don't have a United Farm Workers Association. So this is the closest thing for Nebraska that we can come to. And I know that Lazaro and I, with the Latino Center, have been

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working hand in glove over many, many issues. And I read Senator Avery's bill, and it focuses so much on problems. It's not about problems; it's about finding ways to ameliorate some of the misconceptions that people have about the Latino population. And that's very much what the commission does. And with that, I will end my statement. Thank you. [LB172]

SENATOR PRICE: Thank you very much, ma'am. Are there any questions or comments from the committee? [LB172]

REBECCA VALDEZ: Thank you very much. [LB172]

SENATOR PRICE: Thank you very much also. Next testifier in opposition, please. [LB172]

PAUL OLSON: Yes. [LB172]

SENATOR PRICE: And the yellow sheet to sign in, is that completed, sir? [LB172]

PAUL OLSON: No, I didn't get one. [LB172]

SENATOR PRICE: They're at the front door. [LB172]

PAUL OLSON: I didn't get one. [LB172]

SENATOR PRICE: Perhaps while you're filling that out, we'll have the next testifier come up, and then we could keep things moving along in a smart and orderly fashion. [LB172]

HENDRIK VAN DEN BERG: I have my sheet. Thank you. My name is Hendrik Van den Berg. Van den Berg, V-a-n d-e-n- B-e-r-g. If you've been in the Air Force, you can spell Vandenberg. So...(laugh). I'm a professor of economics at UNL, and one of the books that I have written is a textbook on the economics of immigration. And so this is my association with the Latino community here in Nebraska. One of the studies that I've done and have published in several journals, both local and national, is on the town of Lexington and the assimilation and the growth of Lexington. Looking at the problem economically, just to give some oversight here and kind of put a lot of these issues that are being talked about in its proper place, immigration is a very complex issue, and, of course, immigration as well--the Latino community is rather dominant in that phenomenon here in Nebraska, as the great bulk of immigrants are--fall into some of the 20 nations that would make up the Latino community. And looking at that phenomenon, you have to understand the complexities of it. Overall, as we found in Lexington, has been very good for the state of Nebraska. These things are complex: you can focus on details, and there are some negatives, and there are many positives.

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Latinos have come to the state of Nebraska, largely, to work. We have many employers that rely on them to a great degree. In certain communities--again, like Lexington--the community was revived; the population grew after declining for many years. You know, boarded up storefronts in downtown Lexington were converted into different businesses, some with Spanish language on the front--a different community but very much a revived community; so there you see the positives. You also see the negatives, and this is where, in effect, the commission is so important. And if you look also at the history...you know, we have great pride in being a nation of immigrants, and we should have pride and take pride in that. But we forget the difficulties that we encountered in the past as well. The assimilation process is not automatic; it's not easy. And we forget, in fact, that we invested as a nation in that assimilation process. Our public school system played a phenomenal role in, essentially, assimilating all of the Czechs and Germans and Swedes and whoever else came to Nebraska in the past--Dutch, I guess: Van den Berg. And so, you know, the government played a role in that. And there is a role for government in this process, very much so, as there was a hundred years ago. And we shouldn't forget about that. You can have a few numbers here. The top 30 cities in our country back in 1900--over 50 percent of the students in those schools were either themselves immigrants or children of immigrants. In the largest city, New York, it was 70 percent. That was public funding that assimilated those students and made them Americans. We go through the process again: we get a large number of Latinos in Nebraska, and we do have a public role to play here to assimilate. That is, the process of immigration, again, is a very complex process. We see the benefits: our employers gain wages; our car dealers sell cars; property owners rent apartments, sell homes; local retail businesses sell products; and we see a growth in the economy because of the arrival of immigrants. But there is that other part of the process, which is assimilation. It's extremely important; that ultimately determines the success of immigration. We can't just point to a few economic variables; we can't just point to a few instances. It's a very complex, complete process. And, again, the commission plays, I think, an extremely important role in this latest wave of immigration to Nebraska--again, a hundred years after the initial wave and thousands of years after the wave before that that we also talked about here today. But the role of government here and the coordination of that and the role that a commission plays to, essentially, allow this new community that has arrived here to assimilate and to have their children go to school to become Americans. You know, I notice very much at the university in my courses there are some Latino students but not nearly enough, given the number of Latinos in the state. We have work to do here, and this is something that--again, the commission plays an extremely important role in that process, coordinating what government can do, efficiently, within budgets. And this is, again, a major reason why I'm here testifying today, saying that we need to keep this commission functioning. It has an important role to play, and we need to find a way to let it permit to continue doing its job. Thank you very much. [LB172]

SENATOR PRICE: Thank you very much, Mr. Van den Berg, for your testimony. Are

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there any questions from the committee? Seeing none, again thank you. Could we have the next opponent? And you're all set to go, right? [LB172]

PAUL OLSON: Yeah. [LB172]

SENATOR PRICE: All right, thank you, sir. [LB172]

PAUL OLSON: (Exhibit 6) I will not repeat the whole of my written testimony, because some of it has been covered. I was involved in the writing of both the bills. [LB172]

SENATOR PRICE: Can I get you to spell you name. [LB172]

PAUL OLSON: My name is Paul Olson, P-a-u-l, Olson, O-l-s-o-n. I represent myself and Interchurch Ministries of Nebraska. I was asked in 1970 to write the original bill for the Commission on Indian Affairs by Leonard Springer. And a group of us--with Leonard and some other Natives, American people, and people from Lincoln--wrote the bill and sort of lobbied it through the Legislature. A year later, the same sorts of problems and some very different problems, in employment and justice, were facing the Hispanic community. And several Hispanic men--Sam Franco, among those whom you might know, and others who are now out of state--asked that I and Erv Goldenstein work with them on a similar bill. In the fourth paragraph, I trace out the different thrusts, the different purposes, that the commissions have had and the different service that they've given to the state, which I think has been extraordinary. And I've heard the argument that if we give groups to Native Americans--and commissions to Native Americans and Hispanics, we'll have to give to everybody in the world, including Swedes. And I would like a Swedish commission, given my name. But I really think that what we're talking about are blocs of opportunities and blocs of issues that are unique to the two groups, as the head of the historical society indicated, and that it would be completely dysfunctional to try to combine those groups. Further, 10 percent--about 10 percent of Nebraskans are now Hispanic Americans. And that 10 percent hasn't...no person in the Legislature, so far as I know; it has very small representation in the upper echelons of the executive branch and no representation in the upper echelons of the judicial branch. So I think it's social tinder to have an underclass that has worked very hard, exploited in the labor force, exploited socially, the object of horrendous hate, that they have no access to government. We took that route in the '50s, and we paid a tremendous price nationally for taking that route. As to the \$80,000, if the...I wrote proposals...I'm departing from my testimony. But I wrote proposals at the university; I got in over \$10 million in funding during my 50-year tenure at the university. I'll guarantee that I can work with a group that can help both Judi and Spindola to raise some money if the committee grants them the opportunity and creates a pocket where the money can be placed, so that there's authorization to spend private money in state organizations. I would say that--I don't know if you've seen the article in The Daily Beast which says--or rates Nebraska 47th among the 50 states in tolerance; that's not a statistic that's very

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nice. And they do this on a basis of systematic data. I think we ought to be concerned about this. And I think we ought to be concerned about the slash-and-burn intolerance that's sweeping through our state and sweeping through some sectors of our Legislature. And I pray that you oppose this combination of the commissions and this effort, essentially, to dilute what they're doing. They've done a noble task, and I'm very proud of having written their bills. [LB172]

SENATOR PRICE: Thank you very much for your testimony, Mr. Olson. Are there any questions or comments? Senator Schumacher. [LB172]

SENATOR SCHUMACHER: How did you guess? [LB172]

SENATOR PRICE: Well, you raised your hand. [LB172]

SENATOR SCHUMACHER: Thank you, Senator Price. The Kennedy School of Government talks in terms of the new model of government: bringing together nongovernmental organizations, private capital, and then the traditional government structure. In our conversations today, we've alluded to perhaps a form of that model. You indicated that...and I have not studied this within the Nebraska statutes, but you indicated that we may have to make some governmental legislative changes for the private capital we've been talking about, or the NGO capital that we've been talking about, to come into the system to supplement these budgets. Are you familiar with what changes we would need to make? [LB172]

PAUL OLSON: No, I do not. And I haven't researched this, but I've heard people say that this is difficult. And I think that could be...there's obviously opportunities to do this from Nebraska institutions. The University of Nebraska, for instance, has the University of Nebraska Foundation. But there was a suit in the 1920s in which--which was won by a private citizen--in which he argued that the University of Nebraska could not use foundation funds for purposes other than those that were largely governed by what the state Legislature and the Board of Regents had determined that the university should be doing. So I think we'd have to look into that. But I would be very happy to work with the commissions and also with anyone in the Legislature that wanted to work with us to try to get something like that. I'm quite sure--I'm head of the peace and justice committee of Interchurch Ministries of Nebraska--and I'm quite certain that the churches would be willing to work in this way. [LB172]

SENATOR SCHUMACHER: That's a route that may be viable. [LB172]

PAUL OLSON: Yeah. Okay. [LB172]

SENATOR PRICE: Thank you, Senator Schumacher. And I would let you know for the note, the Nebraska Community Foundation is the way to bring private monies into state

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government. We do that for upkeep of the Governor's residence at times; the Fourth Fountain Foundation is done the same way. So that already exists. I do believe the commissions--I know that Ms. gaiashkibos has taken in private money. So... [LB172]

PAUL OLSON: Yeah. [LB172]

SENATOR PRICE: ...that has already been worked out. It's more the matter of, as you said, writing the proposal. [LB172]

PAUL OLSON: And... [LB172]

SENATOR PRICE: But thank you very much... [LB172]

PAUL OLSON: Yeah, thank you. [LB172]

SENATOR PRICE: ...for your testimony, Mr. Olson. Can we move on to the next opponent? [LB172]

MIGUEL CARRANZA: We're each scurrying up here to... [LB172]

SENATOR PRICE: Have you taken your sheet over? [LB172]

MIGUEL CARRANZA: Yes; she has it. [LB172]

SENATOR PRICE: Thank you very much, sir. [LB172]

MIGUEL CARRANZA: And they're handing out copies. [LB172]

SENATOR PRICE: All right. [LB172]

MIGUEL CARRANZA: (Exhibit 7) My name is Miguel Carranza. It's M-i-g-u-e-l; last name is C-a-r-r-a-n-z-a. I'm a native of Lincoln, Nebraska. And I'm giving testimony in opposition on behalf of myself and Lourdes Gouveia, who's a professor of sociology and director of the Office of Latino/Latin American Studies at UNO. And I'm a professor of sociology and ethnic studies and director of the Latino Research Initiative here at UNL. If it's true that adversity brings people together--and this is some other ideas (inaudible), because you have the written testimony--if it brings people together, then we're going to become a very tight-knit Latino community. Never before have I seen the number of negative, mean-spirited bills that have come out of the Legislature all in one session. I think if you look how this was structured--the hearings--you're talking about a legislative bill that puts two groups together--and I'm not criticizing, but I'm giving you the perception that you had one group testify first and then another. So you've created this false dichotomy, because there are lots of similarities between and among the groups,

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as well as differences. And I'm speaking to the differences, but you had these hearings in--one here, one here. And, plus, we've had plenty African Americans and Paul Olson and Jan Gradwohl and lots of people who see this as a community effort. It's not a testimony meant to divide the Latino community or even within the Latino community and the Indian community--Native American community. But it's meant to unite. I see this as an initial step, in that we need to collaborate and connect with other groups in this state who are disadvantaged, who are underrepresented or unrepresented. If significant social, cultural, and economic progress were to happen for these groups, our groups--and I count myself among them--then maybe these commissions would not be necessary. Someone had said--Senator Janssen asked: Should we have African American commission? I would probably argue yes, given the status of African Americans in the state of Nebraska. Now to my testimony, and I'll...as two academics who have spent their lives studying Latino socioeconomic conditions and their impact across Nebraska, we must respectfully oppose the move to disintegrate the Commission on Latino Americans. We think that this is a disservice not only to the largest and growing minority group in the state but to each and every one of the other groups whose unique histories and experiences will become even more invisible to many Nebraskans. A one-size-fits-all approach does not work. Latinos are and continue to be the engine of the state's population growth and economic success. The future of Nebraska hinges largely on how effectively we integrate new generations of Latinos in our institutional mainstream. According to the American Community Survey, as of 2009 Latinos have accounted for 53.7 percent of the 226,000-plus people added to the Nebraska population between 1980 and 2009. To put it differently, during the same period, Nebraska's total population grew 14 percent while the Latino population grew 435 percent. Other groups' growth rates are either leveled, stagnant, or declining. Latinos are a young, primarily working-group population whose labor-force participation rates are higher than for other population groups in the state. It's projected to be even higher in the next 10 to 20 years. Today one of the most serious challenges comes from a growing anti-immigrant climate in Nebraska, which affects all Latinos regardless of their residency or citizenship status and which sociologists like myself and Lourdes have amply demonstrated runs counter to the successful integration into our society's mainstream. Telles and Ortiz in their book talk about--in Generations of Exclusion--attribute the Mexicans' declining social mobility after the second generation to racialization. U.S.-born children of immigrants and later generations are most affected by such an environment that should give us all reason to pause for this major concern, not just Latinos. I'm going to finish up real quick. The Commission on Latino Americans has been an important space which, at the very least, has served as an ongoing link between and among different segments of the Latino communities across the state and you, their elected representatives. It has commissioned important studies and gathered informed views every time critical issues such as health, education, law enforcement has needed debating, from which the Legislature as well as the citizens of the state have benefited greatly. Last, there are 160,000 Latinos in the state today, approximately, and the \$1 per Latino currently spent on the Commission on Latino

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Affairs' annual budget should put us to shame. We are willing--Lourdes and I are willing to address the challenging issues before the state. Let us help you make the Commission on Latino Americans work better, for the good life for all Nebraskans. Lourdes Gouveia and Miguel Carranza. [LB172]

SENATOR PRICE: Thank you very much for your testimony, sir, and your patience. Are there any questions from the committee? Seeing none... [LB172]

MIGUEL CARRANZA: Okay. Can I make one comment? [LB172]

SENATOR PRICE: Please. [LB172]

MIGUEL CARRANZA: Senator Schumacher asked: How do we get our return? And my response: We get our dollars back with high school and college graduates of Nebraska institutions, who become professionals and remain in Nebraska with productive careers. And we don't get that with anti-immigrant legislation, because that just pushes both undocumented but also documented people. I would not go to Arizona today. And I've had offers to go to Arizona. I'm glad I didn't take them. It is an unwelcoming that not only people won't come into the state, but you have people leave the state, and it's not just undocumented immigrants. Thank you. [LB172]

SENATOR PRICE: Thank you, sir. Can we have our next opponent? [LB172]

RICARDO ARIZA: Good evening, Senators. My name is Ricardo Ariza, R-i-c-a-r-d-o A-r-i-z-a. I am the director of multicultural affairs at Creighton University. I have a 15-year relationship with the Indian Commission and the Latino American Commission. I've served as commissioner for six years and chairman of that commission. I'm very privileged to be awarded the Chief Standing Bear award by the Indian Commission for my work with Native American youth. And as I think about what is being proposed today, I look at it like scratching the surface of a problem and saying, what's under the surface here? And let's just go ahead and come up with some frivolous suggestion. And what I can suggest to all of you as senators: I'm a servant; I'm a servant of the people; you as politicians are servants. In order to be a good servant, you have to have relationship with the people and truly understand their needs. And to box the needs of the Native American communities with those of Latinos and those of Somalis and those of Sudanese and those of Guatemalans--I mean, we really need to look at the future and look at it as an investment in a...there needs to be a paradigm shift here, because just last week I was meeting with HR officials from ConAgra, Union Pacific, Omaha Public Power District--OPPD--three of the largest companies in Omaha. And they want to know how to diversify their work force. So they see diversity as an investment. All I hear today is diversity is costing our back pocket, to the sum of \$80,000-plus--whatever. Again, it's about changing how we look at the problem and not looking at it from a very superficial perspective. And again, from a majority culture perspective, if you don't

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understand the culture, you ask questions. I'm blessed every morning. I go into that cultural center, and I hear Arabic, Lakota, Spanish, French; I close my eyes, and I can hear all of those languages. And I can sit here and glamorize that for you. But that's not the answer--to put these commissions together and to say that's going to...you're just going to make these commissions ineffective at serving the people. And we should be invested in making these commissions very, very strong voices of the people. I thank you for your time. And if you have questions, please ask. [LB172]

SENATOR PRICE: Thank you very much, Mr. Ariza, for your testimony. Are there any questions? Senator Schumacher. [LB172]

SENATOR SCHUMACHER: Thank you, Senator Price. I just have one short comment. [LB172]

RICARDO ARIZA: Sure. [LB172]

SENATOR SCHUMACHER: I'm glad to see somebody else who talks with their hands. [LB172]

RICARDO ARIZA: Great. (Laughter) [LB172]

SENATOR PRICE: Seeing no other questions, thank you. Could the next testifier in opposition...please, ma'am. Hand your form over, and we'll... [LB172]

YOLANDA CHAVEZ NUNCIO: Okay. [LB172]

SENATOR PRICE: You good? Okay. [LB172]

YOLANDA CHAVEZ NUNCIO: (Exhibit 8) Good afternoon, Senator Price and members of the committee. I'm glad that...my name is Yolanda Nuncio, and I am from Grand Island. It's Y-o-l-a-n-d-a C-h-a-v-e-z N-u-n-c-i-o. I am taking this opportunity to speak with you in support of the Latino American Commission being retained as a separate agency because I believe the commission has and will continue to serve your constituents in Nebraska, and I think it is important that it keep its separate identity. My father was born in Nebraska City in the early '10s, the 1910s, and I am not an immigrant. I am a second-generation Cornhusker and born and raised in Grand Island. I have been involved with the commission pretty much since its inception. I have been appointed by four different Governors to serve on the commission, and I have served as the chairperson several times. I can honestly say that I grew up, and old, with the commission, as did my children. My children attended meetings with me, and so they were very involved with the commission also. The commission has gone through this process several times over the years and has been able to survive for 38 years. I felt it was important for me to stay until the end this afternoon to have this opportunity to

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speak with you, because I am from outside of the eastern part of the state, and I believe I can give the perspective from that community. As you are all aware, Nebraska is going through huge demographic changes; and the commission can continue to play a role in helping not only the Latino community to become proud, contributing citizens, but it can also provide services to other state agencies, private businesses, and to school districts as we continue to face the demographic changes and the challenges and opportunities that go with these changes. Many years ago the commission was instrumental in getting the driver's manuals and driving tests translated into Spanish. Those manuals have been revised over the years, and, as any worthwhile project, they are updated and changed to meet the needs of our citizens. The commission has coordinated and developed different reports and research projects about education and other topics that are important not only to the Latino community but to the total community across the state. The commission has worked with different agencies and was recently recognized for its work with the Census Bureau in helping to make sure that every person in Nebraska would be counted. We all understand the importance and necessity of having accurate population statistics in Nebraska. One of the most successful activities of the commission has been the role that we have played in the Latino educational summit that has evolved from a small conference, where a small number of Latino students and parents participated in a conference, to an annual event that attracts students and educators from across the state. The summit this year drew over 1,200 students and was extremely successful. Providing students with the opportunity to attend a summit of this quality in Nebraska can only have positive effects on our students. We all know the value of education and the need for our students to receive a quality education. It is even more important for our kids to see Latino role models that have gone through our school systems and are reaching their dreams. This was possible at the summit. This was largely possible because of the relationship and partnership that the Department of Education had with the Latino American Commission. And having watched that, participating in that committee over the years, it is just--it's wonderful to be able to say that we have reached the point with that where we are seeing success come out with those kids. The needs of the Latino community are unique from the needs of other communities of color in our state. Our communities are composed of Latinos from all over, with different dialects, customs, and traditions. We are growing at a large rate; we are a young people, and our numbers will continue to increase. In these very challenging times, with the issues surrounding immigration, education, employment, discrimination, and becoming respectful communities, it is imperative that we have this agency here to help meet our needs and to help lead us into the future, as a separate agency. Thank you for your time. I really believe that the need for the Indian Commission as well as the Latino Commission--they need to be separate agencies. And I, please, ask you to oppose this bill. [LB172]

SENATOR PRICE: Thank you very much for your testimony. [LB172]

YOLANDA CHAVEZ NUNCIO: Thank you. [LB172]

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SENATOR PRICE: Are there any comments from the committee? Seeing none, again thank you very much. [LB172]

YOLANDA CHAVEZ NUNCIO: Thank you. [LB172]

SENATOR PRICE: The next testifier in opposition. Do we have a sign...? Thank you. [LB172]

JAN GRADWOHL: Yes, I... [LB172]

SENATOR PRICE: Thank you. [LB172]

JAN GRADWOHL: ...handed it in. Senator Price--is Senator Avery still back there--and members of the committee, first of all, thank you for your patience in listening to all of us. We appreciate greatly your giving us this opportunity to express our views. And although I am supporting...well, I'm--first of all, with all due respect to you, Senator Avery, I think this is a dreadful bill. [LB172]

SENATOR PRICE: Can I get you to state your name and spell it for the record? [LB172]

JAN GRADWOHL: Oh, I'm sorry. It's Jan, J-a-n; the last name is Gradwohl, which is G-r-a-d-w-o-h-l. [LB172]

SENATOR PRICE: Thank you. [LB172]

JAN GRADWOHL: As I said, with all due respect to Senator Avery, I think this is a dreadful bill. And I do support both the retention of the Commission on Indian Affairs and the Latino American Commission. I'm going to address my remarks more to the Latino American Commission, because I think there are some special reasons that that should be a separate entity and not lumped in with all other minority groups. And I was sort of struck by some of the discussion. I was the fourth woman judge appointed in the state of Nebraska, and I served as a county judge in Nebraska, in Lincoln. And I'm seeing with the Latinos what happened to the women's movement. It's very tough at first, and you have to establish yourself. And I think Latinos in Nebraska are going through what women did in my era, as a young woman, a young lawyer, and a young judge. And so with that perspective, I'm going to be very brief. I think by lumping together all minorities, other than--and putting together the Native Americans or Indians and the Latino Americans, this--and lumping the Latino Americans with all other minority groups, it does a disservice to people who form a--the largest minority ethnic group in our state. And they have special problems, special needs and occupy a special position. The interest...one of the bills (sic) I think this is a bad bill is that the interests of the Indian nations in Nebraska are wholly different from the interests of the Latinos in the

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state. The Indian nations are interested in matters of repatriation of burial remains and matters of sovereignty--and as a lawyer, I can appreciate the great questions of sovereignty that there are. On the other hand, the Latino Americans are interested in issues of acceptance in communities, developing strong businesses, strong communities of Latinos in our state. And let's face it, the Latinos in Nebraska have saved the towns of Nebraska. I've been doing some research on another bill, LB48--which you might imagine. And it is very striking to look down and see the communities who have prospered in Nebraska. And, by and large, a great percentage of those communities have high Latino populations. And you look at the counties that have--are failing in their populations, and they are lacking in Latino populations. So it seems to me that Latinos are serving a great need in the state of Nebraska. In addition, there are a number of Latino businesses that are contributing to the state. There--I think there was a 41 percent increase in Latino businesses in the last year--just a remarkable percentage. And these are adding to the tax rolls. And, Senator Schumacher, you were asking how Latinos are going to pay back what they get--the commission? A study done by a University of Nebraska at Omaha professor named Christopher Decker showed that all immigrants in Nebraska--and since our largest group of immigrants in Nebraska are Latinos, we can attribute a great deal of this to the Latino immigrants--all immigrants in Nebraska pay into the government of Nebraska 7 percent more than the citizen residents. So there is where you get a good percentage of what's paying that \$86,000. The other thing is that under this bill, the executive director would have a huge, impossible task, because the executive director has to meet, largely, the needs of the Indian population because of the way the bill is structured and at the same time meet the needs of all other minorities in the state. And this is imposing an impossible burden on the executive director. No executive director could handle all those matters, juggle all those balls in the air, under the existing structure of this. At least two of you on this committee represent constituencies that have large numbers of Latino Americans. And in each instance, the American-born Latinos far outnumber the total number of foreign-born persons of all backgrounds in their communities. And so there's been this misapprehension that the Latinos in Nebraska are all immigrants, and that is simply not true. The majority of the Latinos in Nebraska are native-born persons. And in addition, there are large numbers of immigrants who are here legally. And... [LB172]

SENATOR PRICE: I would remind you the red light is on. [LB172]

JAN GRADWOHL: Oh, I'm sorry. Anyway, so I've given you some reasons. And I hope that the committee will do the right thing and preserve the Latino American Commission and the Indian Commission. [LB172]

SENATOR PRICE: Thank you. Senator Sullivan. [LB172]

SENATOR SULLIVAN: Thank you very much. Thank you, Judge Gradwohl. Appreciate your comments about the progress that women have made. But we also know what

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happened to the Commission on the Status of Women. [LB172]

JAN GRADWOHL: Yes. [LB172]

SENATOR SULLIVAN: I wonder, though, if you feel that there comes a time when a commission has served its purpose and can then--the torch can be passed, so to speak. [LB172]

JAN GRADWOHL: Well, I think that's the goal of all commissions like that. I've been a member of the International Association of Women Judges for many years, and they're still working on it. The National Association of Women Judges, in the United States, is now abandoning their work, somewhat, of trying to support the appointment of more women judges or the election of more women judges. But they now are following other paths to channel their efforts. With regard to this happening to the Latino American Commission, they're far from reaching that. How many Latino American legislators do you have? How many Native American legislators do you have? So I think both groups have a long way to go. [LB172]

SENATOR SULLIVAN: Thank you. [LB172]

JAN GRADWOHL: Thank you very much for... [LB172]

SENATOR PRICE: Thank you, Senator Sullivan. [LB172]

JAN GRADWOHL: Oh... [LB172]

SENATOR PRICE: No further comments? [LB172]

JAN GRADWOHL: Any more? Okay. Thank you. [LB172]

SENATOR PRICE: Can we get the next opponent? How many more--by the way, how many more opponents do we have in the audience? If you could show me by a raise of hands. Maybe three or so? All right. Thank you. Mr. Lindsay. [LB172]

JOHN LINDSAY: Senator Price, members of the committee, for the record my name is John Lindsay, L-i-n-d-s-a-y, appearing on behalf of the Winnebago Tribe of Nebraska. Chairman Blackhawk could not be here today but asked me to come and advise you of the position of the Winnebago Tribe in support of the Commission on Indian Affairs. The tribe has worked closely with the commission over the years. The commission has done outstanding work in not just advocating for Native Americans but in working in the government-to-government relationship that the state has with the sovereign governments that are the tribal governments. And I won't...I had intended to talk about the sovereignty issue, but I think that's been discussed quite a bit, so I'll just move to the

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second point, which is a little bit anecdotal. Mr. Smith from the historical society mentioned a fight that took place in the Legislature 20 years ago, suggested that probably nobody in the room was around then. Unfortunately, as my gray hair will attest, I could have been and, in fact, was around at the time. I was actually a freshman senator at the time that the unmarked human remains bill came before the Legislature. That bill had to overcome an awful lot in order to get passed. It was ultimately passed by the Legislature after a fairly tough fight. And as a freshman senator new to the process, new to the issues, without a great deal of understanding of other cultures, the Commission on Indian Affairs, along with the Native American Rights Fund and the Pawnee, Winnebago, Omaha, and Santee Sioux tribes, helped to educate not just me but my colleagues at the time on the various aspects of that bill. At the end of that session, that bill did pass by a fairly significant margin. And I think it's a testament to Nebraska that it was the first--we were the first state to pass a general repatriation statute. And our bill became the model for the nation. And I do believe that input from the Commission on Indian Affairs was instrumental in that process. So I would suggest that--to this committee, as individual senators--that having the commission available for those purposes I think is helpful to the Legislature itself. And I would be happy to answer any questions. [LB172]

SENATOR PRICE: Thank you, Mr. Lindsay. Are there any questions from the committee? Senator Pahls. [LB172]

SENATOR PAHLS: Good to see you here. I just--I think I need to say this, because I think there's an innocence here on our part: we're searching. Yesterday--just to give you an idea--yesterday there was a deputy sheriff in that same chair trying to convince us to allow them to sell used vehicles. We're not--I mean, we're searching, we're not saying this is the answer. I'm just saying, this is going to happen a number of times. So we're out there; we're trying to make this work. [LB172]

JOHN LINDSAY: Absolutely. [LB172]

SENATOR PAHLS: Okay. [LB172]

JOHN LINDSAY: I can't disagree with that at all. I know a proposal has been brought to you; you're considering... [LB172]

SENATOR PAHLS: Yes. [LB172]

JOHN LINDSAY: ...the various aspects of that proposal, and you'll come to... [LB172]

SENATOR PAHLS: Yeah. [LB172]

JOHN LINDSAY: ...I'm sure, a wise decision... [LB172]

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SENATOR PAHLS: Yeah. [LB172]

JOHN LINDSAY: ...after hearing both sides. [LB172]

SENATOR PAHLS: Right. [LB172]

JOHN LINDSAY: No, I fully understand that. [LB172]

SENATOR PAHLS: Okay. Okay. Thank you. [LB172]

JOHN LINDSAY: Fully understand that. [LB172]

SENATOR PRICE: Thank you, Senator Pahls. Are there any other further comments or questions from the committee? Seeing none, again thank you. The next opponent, please. I trust you'll sign a form for us in a little bit? Thank you. [LB172]

FRANK LaMERE: I think I did. [LB172]

SENATOR PRICE: Oh, you did; good. [LB172]

FRANK LaMERE: Yes. Well, good afternoon, all of you. A special greeting to Senator Avery; I've not had a chance to see him for a while. My name is Frank LaMere, F-r-a-n-k L-a-M-e-r-e. I am from South Sioux City, Nebraska, and I'm a member of the Winnebago Tribe of Nebraska. And I came over today, and I've listened intently all afternoon, and there were 100 things that I wished to tell you, but they took care of about 98 of them. So the other two things I want to share with you, if I can, is a little perspective and some context--very important, I would think. And it impacts Native people but perhaps our Hispanic brothers and sisters. And I want to point out that it was the Native people of Nebraska who first consecrated the ground on which we live and grow, who first asked for bountiful harvest and protection from the elements. In exchange for that, we agreed that we would be good stewards of the land, and that was a covenant that has been made; it's a covenant that is still in effect. Take a look at the bounty that us across the state of Nebraska realize because of the covenant that our first Nebraskans made. And I just say that by means of perspective and context, because we're talking about what we don't have. And that's notable. And I appreciate the--your efforts to secure a future for these two very important commissions. But we're talking about what we don't have. I just want to remind you as respectfully as a Nebraskan to another Nebraskan: what you've derived came from the largess of the first Nebraskans, and it came from their efforts and the petitions that they offered up. We forget those kind of things. Covenants have been made, and covenants must be respected. There's a shortfall, but do not let that stand in the way to a relationship and what I think is an obligation that we have to our first Nebraskans. I want to share that

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with you. I had the distinction, the privilege, of chairing the Indian Commission a number of years ago. I think Chairman Blackhawk was even our executive director at one time. And I remember at that time we talked about the need for us and our communities to live, to grow, to flourish, and to empower ourselves, and we have tried to do that. And I think we've done a pretty fair job of it, but there's a long way to go. You know, you had mentioned, Senator, the--sometimes we get to a point where maybe we have realized what we set out to do. As a Native community and even as a governing body here, we have not realized that success yet, when we have people freezing on the streets of Whiteclay, Nebraska, this minute. There are many things that we have begun through the commission; I think that we must continue those things with the commission. And I share and I implore you to consider that, and I do so very respectfully. There's one other thing I just want to share with you today, and you'll see this as you leave here. I came over here today, and down the hall there's a number of Nebraskans pictured who had paid the supreme sacrifice for us to come here and to agree and to disagree. And I noticed that and I reviewed all of them. It had made me mindful--and I want to share this with you, respectfully. On the 1st of July, 1971, Anthony John LaMere was killed in action in Quang Tri, Vietnam, walking the point position on a combat patrol, at the age of 20 years, 20 days--never once cast a vote. And I'm reminded of that here today. Tony LaMere was my best friend, my younger brother. And I seen that, and I was reminded of that. And then with all of the things going on here today outside and in this room, it--I was mindful and I remembered the fact that when they brought him home from Los Angeles many years ago, there was a stranger with him dressed up in his finest, and we asked who it was, and he said: My name is Sergeant Rivas. He was a Hispanic. He accompanied him from San Francisco and came to the Winnebago Indian Reservation, never left his side for even one minute in six days. I was reminded of that today. And the reason I share that with you is that, good senators, Tony LaMere--I stand on his shoulders, and he earned me a right to come in here and to say maybe we should just leave this thing alone; if it's working, leave it alone. We come here standing on the shoulders of Sergeant Rivas, who said, you know, our Hispanic relatives need to stand up and need to say what is right for them and what is going to help them as we move into the future. I remind us all of the important work that we do and the great contributions that Natives, Hispanics continue to make here. And I have never, ever been at these tables and have ever said we should just leave it alone; I have always worked for change. If it's working, just let it go; there's much unfinished business. Respectfully, thank you very much. Senator Karpisek, I love your idea about Whiteclay. I heard that loud and clearly today. So with that, I say, pee-nah-ghee-yess-say, thank you to all of you--and your patience. And you pass muster today; you're all here. [LB172]

SENATOR PRICE: Thank you, Mr. LaMere. [LB172]

FRANK LaMERE: Thank you very much. [LB172]

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SENATOR PRICE: Do we have questions from the committee? Seeing none, thank you, sir. Next opponent on LB172. [LB172]

REBECCA GONZALES: Hi. [LB172]

SENATOR PRICE: Hello. [LB172]

REBECCA GONZALES: (Exhibit 9) My name is Rebecca Gonzales, R-e-b-e-c-c-a G-o-n-z-a-l-e-s, and I'm the project coordinator for racial justice at Nebraska Appleseed Center for Law in the Public Interest. We are a nonprofit, nonpartisan public interest law project dedicated to equal justice and full opportunity for all Nebraskans. While we understand the budgetary issues that led to creation of this bill, we respectfully oppose LB172. As you've heard, each of the communities served by these commissions are critical populations in our state. Native Americans represent our deepest roots and longest history while Latino Americans are our fastest-growing and youngest population and represent a major asset and opportunity to Nebraska's future. I also want to say that it is important that each of these communities has a state liaison. I want to echo Judi's earlier words about the importance of both commissions staying state government agencies. They maintain government-to-government relations, as you heard earlier, and they also provide vital access to state government for nonprofits. They coordinate new programs--state programs; they improve state programs; and they also develop new programs in association with nonprofits. We have worked closely with both commissions, and we hope to continue to work in the future with both commissions. While we applaud the committee's efforts to increase emphasis on multiculturalism and its attempt to address the issues of all cultures in this increasingly global world, the combined commission proposed in LB172 as it stands is not a workable solution. While these commissions have great respect for each other and sometimes operate in coordination, they serve very different communities, whose populations would not be adequately represented by the commission as proposed in LB172. We respectfully ask that this committee also ensure the important infrastructure in the form of two distinct commissions remains intact in our state. Thank you for your consideration. And if you have any questions? [LB172]

SENATOR PRICE: Well, thank you very much for your testimony, Mrs. Gonzales. [LB172]

REBECCA GONZALES: Thanks. [LB172]

SENATOR PRICE: Are there any questions? Senator Karpisek. [LB172]

SENATOR KARPISEK: Thank you, Senator Price. [LB172]

REBECCA GONZALES: Thank you, Senator. [LB172]

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SENATOR KARPISEK: Ms. Gonzales--I know Ms. Gonzales, so I just have to make her a little nervous. Rudy (phonetic), I think you put it--you hit it right on the head. It is two very different things. We are trying to find something, many things or many bills this year that are doing that. And I just want to say thank you, you hit it right on the head. [LB172]

REBECCA GONZALES: Thank you. [LB172]

SENATOR KARPISEK: And you get it. And we appreciate that. [LB172]

REBECCA GONZALES: Thank you. [LB172]

SENATOR KARPISEK: Thank you. [LB172]

REBECCA GONZALES: Thank you. [LB172]

SENATOR PRICE: Seeing no further...thank you very much for your testimony. [LB172]

REBECCA GONZALES: Um-hum. [LB172]

SENATOR PRICE: Next opponent. [LB172]

JOSE M. HERRERO: Good afternoon. My name is Jose Herrero; my first name is J-o-s-e, middle initial M, last name Herrero, H-e-r-r-e-r-o. I am a citizen of Spain and a resident of Nebraska. I've been an immigrant in this country for 32 years. I'm a lawyer in Washington, D.C. I'm a certified court interpreter in Nebraska. I am the executive director of Comfie, which is an organization that tries to provide leadership in the United States and the world. And accidentally I am here today, because I was outside in the streets helping the Hispanic community demonstrate against this bill in Nebraska. The first thing I want to tell you is that I'm talking to you with a lot of emotion, because at the very first time in my life, in my 32 years in this country, that I exercised my right to address my grievances or my concerns. I say to you, as residents, we are--some of those, like myself, that we pay taxes, we have taxation without representation. We cannot elect officials; we cannot express our voice. So, for us, those commissions that you create are very important and essential to all of us, especially to myself. I'm the father of two U.S. citizen children; my wife is an elected official in the state of Nebraska, Jane Raybould. And myself--the American dream is a dream that I fight for every day as a European. The European Union, where I belong to--we have 500 million people, and we have never been able to achieve the integration that you have been able to achieve in this country. I don't know if I speak clearly to you or not, if my accent is distracting to you, but we in Europe have never been able to integrate ethnic groups in our continent the way you have it. This is something unique to the United States--that a second

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generation becomes American, whether it's Gonzales, Smith, Jaworski, Jaworsky, Larson. And this is something you need not to take for granted. Don't shape your democracy on your budgetary needs. Do not shape your democracy on your budgetary needs. But you have a stake here that is very important. Today we have LB172. My question to all of you, in the introduction of a bill, have you talked to the commissioners before introducing this bill? This is something that you are funding yourselves. Have you talked before this bill has been drafted, to all these people? I was here in tears looking at the Indian Americans. And I'm sorry to say "into tears," because how can you just put a sovereign nation next to cultural affairs? First of all, the name of the whole thing: Commission of Indian and Cultural Affairs. We are not a culture. I'm from Spain, and I came to this country, and I (inaudible) when my wife talked to my father-in-law in tears: But, Dad, Pepe is Caucasian. My name is (inaudible) Pepe. I say: What do you mean by Caucasian? I'm from Spain. Then I learned that I was a race, Hispanic. We're not a race. Hispanics come from Argentina and Chile, which come from Europe--Italy; Hispanics come from Guatemala; Hispanics come from Africa and Colombia and Cuba. We're not a race; we're not a culture. We share a culture together, so when we talk about cultural affairs, what do we mean by that? The second issue is that...and I'm sorry, my time probably is running out; I've never done this; I'm just a casual speaker here. Senator Avery says the function of government is to provide safety and assistance to those who are more vulnerable in our society. Senator Brasch says go and look for money--go and look for money; there's a lot of people that have money. We're not IBM; we're not a big corporation like Microsoft. Minorities sometimes have no voice; minorities have no money. I belong to a church in Lincoln called Cristo Rey Church, and I build a nativity scene in Christmastime. And for the last six years, I have learned about these people. Some people in this country have no voice. Don't let the money stop their voices. Money should not be a way to (inaudible) democracy. Sometimes as a government, as people, we need to just (inaudible) people exercise their freedom of expression. Indian Americans are here before--yeah, they crossed the Strait of Bering, you say. Well, we all (inaudible) Adam and Eve had to cross the Mediterranean. We Spaniards crossed the Atlantic Ocean to invade Latin America. So what? It's a natural thing. The world is a world of immigration. It's in our genes, anthropologically. We look for a better place; we look to feed our children. So in some way, yourselves as Nebraskans...number one, in terms of commissions, be sensitive to who we are, to what we are--and also what you want to get from us. If we have a commission, you want people able to represent our concerns. In my case, I'm not a citizen. So (inaudible) will be a commission, and my concerns to the commission about (inaudible) Hispanics. So in that respect, you know, I appreciate your intents. I think there's a good intent before the legislation. I think it's a good intent before all of you in trying to make democracy work in the state of Nebraska. And I've seen that today, when you spend lengthy time hearing one after another of our testimonies. But the issue is that we are here because you as legislators have to make informed decisions. And that's the beauty of this country. The beauty of this country is based that the people who are sitting, each one of you, is well informed when they make a decision. And you're able to reach to society, to

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individuals, to just people like myself, residents, to organizations so you can make informed decisions. What I want to say to Senator Schumacher, please don't think about the U.S. as now; think that the U.S. institutions go beyond and well beyond \$87,000. Please, you know, you have the richest nation in the world, the richest nation in the world, fighting over \$87,000. You know (inaudible) we can have, I mean, I don't know how much time they can spend just knocking at doors. Myself, I have to knock on doors; I belong to an organization called Comfie, and doing fund-raising takes more time than expressing your voice. So these people will not be able to talk until they have the right money. So, please, treasure your institutions. Please make sure that that magic glue that unites America is there. Make sure that you build for the future and that what you are doing is that the American dream--which is an example to other countries in the world of integration, of diversity in religion or creeds or race--continues to work. [LB172]

SENATOR PRICE: I would remind you the light has gone red. [LB172]

JOSE M. HERRERO: I'm finished. [LB172]

SENATOR PRICE: Oh. [LB172]

JOSE M. HERRERO: Any questions? [LB172]

SENATOR PRICE: Thank you, sir, for your testimony. Any questions from the committee? Sir, thank you for testifying. I'm glad you had the opportunity to exercise it for your first time here. [LB172]

JOSE M. HERRERO: Thank you so much. [LB172]

SENATOR PRICE: Thank you. Do we have any further opposition testimony to LB172? Seeing none, do we have anybody who would like to testify in neutral? Senator Avery, you are open to close. Thank you. [LB172]

SENATOR AVERY: Thank you, Senator Price. I do appreciate all the people who came before this committee and made what I think were compelling arguments for doing nothing. Before I get into my closing remarks, I want to apologize for my absence from the committee room for a while; but I had a bill in another committee that required me to be there, and they were very slow. Let me say that it's important for me to emphasize and reemphasize that my intent with this bill has never been to destroy or to diminish the voice of any group in our society. My intent has never been to offend. My intent from the beginning was to provide an alternative to what I believed was a real threat to the continuation of these two commissions. You will remember that we prepared two bills in this committee--and we approved them; they were drafted--that would have eliminated each of these commissions. Those bills were not introduced, specifically because of this bill, because this bill was seen as an alternative. And you are all aware that there are

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legislative ways, no matter what we do with this bill, there are legislative ways that people who may want to eliminate these commissions could still do that. So I think we need to seriously consider advancing this bill to General File to give the Legislature another tool in our very difficult task of closing the budget gap. With that, I will say thank you for your attention; I know it's late and you're tired. Thank you. [LB172]

SENATOR PRICE: Thank you, Senator Avery. Are there any questions or comments or queries from the committee? Seeing none, that will close the hearing on LB172 and the hearing for today. Thank you for participating in your government. [LB172]