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Government, Military and Veterans Affairs Committee
January 24, 2014

[LB718 LB719 LB744]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, January 24, 2014, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB718, LB719, and LB744. Senators present: Bill Avery, Chairperson; John Murante, Vice Chairperson; Dave Bloomfield; Russ Karpisek; Jim Scheer; and Norm Wallman. Senators absent: Tommy Garrett; and Scott Lautenbaugh.

SENATOR AVERY: Okay. Let's get started, please. Welcome to the Government, Military and Veterans Affairs Committee. This is our first week of hearings. We're kind of getting used to it already. Before I start, let me explain a few things and introduce the members of the committee and explain a few things about our procedures. We have three bills today. The agenda is posted outside the room. We will be taking up LB718, introduced by Senator Crawford, and LB719, introduced by Senator Crawford, and then my bill, LB744. We'll take them up in that order. Before we start with that, let me introduce the members of the committee. Starting on my right, Senator Bloomfield is here from Hoskins. And Senator Murante, who is the new Vice Chair of the committee, from Gretna. On my immediate right is Christy Abraham, who is the legal counsel for the committee. I am Bill Avery, representing District 28 here in Lincoln and Chair of the committee. On my left is Senator Russ Karpisek from Wilber. On his left is Senator Norm Wallman from Cortland. And then Senator Jim Scheer from Norfolk. On the very end down there on the left is Sherry Shaffer who is the committee clerk. If you wish to testify, we ask that you fill out the green sheet. Please print clearly. This is vital information for our records. And when you arrive at the table to testify, please give this to Sherry, the clerk. If you do not wish to testify but you have an opinion and you'd like to register your support for or against any of these bills, this form is available at the entrance there and I believe over here as well. And we ask that you fill that out and write clearly. The...when you arrive at the table to testify, please pronounce your name and spell it clearly for the record. It's important that we have that because everything is recorded and we keep a written record of all of our transactions. Introducers will make initial statements. That will be followed by proponents, who will be followed by opponents, and then we have some time left for neutral testimony as well. Closing remarks are reserved for the introducers. We ask that you listen carefully to the previous testimony so that your testimony is not repetitive. We will be using the light system. The green light is worth four minutes. When that comes on, you will be allowed four minutes until you get to the amber light. That means one more minute of your five-minute total. And the red light means you should be finished. Please, if you have cell phones, turn them off or put them on vibrate so that you do not disrupt the proceedings. I don't think we have any controversial bills today but if you...we don't allow demonstrations of support for or against any of these. This is not a circus. This is a serious hearing. So we ask you to restrain yourselves. If Senator Crawford gets you excited, please don't demonstrate that.

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SENATOR CRAWFORD: You have to go out to the hallway to clap.

SENATOR AVERY: Or boo.

SENATOR CRAWFORD: Or boo. I wasn't going to go there.

SENATOR AVERY: We do accept prepared statements. If you have a prepared statement, give that to Sherry and she will make sure that the copies are distributed to us. And that will be done by the pages, Colton Wolinski from Lincoln, the tall one, and Jacob Fricke from Milwaukee, Wisconsin. He's just here for the day to help us out. Are you a student too, Jacob? You are? Okay. Welcome, all of you. We will begin with LB718. Senator Crawford. [LB718]

SENATOR CRAWFORD: Thank you. Good afternoon, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Sue Crawford, C-r-a-w-f-o-r-d, and I represent the 45th Legislative District in Bellevue, Offutt, and eastern Sarpy County. And I'm here on a Friday afternoon to talk about everybody's favorite subject, government regulations. LB718 is part of a responsive regulations package of bills that I introduced this session to increase transparency, accountability, and efficiency in Nebraska regulations and rulemaking. This includes LB719, which I will present later today. Bills we pass as a Legislature here are often converted into regulations that agencies enforce. Nationally, 20 percent of all economic activity is directly regulated by the state. As you know, the devil is often in the details. The laws that we pass are as effective or as burdensome as the regulations that enforce them. Because the Legislature is not in session year-round, decisions about regulations often occur when we are not in session. A more transparent, efficient, and accountable regulatory system ensures these rules work as intended for the public good. LB718 improves the transparency of our regulatory system in three key ways. One, the bill increases transparency by requiring the publication of fiscal impact statements for all proposed rules on the Secretary of State's Web site. Currently, these fiscal impact statements are already prepared as part of this process. However, they are only available upon request. Two, LB718 requires agencies to specifically state their statutory authority for any new rule or regulation. Three, it requires agencies to publish their rulemaking agenda on a semiannual basis. This agenda will include all rules and regulations under consideration for revision. In the Legislature, we introduce bills during the first ten days of session. Citizens and others interested in the work that we do can look for all new bills in this ten-day window. After day ten, everyone knows the topics we'll be grappling with during the session. These published agendas allow citizens and others interested in rulemaking to mark similar dates on their calendar to track upcoming rules and regulations. It will also give citizens and other groups advance notice of potential changes. Transparency is a Nebraska value. We conduct our legislative business in a transparent way. All bills receive a public hearing where anyone

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can come to testify. Transcripts from these hearings are available on-line for citizens to read. And citizens can track our state spending on-line and soon will be able to review our state contracts on-line. Rulemaking, like lawmaking, should be democratic, accessible, and transparent. The Secretary of State's Office has done great work already to increase the transparency and accessibility for posed rules and regulations. Citizens can visit their Web site to review proposed rules and regulations and can sign up to receive updates via e-mail at no charge to the citizen on upcoming rules and regulation proposals. In 2012, the National Association of Secretaries of State recognized our Secretary of State's Web site with its first-ever IDEAS Award. LB718 is an important step to continue to increase transparency in our rulemaking process. LB718, with its modest fiscal note, allows us to increase transparency in a fiscally responsible way, with minimum cost to the taxpayers. Thank you, again, for the opportunity to appear before you today. I'm happy to answer any questions you might have. [LB718]

SENATOR AVERY: Thank you, Senator. Questions from the committee? Regulations excite us. [LB718]

SENATOR MURANTE: Speak for yourself. [LB718]

SENATOR AVERY: Thank you. [LB718]

SENATOR CRAWFORD: All right, thank you. I'll be here for closing so I can answer any questions... [LB718]

SENATOR AVERY: Okay. All right. Any proponent testimony? Mr. Peterson, how are you? [LB718]

ALAN PETERSON: (Exhibit 1) Good. Thank you. Chairman Avery... [LB718]

SENATOR AVERY: Welcome to the committee. [LB718]

ALAN PETERSON: ...members of the committee, hello. I am Alan Peterson. I am outside lawyer for ACLU and a registered lobbyist for that same organization, solely devoted to trying to protect and enhance the use of the Bill of Rights of the Constitution of the United States and of Nebraska. [LB718]

SENATOR AVERY: Could you see your right also to spell your name for the record? [LB718]

ALAN PETERSON: I shall do that. I shall do that because people misspell Peterson all the time. I'm A-l-a-n, Alan, Peterson, P-e-t-e-r-s-o-n. So what's the civil liberty issue here? The whole question of due process, which is in the Fourteenth Amendment and

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also in the Fifth Amendment to the Constitution, really comes down to whether or not people--all the people--get notice of what's going to affect their lives the government may want to do and some opportunity to be heard about it, to defend, if it's a criminal matter, or to have their two-cents worth if it is, for example, a matter of making law or regulation. So this is a due process matter. It's not direct in the sense that I'm here waving my arms and saying, oh, my goodness, if you don't pass this, it violates the constitution. No. The principles, though, of having informed people about government activity is due process. It's just almost that simple. So this is a good government bill. And it is a transparency bill. And it is a due process bill. I appreciate Senator Crawford's introducing this and the other two bills that are kind of related to it, LB719 and LB720. I want to mention there is a real need in the sense that I have attended a number of regulatory rulemaking hearings. And they're already held, that's required by law. But in a number of those, what happens is a hearing examiner is appointed by the agency to come and take the evidence. And you can put in your written stuff. And, by the way, I do have some written stuff to offer the committee in the form of a letter for whatever help it may be. It concentrates my ideas and thoughts. But the person may come up and testify at the rulemaking proceeding. And there's really no response required in law or in practice. And what the response you get is when you get done talking and maybe trying hard to keep this rule from being passed or in getting it changed, the response is something like, "next". And the next witness is called forward. This particular bill does not go to directly answer that. The next bill you'll hear does so I won't dwell on that. But the matter of an interactive lawmaking process is what we call democracy in this country. And I really, I think ACLU and I, personally, like these two bills because they increase the knowledge of what's going to happen in terms of a rule change or a new rule and they increase the detailed impact it might have fiscally, as Senator Crawford said. And then it goes on to really promote input to the agency before it passes the new rule. The Attorney General looks at these rules later and if they see an obvious constitutional defect, they stop them. But really, there's a problem that these bills kind of solve or head toward solving that people aren't...many people are affected by these regs and when they come talk and offer their input, they don't want it to be just wind. You know, we're all going 1,000 miles an hour around the axis of the earth and I understand about 44,000 miles an hour around the sun. But we don't hear it because the atmosphere is going the same speed and so we don't hear the vibration of the air. When people vibrate the air to put their input in on a new rule that's going to affect their business or their life, their health, they want to know it's heard. And they want to know that the deciders about it, which is the administrative agency itself, basically, took it into account. That's accountability, that's due process, that's democracy. These are democracy bills. They're terrific. And at ACLU Nebraska, we hope you will advance them and that they pass. Any questions I'd be...try to answer. [LB718]

SENATOR AVERY: Thank you. Thank you. Questions from the committee? [LB718]

ALAN PETERSON: Thank you. [LB718]

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SENATOR AVERY: You were about as exciting as Senator Crawford. [LB718]

ALAN PETERSON: My job is not to entertain. Thank you. [LB718]

SENATOR AVERY: Thank you. Proponent testimony? Good afternoon. Welcome. [LB718]

NICK FAUSTMAN: (Exhibit 2) Good afternoon. I'm Nick Faustman, N-i-c-k F-a-u-s-t-m-a-n, I'm with the Nebraska Health Care Association or NHCA. NHCA is the parent association to a family of entities, including the state's largest association for nursing facilities, the Nebraska Nursing Facility Association or NNFA for short and the state's only association dedicated specifically to assisted living facilities which is Nebraska Assisted Living Association or NALA for short. Both NNFA and NALA represent nonproprietary, proprietary, and governmental long-term care facilities. And NNFA and NALA both support LB718. LB718 requires state agencies to file agendas for the development of rules and regulations. These documents would include the authorizing statute of the rule or regulation and a fiscal impact statement. In addition, the Secretary of State would maintain a list of individuals who wish to receive notice of agendas posted to the Secretary of State's Web site. As healthcare providers, NNFA and NALA members work in one of the most heavily regulated industries. Changes in public policy affect the way the facilities operate on a daily basis that can mean the difference between staying in business and shutting down. Therefore, being proactive in the development of public policy is absolutely essential. And NNFA and NALA contend that LB718 would aid all parties involved in the process of developing good public policy. Fortunately, our family of associations enjoys a solid working relationship with all state agencies, particularly the Department of Health and Human Services. LB718 would strengthen those relationships while strengthening the Administrative Procedure Act itself. NNFA and NALA urge the committee to advance LB718 to General File. And thank you for the opportunity to comment. [LB718]

SENATOR AVERY: Thank you. [LB718]

NICK FAUSTMAN: Uh-huh. [LB718]

SENATOR AVERY: Questions? I don't see any. Thank you. [LB718]

NICK FAUSTMAN: Thank you. [LB718]

SENATOR AVERY: Next testifier, proponents, on LB718. Welcome. [LB718]

RON JENSEN: Chairman Avery, hi. Members of the Government, Military and Veterans Affairs Committee, my name is Ron Jensen, R-o-n J-e-n-s-e-n. I'm a registered lobbyist

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appearing before you this afternoon on behalf of two clients, MOSAIC and the Nebraskan Intellectual Disabilities Services Providers. These are services and facilities that are licensed by the state. Virtually every one of their clients is a Medicaid client, so they are largely financed by the state and federal government. And they have to play by the rules, and they understand that. The old saying is if you take the king's farthing, you enlist with the king. Right? But it is a challenge to stay abreast of those rules and to stay in compliance with them. And it's not unheard of for rules to be adopted before the public hearing is held. And with your indulgence, Mr. Chairman, if I could bend the rules just a tad, I'd like my testimony to apply to both of these measures this afternoon which we appreciate Senator Crawford bringing forward. Together, they would allow my clients to plan for, and to be prepared for, and to be prepared to comment on proposed rules and regulations. And with the analysis that's included in LB719, I'm told--and that's secondhand information but I'm pretty confident of it--that the agencies prepare this kind of analysis internally presently. And I see no good reason why that shouldn't be shared with the public. We have people who drive down here for those hearings just like they do for your hearings. They testify and the rap is that: Why bother to testify. It never seems to make any difference. They're not certain if their comments were ever really given consideration. I think they are. And I think that publishing that analysis would assure the public that it is worth the drive and the time to testify and that their comments and positions are given consideration. Thank you for the opportunity to testify, Mr. Chairman. I'd be happy to answer questions if I could. [LB718]

SENATOR AVERY: Thank you. Senator Wallman. [LB718]

SENATOR WALLMAN: Thank you, Chairman Avery. Thank you, Ron, for coming down. [LB718]

RON JENSEN: Sure. [LB718]

SENATOR WALLMAN: I always appreciate your knowledge. And do you feel right now that the state doesn't promulgate their rules and regs with the feds, that you have to watch out for both? [LB718]

RON JENSEN: Well, my clients aren't...the federal regulations that come to them, I guess is the way to answer that... [LB718]

SENATOR WALLMAN: Yeah. [LB718]

RON JENSEN: ...come through a state agency, pretty much. Okay? So, you know, I represent...you know, I'm a state guy. And most of the great, great bulk of the regulations, controls, and standards that they're subject to, the federal government is behind many, if not most, of them. But they come to them courtesy of either the Division of Public Health or the Division of Medicaid Long-Term Care. [LB718]

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SENATOR WALLMAN: Okay. Thank you. [LB718]

RON JENSEN: You bet. [LB718]

SENATOR AVERY: Any other questions? I don't see any. [LB718]

RON JENSEN: Thank you very much. [LB718]

SENATOR AVERY: Thank you, Mr. Jensen. Still on proponent testimony. Welcome. [LB718]

JULIE KAMINSKI: (Exhibit 3) Thank you. My name is Julie Kaminski, K-a-m-i-n-s-k-i, and I'm the executive director of LeadingAge Nebraska. We represent the nonprofit providers of senior health and services across the state. So that's nursing homes, assisted living homes and community-based. The joke kind of in our industry is that we are second regulated only next to nuclear energy, so this definitely does impact us. And I won't repeat a lot of it but I guess the bottom line...have any of you ever sat in one of those hearings? You go to the State Office Building--and I'm relatively new to the position--and there's someone with a recorder. And you state your opinions. And then you never know what happens after that. And I asked our lobbyist one time, I said, does anybody listen to this? You know, what happens when we're done here? So I guess, if we have people and we come in front of you, we voice our opinions and then that feedback is utilized. So we just would ask that that same respect happen. As Mr. Jensen mentioned, this is more LB719, but I really feel like these two bills would strengthen the Administrative Procedures Act and if we're going to be regulated and require our members to adhere to these, it would be great to have some advance warning. So we just respectfully ask that you support LB718 and LB719 as well. And thank you for your consideration. [LB718]

SENATOR AVERY: Thank you. Thank you. Hold on, we might have a question. [LB718]

JULIE KAMINSKI: Sorry. [LB718]

SENATOR AVERY: No. Thank you. Any more proponent testimony? Good afternoon. [LB718]

MOLLY McCLEERY: (Exhibit 4) Good afternoon. Chairman Avery, members of the committee, my name is Molly McCleery, M-o-l-l-y M-c-C-l-e-e-r-y. And I'm a staff attorney in the Economic Justice Program at Nebraska Appleseed. Nebraska Appleseed is a nonprofit organization that works for justice and opportunity for all Nebraskans. And on behalf of Appleseed, I'm here today to testify in support of LB718. As Senator Crawford mentioned in her introduction, the Administrative Procedure Act

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establishes certain minimum requirements the agencies must comply with when engaging in the rulemaking process. And these requirements support the goals of transparency, clarity, and accountability in the rulemaking process. The APA could do more. And this bill, in particular, as well as LB719 are a step in that direction. Specifically, through the rulemaking agenda requirement in LB718, this would provide advance notice as to agencies' planned rulemaking activity which would increase public comprehension of both the substance and the timing of proposed rulemaking activity. It would ensure public understanding in a long-term capacity of potential changes to rules and how those rule changes will interact with each other. Consequently, members of the public who are impacted by rule changes such as providers, organizations, or businesses, would be better able to understand the changes and prepare for them in advance. This would make implementation of regulations go more efficiently and more smoothly. Additionally, the notice that's provided through the agenda could provide, if an agency were so inclined, an opportunity for stakeholders and those who are impacted by regulatory changes to speak with a particular agency prior to the promulgation of the regulations and to provide feedback that could be incorporated into the regulations. This would allow for issues to be resolved prior to promulgation and implementation which would, as I stated just a second ago, make the implementation process more efficient and easier. A recent example of this type of activity is in...that the Department of Health and Human Services in working with stakeholders on the Bridge to Independence program, which provides for extended services and support for former foster youth, provided stakeholders with advance copies of the draft regulations. Stakeholders were able to provide feedback in those and this helped both create better regulations and shore up buy-in from stakeholders allowing for easier implementation and planning purposes. To be certain, the agenda doesn't require this sort of openness from the agencies and doesn't require the sharing of the draft regulations to the degree that occurred in this example. However, it would provide the opportunity for that if an agency were so inclined. Additionally, by requiring the inclusion of the notices...in the notices of specific authorizing statutes or pointing to the statutes that would be interpreted or implemented by the regulations, this provides for greater accountability in the administrative process. I'd like to thank the committee today for your dedication in ensuring this accountability and this transparency in the rulemaking process. I'll do my best to answer any questions at this time. [LB718]

SENATOR AVERY: Thank you. Questions? Thank you very much. [LB718]

MOLLY McCLEERY: Thank you. [LB718]

SENATOR AVERY: Additional proponent testimony on LB718? Mr. Geis, welcome. [LB718]

GAVIN GEIS: Chairman Avery, members of the Government Committee, my name is Gavin Geis, G-a-v-i-n G-e-i-s. And I am the executive director for Common Cause

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Nebraska. We are in support of LB718 and I don't have a lot to add that hasn't already been said. We believe this package of bills is a really straightforward win for accountability and transparency. Just in summary, the six-month agenda for rules, a fiscal impact statement on-line, and a statement of statutory authority, they're all really great ways to inform Nebraskan citizens and organizations about the agencies that really do have a huge impact on their lives. Also the exceptions that are in the bill allow for agencies to actually respond to changing circumstances. And we don't think that it makes the six-month schedule too burdensome. As always, Common Cause supports efforts to increase transparency, citizen involvement, and we believe that LB718 does just that. Thank you very much. [LB718]

SENATOR AVERY: Thank you. Questions? [LB718]

SENATOR SCHEER: Welcome back. [LB718]

GAVIN GEIS: I was skeptical and felt like maybe the atmosphere wasn't right. [LB718]

SENATOR AVERY: We had a long, long talk with him yesterday while he was (inaudible). [LB718]

GAVIN GEIS: Thank you. [LB718]

SENATOR AVERY: Thank you. Any other proponent testimony? Okay, we'll now move to opponents. Any opponent testimony? You ought to teach me how to write bills like this. Any neutral testimony? Senator Crawford, you want to close? [LB718]

SENATOR CRAWFORD: Well, I think that you have heard from the people who have testified really, again, the main points of the bill which I laid out in the opening and why it's important to people who are so...are the most impacted by regulations and why it's important in terms of citizen engagement and improving government in the state. So I won't...so I will close here. But I'm willing to answer any other questions you might have. [LB718]

SENATOR AVERY: Any additional questions? Senator Scheer. [LB718]

SENATOR SCHEER: Thank you, Senator Avery. Senator Crawford, I'm not in opposition of the bill, just some clarification... [LB718]

SENATOR CRAWFORD: Sure. Absolutely. [LB718]

SENATOR SCHEER: ...because I looked back. And the green copy on the exceptions, it's natural disaster or declaration of emergency. And that's exactly what it says in the green copy. But it does not determine who or what can declare an emergency or what is

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an emergency. And I...you may want to work with the committee or yourself to perhaps further define that because under this, an agency director could declare an emergency because it's not classified who or what entity would call that emergency. So I just... [LB718]

SENATOR CRAWFORD: Right. Right. And that language actually comes from some existing statutes that we have in place for some types of Medicaid regulations that require a longer advance notice. And so that's in that statute. I think what that does is, it provides language for us to respond when they say, this was an emergency. And then we say, I don't really think that was an emergency. So a good point in terms of asking whether or not that needs any more definition or who... [LB718]

SENATOR SCHEER: Well, it just says that they will except for, and I take exception. I believe, based on this statute, if I were a director I could declare an emergency on my own because it does not specify that it is either the Governor or a department head, itself. [LB718]

SENATOR CRAWFORD: Correct. [LB718]

SENATOR SCHEER: Do what you want. [LB718]

SENATOR CRAWFORD: Okay. I appreciate that feedback. I appreciate that. Appreciate that. [LB718]

SENATOR SCHEER: But if that comes to the floor, I would still have a concern on that. Your...the next item would be on item (3), the loss of additional federal funds. And my concern would be perhaps you should also state, or state funds... [LB718]

SENATOR CRAWFORD: Okay. That's interesting. [LB718]

SENATOR SCHEER: ...because there will be an occasion, perhaps, that either funding may diminish during a current fiscal year that we would have to make adjustments, which has happened in the past. [LB718]

SENATOR CRAWFORD: That's a very good point. Thank you, Senator. [LB718]

SENATOR SCHEER: And I think that might be something there. [LB718]

SENATOR CRAWFORD: Absolutely. [LB718]

SENATOR SCHEER: And my fourth comment or third and last for you, would be that all this is Web based. [LB718]

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SENATOR CRAWFORD: Right, correct. [LB718]

SENATOR SCHEER: And although it works real well for your providers, for your constituents, for those...the service users, I would suggest that perhaps sometimes they may not have access to that information. So I'm not trying to imply that it all should be published. I'm not trying to get into a big expense here... [LB718]

SENATOR CRAWFORD: Right. [LB718]

SENATOR SCHEER: ...to add to an A bill on something that really doesn't need it. [LB718]

SENATOR CRAWFORD: Right. [LB718]

SENATOR SCHEER: But it might be something that writers or somebody try to work at a way of, maybe, utilizing providers to make sure that all their service recipients understand those things coming up and so forth. Sort of a (inaudible). [LB718]

SENATOR CRAWFORD: And I would say the Secretary of State has been very proactive in trying to make sure people have access. And that includes work on the Web site that I spoke about earlier. And so I'm sure they are willing and able to work with people in terms of making sure their access and other means. In fact, we did meet with the Secretary of State before we introduced this bill. Excuse me. We met with people in the Secretary of State's Office before we introduced this bill and talked with them a bit about what ways they made information available and how this would fit into their already existing programs. And they have ways that people can get information by paper. You know, they said very few people require... [LB718]

SENATOR SCHEER: Right. [LB718]

SENATOR CRAWFORD: ...that anymore. But there are means that people can get information in other ways besides the Web site if they need to. Good point. [LB718]

SENATOR SCHEER: Okay. Thank you, Senator. Thank you, Senator Avery. [LB718]

SENATOR CRAWFORD: Thank you. [LB718]

SENATOR AVERY: (Exhibit 5, 6, 7, 8) Thank you. Any more questions? Okay, that ends the hearing on LB718 and we will move now...oh, no it doesn't. We have here some letters that request to be read into the record. A letter in support from the North Platte Natural Resources District. Another letter of support from the North Platte Valley Water Association. You bring people together, don't you. And another letter of support from the Nebraska Child Healthcare Alliance and another letter of support from the

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Nebraska Association of Behavioral Health Organizations, a very diverse group. Now that ends the hearing on LB718 and we'll move right into LB719. Senator Crawford. [LB718]

SENATOR CRAWFORD: Excellent. Thank you. Good afternoon, again, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. Again, my name is Sue Crawford, C-r-a-w-f-o-r-d, and I represent the 45th Legislative District in Bellevue, Offutt, and eastern Sarpy County. LB719 focuses on the public comment portion of rulemaking and brings additional transparency and accountability to that part of the process. The current process for rulemaking hearings and reports makes it difficult for legislators to access the responsiveness of agencies to citizen and legislative comments on proposed changes in regulations. LB719 requires agencies to pay special attention to these comments. It also provides a tool for legislators, citizens, and the Governor to assess justifications behind the agencies' response or failure to respond to the comments that are raised. Specifically, it requires agencies to prepare a report for all proposed rules and regulations following a public hearing. This report shall include a summary of comments raised during the hearing either through oral or written testimony as well as a response from the agencies to these summarized comments. This report will then become a part of the package that agencies present to the Attorney General, the Secretary of State, and the Governor. Under this bill, a copy is also filed with the Executive Board. And since a copy is filed with the Executive Board, then citizens can go to our Web site and look under reports and see a copy of that report as well. Our rulemaking system, like other public systems, should be accountable to the citizens it regulates. Our state benefits when those who are most affected by the details of the regulation have their say and are heard. The comment summary required in LB719 pushes agencies to attend to concerns raised and provides a useful tool for the Governor as he decides whether or not to approve these changes in regulations. A report also goes to our Executive Board so we can be watchful of how agencies are carrying out the statutes that we pass. What's more, LB719 provides all of this at the very small cost to the state of less than \$1,000, according to the fiscal note. Thank you for the opportunity to appear before you today and for your attention to these issues. I'm happy to answer any questions that you might have. [LB719]

SENATOR AVERY: Thank you, Senator. Senator Scheer. [LB719]

SENATOR SCHEER: Thank you, Senator. Senator Crawford, just out of curiosity, and maybe there is nothing, but it states: shall have a list of questions and comments that were presented. [LB719]

SENATOR CRAWFORD: Uh-huh. [LB719]

SENATOR SCHEER: What recourse or what happens if someone's questions or an entity's comments or questions are not included in that summary? [LB719]

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SENATOR CRAWFORD: That's a good point. So what this provides is, this provides an easily accessible summary and the response of the agency. So if you see that summary and you think, I'm not sure that they paid any attention to the comments I made there then what you could do is, you could request a copy of the actual transcript of comments. Right? And then you could make that point available to people on the relevant legislative committee for...to say, we posed these comments and they weren't even reflected in the summary. And try to...again, one of the reasons for this bill and also LB718 is to improve our ability to help conduct oversight, our ability to make sure that agencies are responding, so. [LB719]

SENATOR SCHEER: I understand. But I was looking at what recourse an individual or an entity would have if their specific comments either, purposely or not... [LB719]

SENATOR CRAWFORD: Right. [LB719]

SENATOR SCHEER: ...included or excluded in the summary, how they would be able to get that into that. And essentially, you're saying they can't other than by process of... [LB719]

SENATOR CRAWFORD: Pressure on legislators, pressure on the Governor... [LB719]

SENATOR SCHEER: Okay. [LB719]

SENATOR CRAWFORD: ...if they feel...so when this is proposed, when this is sent to the Governor...I guess the Governor would probably be your best leverage if you're trying to say, wait, before you approve this, I want you to understand we were there. We made these comments. And they aren't included in the summary. We want you to know that. And then in terms of the ongoing relationship with the agency would also be pressure on the legislators, the chair of the relevant committee saying, this...you know, the agencies are not including our comments or responding to our comments, so. [LB719]

SENATOR SCHEER: Okay. Thank you. [LB719]

SENATOR CRAWFORD: Sure. [LB719]

SENATOR AVERY: Any other questions? Okay, thank you. [LB719]

SENATOR CRAWFORD: Thank you. [LB719]

SENATOR AVERY: Proponent testimony on LB719? Welcome back. [LB719]

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ALAN PETERSON: (Exhibit 1) Alan Peterson. Mr. Chairman, members, Alan Peterson, A-l-a-n P-e-t-e-r-s-o-n, so as to not be confused with a Dane or Norwegian. I think we're in the C. Petrus Peterson hearing room where we spell it the same way. And he was my grandfather's lawyer, off the topic. So what? I speak in favor of LB719. And I rose again partly to respond to Senator Scheer's good question. Kind of, so what if they violate the requirement of responding? If the Governor and the Attorney General and the Executive Board of the Legislature do not take action against a regulation that they think is bad for one reason or another, that would be one of the ways that they would either seek to overturn it by a new statute or--and this is what's, perhaps, not been mentioned--one of the big legal reasons in court why a regulation or rule can be overturned is if it is not consistent with what the statutory basis was. In other words, with what this body passed and then gave somebody the right to make regulations. If it's inconsistent with that, it is essentially unconstitutional and any private citizen who has standing--in other words, who has a true ox that has been gored, who's been hurt by this new regulation--could file a lawsuit to overturn it by, probably, a declaratory judgment. So there is that ultimate hammer of "John Q. Citizen" or an organization that's hurt by a regulation. And that question of a regulator going beyond the statutory authority given to the regulator in statute has basically breached the separation of powers provision in our constitution...in the Nebraska Constitution where your power has...the Legislature has been, in essence, overridden by an administrative regulator who went beyond what it said in the statute. It has to be a material difference, I'm sure. But there's plenty of remedies and even a place for old trial lawyers like me to get involved. I hope it wouldn't happen. I think that more communication, "interactiveness" between the people and the stakeholders and the regulator through LB718, LB719, and then also LB720, which is in another committee, will avoid some of that because it gets aired out much better under these bills. Thank you very much. [LB719]

SENATOR AVERY: Any more questions? Thank you, Mr. Peterson. Next testifier, proponent? Welcome back. [LB719]

JULIE KAMINSKI: Thank you. Julie Kaminski, K-a-m-i-n-s-k-i, and LeadingAge Nebraska. We're the nonprofit serving housing and services. And what we like about LB719 is, to be honest, the public hearings seem more of like a perfunctory obligation rather than an actual exchange. I don't know a percentage but I'm going to guess about 80 percent of the times the hearings are held after the regulations have already been posted on the Web site and implemented. So at this point, what good can our dialog do because they've already been posted on the Web site and implemented. So what we like about LB719 is that the public hearing would have to be attached to what's sent to the Governor and then a response to what the concerns are. So again, we just respectfully ask you to support LB719. [LB719]

SENATOR AVERY: Thank you. Wait, we might have a question. Maybe not. We tease you. All right, thank you. [LB719]

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JULIE KAMINSKI: Thank you. [LB719]

SENATOR AVERY: Other proponents? Welcome back also. [LB719]

NICK FAUSTMAN: (Exhibit 2) Thank you. Nick Faustman, N-i-c-k F-a-u-s-t-m-a-n, with Nebraska Health Care Association. I'm testifying on behalf of the Nebraska Nursing Facility Association and the Nebraska Assisted Living Association. We support LB719 for much the same reasons stated in my previous testimony on LB718 and the reasons stated by some of the previous testifiers. [LB719]

SENATOR AVERY: Thank you. [LB719]

NICK FAUSTMAN: You're welcome. [LB719]

SENATOR AVERY: We like it brief. No questions. [LB719]

NICK FAUSTMAN: Okay. [LB719]

SENATOR AVERY: Thank you. Additional proponents? Mr. McBride, welcome. We don't see you here very often. [LB719]

DAVE McBRIDE: (Exhibit 3) It's the first time I've been before this committee. [LB719]

SENATOR AVERY: Well, that's the reason we don't see you. [LB719]

DAVE McBRIDE: I heard there was a lot of celebration going on in this committee. My name is Dave McBride, D-a-v-e M-c-B-r-i-d-e, I'm the executive director of Nebraska Optometric Association and appearing on their behalf. You didn't see me up here on the first bill, although I signed in in support of it just to save time. But I did want to testify on this bill, in particular, based on a recent experience that we had in the regulatory process. Over the course of 24 years or so of doing this job, I've had occasion to testify or provide testimony at a number of different rules and regs hearings having to do with our profession. And our experiences at those has been much as has been described by some of the previous witnesses where you show up in a formal setting to just a court reporter, basically, and testify or hand in something and then have no idea really what happens to it, if anything, afterwards. Our recent experience was with a rules and regs hearing at HHS just in December. And whether in anticipation of this bill passing or as a result of this bill being introduced, the process that the Health and Human Services Committee went through at the meeting of the Board of Optometry, reflected this. The hearing in December was the same kind of hearing as you've heard described. But the application of this bill and the intent of this bill was when the Board of Optometry met, then, following the hearing to consider the public input, the department had prepared a

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spreadsheet, basically, that had listed all of the different individual points that had been made by testifiers, including me, at the public hearing in one column. It referenced the section of the proposed regs that those recommendations or questions had to do with. And then as the Board of Optometry met, they discussed each one of those points, each one of the concerns or questions that had been raised during the public hearing, made a determination on each one of those one at a time they were either going to accept the recommendation, make a change, or they weren't, they were going to answer the question that's reflected in the record. And then the intent, at least from what was explained at that meeting, is the department would add, then, in the final column of that spreadsheet, here's what the Board of Optometry did as a result of each of the points that were made during the public hearing. So to me, that's a great indication or application of what this bill is trying to do. And it's, from the standpoint of the entity or the organization in this case, that provided input during the public hearing, it's really refreshing to have a process like that so that you have an assurance that yes, in fact, I know that every point we made in the public hearing was addressed. They didn't necessarily agree or make a change with everything but it was, in fact, addressed. And then the Legislature and every other step of the process would have access to that same consideration that they gave to all that input. So we think this is a great change in public policy to standardize the process and help everybody concerned. And I would encourage you to support it. [LB719]

SENATOR AVERY: Thank you for your testimony. Questions from the committee? Oh, Senator Wallman. Get your hand higher. [LB719]

SENATOR WALLMAN: Yeah, thanks for coming here. Did this involve with the optometrists, scope of practice issues or... [LB719]

DAVE McBRIDE: This had to do with...the hearing in December that I referenced actually is the culmination of trying to promulgate eight years' worth of prior rules and regs implementing previous legislative issues and other changes to the regs they had made. So it isn't in relation to current legislation that's in process. [LB719]

SENATOR WALLMAN: Okay. Yeah. [LB719]

DAVE McBRIDE: But it's eight years' worth of combined changes that they had been making. [LB719]

SENATOR WALLMAN: Thank you. [LB719]

SENATOR AVERY: Any additional questions? Thank you, Mr. McBride. Don't wait so long to come back. [LB719]

DAVE McBRIDE: Thank you. [LB719]

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SENATOR AVERY: Any other proponent testimony? Welcome. [LB719]

ROBERT McEWEN: (Exhibit 4) Hello. Hello, Chairman Avery and members of the Government, Military and Veterans Affairs Committee. My name is Robert McEwen, R-o-b-e-r-t M-c-E-w-e-n, and I'm a staff attorney at Nebraska Appleseed in the Child Welfare program. And I'm here to testify in support of LB719. I won't be spending any time discussing the principles behind the APA. I think that's been thoroughly discussed already by everybody else in the room. And they've done an excellent job doing that. First, I do want to address the question that Senator Scheer asked earlier. And I think Mr. Peterson did a good job answering that question in terms of the enforcement mechanism when the state either doesn't respond--either intentionally or unintentionally--to a question. The enforcement mechanism in that case may be a declaratory judgment action under Chapter 84 of the Nebraska Revised Statutes as well as any time the state or a state agency doesn't comply with the statute. So I think that is probably the proper enforcement mechanism. I just wanted to address that. I also want to talk about a couple of experiences that Nebraska Appleseed has had. We regularly participate in the administrative process and testify at these public hearings over at the state building. And in the past, there have been public hearings in which many stakeholders and citizens have testified and provided thoughtful testimony or vibrated the airways. And objections to those regulations may not have been incorporated in the final draft. Specifically, one example that we wanted to talk about was a regulation hearing in 2006 on ADC regulations which are now codified at 468 NAC 2-002. In that hearing there were many people and stakeholders that provided testimony. Unfortunately, the Department of Health and Human Services did not incorporate much or any of the public feedback into the process or provide an explanation for why they did not do so. The department may have had completely valid reasons for not incorporating that feedback into the final regulations but not responding publicly to the comments did create a certain level of frustration and confusion. If the public had been able to access a response from the department, there could have been increased buy-in from stakeholders and those whose rights were directly affected by the ADC regulations. We've also seen instances where agencies have proposed unclear or vague regulations. And through document requests, we have seen the internal reports, at least by the Department of Health and Human Services. And those reports on the administrative hearings are very similar to the ones required by LB719. And they've been very helpful. So when there is a vague regulation...I mean, it is difficult to regulate everything in a completely clear manner. Some things are subject to multiple interpretations. By seeing those reports, we were able to ascertain how the policies were going to be implemented by their response to our questions. And it can be helpful in that way too. Therefore, we support LB719 because it provides the additional oversights of the administrative process and will help hold agencies publicly accountable for the regulations that they promulgate. We'd like to thank this committee for its dedication to ensuring there is oversight and clarity in the process. And if there

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are any questions, I'll do my best to answer them. [LB719]

SENATOR AVERY: Thank you. Any questions? [LB719]

ROBERT McEWEN: Thank you very much. [LB719]

SENATOR AVERY: Thank you, sir, for your testimony. Any other proponent testimony? One at a time. [LB719]

KEN WINSTON: I don't think I've ever had to race anybody to the (inaudible). After you, Gavin. And so good afternoon. My name is Ken Winston, I'm appearing on behalf of the Nebraska Sierra Club. My last name is spelled W-i-n-s-t-o-n. Nebraska Sierra Club has a policy supporting openness and transparency in government. We support having agency findings that reflect the testimony and input from the public. And I won't bore you with all the details, partly because I can't remember all the details, but I do recall situations where we provided input in...regarding regulations and then there was no finding relating to the input that we provided. And so we'd ask that this be included in the...that the law be changed so that would be required. And for those reasons, we would support the advancement of LB719. [LB719]

SENATOR AVERY: Thank you, Mr. Winston. Questions? I don't see any. Thank you. [LB719]

KEN WINSTON: No one is going to test my memory, so. Thank you. [LB719]

SENATOR AVERY: No. All right. Now, Mr. Geis, your turn. [LB719]

GAVIN GEIS: Chairman Avery, members of the Government Committee, my name is Gavin Geis, G-e-i-s, and I'm the executive director of Common Cause Nebraska. We support LB719 and just two quick points that I wanted to make. First of all, it's not a given that any citizen is going to step out and make a comment. And when they do, I think the least that we can expect of our agencies, the least we can do for those citizens that get involved in government is tell them why they're disagreed with or why their comment wasn't followed. The second thing--and it hasn't been mentioned but it's a part of the bill--is that this entire package of information is supposed to, then, be filed with the Executive Committee here at the Legislature. And I think that's a great improvement for intergovernmental checks and balances. And any time that we can increase that is a win for good government. Overall, this is the sort of a bill that's just a win for Nebraskans and we can only benefit from it. Thank you. [LB719]

SENATOR AVERY: Thank you. Questions? [LB719]

SENATOR SCHEER: Have a good weekend. [LB719]

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GAVIN GEIS: Thanks. [LB719]

SENATOR AVERY: No questions. Any other proponents? We're on LB719. All right, we'll move to opponents. All right, neutral testimony? Your turn, Senator. [LB719]

SENATOR CRAWFORD: Thank you so much, committee, for your time and attention to this issue on a Friday afternoon. And thank you, Senator Scheer, again, for your great question. So that...I was very happy that you asked that question so that, then, people who deal with this process all the time and have law degrees can answer that question. So I appreciate that...bringing that litigation piece onto the public record that I didn't include in my opening. Also, I would like to say, you know, as Mr. Jensen and Mr. McBride noted, that many agencies, I'm sure, do sit down with these comments and think carefully about them and respond to them. And apparently, in some cases, that is already a part of an internal process. And so LB719 then, though, allows the rest of us to see that happening. It allows those who take time to come to the hearing to know that those responses have been heard and responded to. And I'm very grateful to the agencies who are willing to do this and perhaps because they are already doing this internally and this is a way to make that more public, I'm very grateful that they have reported in the fiscal note their ability to do this mostly with their existing resources. And I'm proud of those agencies for their willingness to do that and glad to see that they were willing to step up and do that. I believe that this is just a very commonsense and very affordable--this is the lowest fiscal note I've ever seen other than zero--way to improve the APA process. And I appreciate your attention to this and be happy to answer any new questions that you have. [LB719]

SENATOR AVERY: Thank you. [LB719]

SENATOR CRAWFORD: Thank you so much. [LB719]

SENATOR AVERY: We have no more... [LB719]

SENATOR CRAWFORD: Thank you. [LB719]

SENATOR AVERY: ...questions. [LB719]

SENATOR CRAWFORD: Excellent. Thank you. [LB719]

SENATOR AVERY: (Exhibit 5, 6, 7, 8) That ends the hearing of...no it doesn't. What am I thinking about? I'm in a hurry. We have here a letter of support from the North Platte Natural Resource District, another letter of support from the North Platte Valley Water Association, another letter of support from the Nebraska Child Healthcare Alliance, and one from the Nebraska Association of Behavioral Health Organizations in support of

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LB719. And no opposition letters, Senator. Now that ends the hearing on LB719 and we'll move to the last item on the agenda today, which happens to be a bill of mine. And that is LB744. [LB719]

SENATOR AVERY: (Exhibit 1) Good afternoon, committee. My name is Bill Avery, B-i-l-l A-v-e-r-y, representing District 28 here in lovely Lincoln. I am bringing to you, with pleasure, a bill that is numbered LB744. It is a bill that deals with the Nebraska sesquicentennial. Practice that because you're going to hear a lot about it over the next few days and weeks, sesquicentennial. The...I was approached by a group of citizens, a very enthusiastic group of people who have been working toward the goal of commemorating and celebrating Nebraska's 150th anniversary of statehood. And they came to see me and I asked if I could carry this bill because I am so happy to see citizens step forward to help plan events around that celebration. The group is known as the Friends of the Nebraska 150 Sesquicentennial. It is a statewide group of volunteers that are working to promote the great state of Nebraska's 150th anniversary. They have formed a 501(c)(3) charitable foundation. They did that last year to raise funds over the next several years through gifts, corporate sponsorships, and merchandising promotions. They hope to raise in excess of \$2.5 million. And I'm hoping that we can help them with that. Although the Friends have done a great job laying the groundwork for this celebration, they recognize that a statewide commission created in law to develop and coordinate the celebration is necessary. The Nebraska Sesquicentennial Commission would be created by this bill, LB744. It is seen as an important part in the planning and development stages of this event. This bill is based upon a bill that was passed in this Legislature in 1990 to celebrate Nebraska's 125th anniversary of statehood. That bill, like this one, established a commission to plan and coordinate the events. The specifics of the bill are that a commission is created consisting of 17 members appointed by the Governor. The commission will develop programs and plans for the observance of the 150th anniversary which will occur in 2017. The commission will terminate in 2018. The commission will include members from all regions of the state representing all major interests and industries. No more than 8 of the 17 members will be affiliated with the same political party so as to keep it balanced. The commission will work with various state agencies, including the Department of Education, the Department of Roads, the State Historical Society, the State Fair Board, Game and Parks Commission, and the Tourism Commission. I presume there are other agencies they will work with but that's all we could think of so we quit at that point. And they will execute commemorative events and implement educational activities. The commission may employ personnel, make contract for services, and receive and expend gifts and donations to aid in the performance of these duties. We have an amendment drafted that we want you to review that places the commission within the State Historical Society. This will provide a ready infrastructure for the commission on administrative and budgetary issues such as payroll, things of that sort. And it is AM1658 which is being distributed to you now. I don't know how we overlooked that but commissions do have to have a home. And we think this is an appropriate place for it. The Friends' vision

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is to involve people from every county in Nebraska, have events reaching all parts of the state. Members of the Friends of Nebraska's 150 Sesquicentennial are here and they will provide more detail about their plans. You will notice that it is a distinguished group of citizens who have devoted a lot of their time and their careers to this state. And I am happy to be associated with them and this bill. So I will be happy to answer any questions. And don't now come up with questions because... [LB744]

SENATOR MURANTE: I do have one question for you, Senator Avery. [LB744]

SENATOR AVERY: We were about to get out of here early. [LB744]

SENATOR MURANTE: My question for you is simply this. Are you at all concerned given the current dynamic we have in the Legislature that the inclusion of Game and Parks might make this bill more difficult to pass once it gets to the floor of the Legislature? [LB744]

SENATOR AVERY: I probably will not mention Game and Parks when I open on this. I'll merely say that we have plans to commemorate cougars. No, I... [LB744]

SENATOR MURANTE: That should satisfy any concern that any member of the Legislature may have. Senator Bloomfield. [LB744]

SENATOR BLOOMFIELD: Thank you. Senator Avery, in an effort to keep politics out of this, you said no more than eight people from either party. And I wonder if that doesn't almost move politics into it because we're going to have to ask somebody with good intentions what party they're in. I would think politics would creep into this. Would it? [LB744]

SENATOR AVERY: I just think that any kind of nonpartisan activity of this sort ought to have equal representation or nearly equal representation of both parties. That's the only reason for it. [LB744]

SENATOR BLOOMFIELD: I think we'll discuss that a little bit further as we go along because I see that bringing politics more in more than it does taking it out. But we can discuss that at a later time. [LB744]

SENATOR AVERY: Yeah, we can talk about that. [LB744]

SENATOR MURANTE: Senator Scheer. [LB744]

SENATOR SCHEER: Thank you. Senator, it doesn't state in your A bill that there's necessarily a cost but looking down, it shows I think it's \$14,000 a year maybe for travel expenses. Do you perceive that to be the total amount then? [LB744]

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SENATOR AVERY: I hope not. I hope we can get an appropriation... [LB744]

SENATOR SCHEER: Okay. So you're looking at additional... [LB719]

SENATOR AVERY: ...to jump-start the fund-raising. [LB719]

SENATOR SCHEER: Okay. [LB744]

SENATOR AVERY: Yeah. [LB744]

SENATOR SCHEER: All right, thank you. [LB744]

SENATOR AVERY: Yeah, we have plans to try, anyway. [LB744]

SENATOR MURANTE: Thank you. Senator Wallman. [LB744]

SENATOR WALLMAN: No. [LB744]

SENATOR MURANTE: All right. Thank you, Senator Avery. [LB744]

SENATOR AVERY: Thank you. [LB744]

SENATOR MURANTE: Are there any proponents to LB744? There are. Good afternoon, welcome. [LB744]

JEFF SEARCY: Hi. Thank you. Well, good afternoon, Senators. And thank you very much for the opportunity to be here this afternoon. Thanks to Senator Avery for his introduction. And again, greetings, members of the committee. My name is Jeff Searcy, I have the privilege...that's J-e-f S-e-a-r-c-y, and I have the privilege of serving as chair of the current Nebraska 150 Sesquicentennial Committee, the Friends group that Senator Avery was referring to. And I'm here today to speak on behalf and urge your enthusiastic support and adoption of LB744, the creation of the Nebraska Sesquicentennial Commission. With the Nebraska sesquicentennial year of 2017 just around the corner, we're grateful to Senator Avery and the total of 20 senators bringing this measure forward to help assure the greatest celebration in commemoration our state has ever experienced as we attain a century and a half--century and a half, Senator Wallman--of statehood. And the Nebraska 150 is an opportunity for all Nebraskans to reflect on who we are, where we've come from, and the bright future ahead. This sesquicentennial era, I believe, really is a once-in-a-lifetime opportunity to share our history, to share our culture, and our future with each other and the new friends that we meet along the way. Taking valuable lessons gained from the success of the Nebraska centennial, the American bicentennial, and the Q125 endeavors we

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believe the Nebraska 150 initiative can be a powerful, powerful education, environmental, and economic engine with lasting benefit and potential well beyond 2017. With the goal of statewide participation in every county and community with inclusive involvement from all walks of life, cultural, social, ethnic, and economic, the importance of this legislation to create the official Nebraska Sesquicentennial Commission is to assure that we will be well prepared for the great opportunities that lie ahead. And that's why I am before you today. These foundational days, right now, as we prepare for the very fast-approaching Nebraska sesquicentennial year, I believe requires some bold and visionary action. Our opportunity to accomplish legacy projects and enjoy signature events to instill pride in our culture and history and inspire creative economic development and tap into a tourism treasure, our great state's 150th will provide that special spark that speaks to people near and far. And it says that one remarkable word, "Nebraska." And in preparing for my brief remarks today, I couldn't help but reflect on the past very many months of preparation and passion of a statewide group of volunteers that have poured time and talents and resources into helping set the stage to become part of history as Nebraska looks to the future. We're grateful for their continued efforts and yours as we move forward or what I refer to as onward toward 2017. Joining us today, we have our Nebraska 150 interim executive director with us, Roger Ludemann, who will provide some additional insight as well as several others that will share their enthusiasm for Nebraska 150. Thank you, Senators. Appreciate the opportunity to appear today. I'd be happy to answer any questions or have Mr. Ludemann come up. [LB744]

SENATOR MURANTE: Thank you very much for your testimony. Are there any questions. Seeing none, thank you for coming down. [LB744]

JEFF SEARCY: Thank you. And thanks, Senator. [LB744]

SENATOR MURANTE: It looks like we have more proponents. Welcome. [LB744]

ROGER LUDEMANN: (Exhibits 2, 3, 4, 5) Thank you. It's nice to be here. This is a few letters that were received. I apologize that I don't have copies of all of them. Christy, you may have the originals on some of them--I just wanted to make sure they were entered in the record... [LB744]

SENATOR MURANTE: We'll have them and have copies made. [LB744]

ROGER LUDEMANN: ...from the NSEA and the State Fair and a few others. Good afternoon. Senator Avery, thank you so much. Senator Murante. I'm very, very pleased to be here today. My name is Roger Ludemann, and that's R-o-g-e-r L-u-d-e-m-a-n-n. And as Alan Peterson mentioned to me, that is German but I'm half Danish. And he apologized to me before he left because of the comment. In fact, I'm the son of a Danish immigrant from Vra, Denmark, who came across on a ship through Ellis Island in 1900

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and started a ranch on the Dakota border in 1908 that's in our family yet today that I'm very proud of. And I mention that because I think that's really the essence of the spirit of what we're trying to do here. And that is, through the sesquicentennial to show the wonderful history, the depth of emotion, and sincere commitment to this kind of program. I have recently been involved in the organization...I was a volunteer for the Centennial Mall fund-raising project, the recent implementation of the Centennial Mall improvements that are now near under contract and going to be a beautiful addition to our city. Through that process, I met Jeff Searcy. Jeff introduced me to the group that is putting together the volunteers statewide. And I was ever so impressed, frankly, by the statewide emotion and commitment that is part of this process. And I'm just very, very proud to be part of the overall operation at this point in time, starting up from a fledgling group just a year and half ago. There are a lot of people who have spent many, many hours of planning already and now we're ready to take it to the next level. This is a very rare opportunity. And I think that's the main phrase that I want to leave with you. A very rare opportunity to not only celebrate but to invest in our state and to carry us forward with some wonderful new economic ideas, recruitment of people back to the state that are top graduates from various schools around the state, to allow us to build on our history and our educational processes, and to really make a major difference in the way we approach things going forward from this point on. Two thousand seventeen is coming up quickly. The countdown is on. In fact, our Web site is nebraska150.org that we've put together with funds we've raised so far. It's already in place. We own the URL and it is up and running. And on there, if you want to go there at some point in time, there is a countdown calendar and a countdown date that shows exactly how many minutes and how many weeks we have until March 1, 2017, so we watch that very closely. As has been mentioned, this is going to be an ultra inclusive event. I hope that my little hometown of 90 people in Naper, Nebraska, in western Boyd County will be able to participate as we hope everybody across this entire beautiful state will be able to participate. And most importantly, it will be a collaborative partnership with every resource utilized without duplication and in an attempt to make this one of the greatest events that ever occurred in the history of the state of Nebraska. Thank you very much. Can I answer any questions? [LB744]

SENATOR MURANTE: Thank you. Are there any questions? Senator Bloomfield. [LB744]

SENATOR BLOOMFIELD: Not really a question but a comment. And I want to thank all of you that are involved in this. Your uncle and mine had me on the other side of the world in 1967 when the centennial took place and I missed that. I'm kind of looking forward to this. Thank you. [LB744]

ROGER LUDEMANN: Good. Wonderful. An excellent comment. There's no better person to comment on that than the person who was here for the 1967 event. Any other questions? [LB744]

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SENATOR MURANTE: And with that, we'll accept more proponent testimony. [LB744]

SENATOR SCHEER: And which high school band were you playing in? [LB744]

SENATOR MURANTE: Welcome. [LB744]

ALLEN BEERMANN: Thank you, Senator. And Senator Avery, members of this committee, my name is Allen Beermann, Allen Beermann, A-l-l-e-n B-e-e-r-m-a-n-n. It was my good fortune to be here in an official capacity on behalf of the state in 1967 to participate in, to help plan, to help carry out the centennial activities for our state centennial. Then I served as a trichair of the quasiquicentennial in 1992 and it appears like I'm going to be involved, because I have so far, in the sesquicentennial. Now there are people in this room very quickly calculating the fact that, my God, he is a fossil. I want to make just a few quick points about the significance of these events, and especially this state's 150th. Our neighbors to the south, Kansas and Iowa, just went through this. When I think back of in the centennial of all of the activities that were carried out in that year in every city and every county by every group you can think of, I remember seeing in both '67 and '92 as a part of that, the Nebraska float in the Presidential inaugural parade and all of us citizens applauding when that parade float went by on behalf of our state. I think of all of the kids that came by the busloads to all of our activities here on the Capitol lawn. And all of the activities that built culture in this state and some pride in this state. Everybody got to participate, every county, every group, 4-H, FFA, high school bands. It was a real opportunity to capture the pride in our state to establish the culture, to look back at the history, and to see what's ahead. And this is not only going to be a celebration, it's going to be a commemoration. And there's a big difference in those activities. And, fortunately, we're going to have both. I also think it's very important for the Legislature to understand that we need to put some budget into this because I remember in the fund-raising in '67 and with Diane Nelson, Senator Nelson...Governor Nelson's, wife, First Lady, when we were doing the fund-raising almost every company and person who donated, the first question they ask, does the state also have a stake in this? Are they committed to this? And we were able to say, yes. And that's a very important point. And that's why I hope that some appropriation follows what we're doing. So I think it's very important that we sign on, that we all get involved, we all make it happen, because it is our state. And if we're not proud of 150 years, nobody else is going to be on our behalf. It has to be the citizens of this state. And it was my good fortune to be involved in three of the...eventually the third one, if I live that long. But...so I would urge that this bill, with the amendment, go forward to the Legislature. And I know that many senators have already signed on this bill because it's an activity that takes several years to plan. And we hope that we have a great year to both celebrate and commemorate. I would try to answer any questions if I could. But I appreciate the time and the courtesy of this committee on a Friday afternoon. [LB744]

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SENATOR MURANTE: Thank you, Allen. Are there any questions? Seeing none, thank you. [LB744]

ALLEN BEERMANN: Thank you. Appreciate it. [LB744]

SENATOR MURANTE: Are there additional proponents who wish to testify? Welcome. [LB744]

SENATOR SCHEER: Imagine seeing you here. [LB744]

SENATOR MURANTE: Welcome. [LB744]

KATHY McKILLIP: (Exhibit 6) Thank you, Senator Scheer. Good afternoon. Thank you for this opportunity. We'd like to thank Senator Avery for introducing this bill and we thank you also, committee members, Senator Bloomfield, Senator Murante, Senator Wallman, and Senator Scheer for this opportunity as well. I'm Kathy McKillip, K-a-t-h-y M-c-K-i-l-l-i-p, and I'm the executive director with the Nebraska Tourism Commission. The Nebraska sesquicentennial is a unique and exciting opportunity to celebrate Nebraska and our great history as a state. When we conduct visitor surveys, Nebraska's history, historic sites, and culture are very popular and well received. This is an opportunity to enhance and bring additional exposure to these areas, not only for our out-of-state visitors but to also reconnect Nebraskans with our past and excite them about our future. LB744 would encourage and promote a statewide exposure to Nebraska's sesquicentennial--it is tough, you're really going to have to work on this--and at this time, the Nebraska Tourism Commission offers up its support for LB744. We'd like to thank Senator Avery for bringing the value and importance of this event and its relevance to tourism before the body and believe that the future of tourism plays an important role when it comes to generating revenue statewide. Tourism is a key segment of Nebraska's state economic base. And as the state's third largest industry, tourism plays a critical role in the vitality of our state. And I would be happy to try to answer any questions should the committee have any. [LB744]

SENATOR MURANTE: Thank you very much. Are there any questions? Senator Scheer. [LB744]

SENATOR SCHEER: Would it maybe be better just to call it our 150th birthday? [LB744]

KATHY McKILLIP: I was thinking that a really good theme could be 150 years of the good life. [LB744]

SENATOR MURANTE: We'll bring Senator Mello in on that conversation. [LB744]

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SENATOR AVERY: (Inaudible). [LB744]

KATHY McKILLIP: I think that the engagement and the excitement from the public actually is kind of fitting with this bill is because we're passionate Nebraskans. And I love it. I love it. I love the fact that engagement and dialog has started and they're passionate about the potential and what they feel really committed to. So I look at it as a good thing that's happening. [LB744]

SENATOR MURANTE: Thank you. [LB744]

KATHY McKILLIP: Uh-huh. [LB744]

SENATOR MURANTE: Any additional questions? Seeing none, thank you for your testimony. It looks like there are more proponents. Welcome. [LB744]

JUDI GAIASHKIBOS: Good afternoon, members of the Government, Military and Veterans Affairs Committee. I am Judi gaiashkibos, the executive director of the Nebraska Commission on Indian Affairs. And I, too, rise in support on behalf of the Nebraska Indian Commission and the first peoples of Nebraska to lend support to LB744. I serve on the Friends and have been involved... [LB744]

SENATOR MURANTE: Just to interrupt briefly, can you spell your name for us, please? [LB744]

JUDI GAIASHKIBOS: Oh, spell my name. Okay. Judi, J-u-d-i, gaiashkibos, g-a-i-a-s-h-k-i-b-o-s. [LB744]

SENATOR MURANTE: Thank you. [LB744]

JUDI GAIASHKIBOS: And I am a member of the Ponca Tribe of Nebraska and I'm also Santee Sioux. So as far as 150th birthday party, maybe yes. But I think what I really am so happy to be a part of this for is because I want to look at the past, present, and future. And I want to make sure that we include the first peoples because of our history here before 150 years. And I just wanted to share my personal lineage here. Roger said in 1908, I believe, his parents immigrated here. And that's the same year that Chief Standing Bear died. And my grandfather was born in 1878 on the Ponca reservation. So at the time of Standing Bear's passing, he was 30 years old. And so I was doing the math as I was sitting back there. And my grandfather was the second...the last chief of the second rank of the Ponca Tribe. And so he would have been 136 years old now so at the time we do this, 138. My mother was born in 1913. She went to the Genoa Indian School and I grew up in Norfolk, Nebraska, where Senator Scheer also grew up. And my great grandmother whose Indian name was Megashathe, she was born in 1848. So

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how old would she be? One hundred sixty-six. So that's older than 150th sesquicentennial. And I can actually say that. I'm not so good at spelling it, spell-check is always correcting that for me. So anyway, today I sit before you as a grandmother of two little boys. I have two daughters and now I am very happy and proud of my two grandsons. So I want to make sure and be a part of this commemoration celebration. And the Indian Commission stands ready to help have different celebrations throughout the state that will tell the history and the past stories of Standing Bear, Chief Little Priest from the Winnebago, and all the other important people that are a part of Nebraska's history. So with that, I do hope that you will move this forward to the floor and also that we could get some funding to help us do all these different commemorations throughout the state. Any questions? [LB744]

SENATOR MURANTE: Thank you very much. Are there any questions? Senator Scheer. [LB744]

SENATOR SCHEER: Well, not a question but I just would make note that Judi is exactly right and that they are the first people. And I know from going to several of the programs in November they usually have for the teachers and students of the Indian facilities, high schools around the state, there is a really a dire need to codify the Indian history because so much of their history is from generation to generation that is not written. And as a lot of the older ancestors are starting to depart, we're losing just a huge amount of that history that goes way back before the founding of Nebraska. So I just...her comment of her lineage made me think of that. That is a separate issue to this, but certainly that's a great deal of history that we need to make sure and protect (inaudible). So thank you for bringing that up. [LB744]

JUDI GAIASHKIBOS: Thank you. [LB744]

SENATOR MURANTE: Senator Bloomfield. [LB744]

SENATOR BLOOMFIELD: I will make a little additional comment and that would be that I strongly suggest that we include in that celebration the pow wows and such things that the Indian tribes do. They are unique, I believe, to Nebraska. And Judi could probably elaborate on that some. But they are something that people in Nebraska ought to go see. They may have to get out of bed fairly early in the morning. I think the one in Macy starts around 5:00 in the morning. And it's only about a two hour drive from home so it wasn't too bad. [LB744]

JUDI GAIASHKIBOS: Thank you. [LB744]

SENATOR BLOOMFIELD: But those sorts of things should be included in it. I'm glad you're here today, Judi, but I've gone and known you for four years now and I didn't know you were from Norfolk. My home is about 12 miles. [LB744]

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SENATOR SCHEER: There's just an overabundance of really high-quality people coming from that area of the state. [LB744]

JUDI GAIASHKIBOS: Thank you. [LB744]

SENATOR MURANTE: Thank you very much. Are there additional proponents? Welcome. [LB744]

NANCY FULTON: (Exhibit 7) Good afternoon. I'm Nancy Fulton, president of the Nebraska State Education Association. And I'm here on...to offer support on LB744 on behalf of the 28,000 NSEA members. We represent public school teachers, principals, educational support professionals, college faculty, retired educators, and students studying to become teachers. I would say that's a rather large grass-roots level of support. Nebraska has one-of-a-kind history. And our state's sesquicentennial can provide wonderful opportunities for celebration, learnings, and reflections. Establishing this commission will guide these opportunities and ensure that we come together as a state to commemorate our shared history as well as build a foundation of cultural appreciation for the generations to come. Educators believe that it's important that our approximately 300,000 students learn about Nebraska's history and culture and develop a sense of pride in our state. We want to make sure that every child in every school is aware of our proud past as we prepare them for our future. Our state's 150th birthday can offer opportunities for school children as well as all Nebraskans and visitors to our state to learn more about our state through events, activities, and learning opportunities. These are things that the commission will help promote and organize. As a little aside, I have to do a plug for my association. NSEA will also celebrate its 150th anniversary in 2017. We are the oldest statewide association. We began five months after statehood. And I believe our history mirrors that of the state. We're excited about celebrating 150 years of advocacy for teaching for children in public education, but we especially look forward to helping Nebraskans celebrate their state's heritage. And with that, I'll entertain any questions. [LB744]

SENATOR MURANTE: Thank you, Nancy. Are there any questions? Seeing none, thank you very much for your testimony. [LB744]

NANCY FULTON: Thank you. [LB744]

SENATOR MURANTE: Welcome back. [LB744]

LARRY RUTH: Senator Murante, how are you? [LB744]

SENATOR MURANTE: Very well. [LB744]

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LARRY RUTH: My name is Larry Ruth, L-a-r-r-y R-u-t-h, and I'll give this to you. I appreciate the opportunity to be here Friday afternoon. Roger Ludemann almost had a heart attack when he saw me walk up with a book on a Friday afternoon. Don't worry about it, Roger. I just have a couple of points. Part of my background has been to be on the Nebraska Lewis and Clark Bicentennial Commission. This was something that was established about 2000 and then we celebrated, commemorated the Lewis and Clark Bicentennial activities. And I just want to tell you that almost everything that's going to be done by way of observance is going to have this commission as the backbone. So what you do today is really very important. You're going to be setting the course for the commemoration...the observation...the observance of the bicentennial or the sesquicentennial. Another piece of my background was that I was a page here in 1967. I had my own flag that I ran up over the Legislature that morning so that I would have that as a lasting piece of memorabilia for me for that day. And I just thought what I would do with this is let you know that you have a lot you're going to be doing with this observance. In 1967, let the record reflect that at 8:03 a.m. President Everroad, the Lieutenant Governor, brought the session into activity. And they then commenced to have a couple of minutes of this and a couple of minutes of that and then they adjourned at 9:06 a.m. and then they went into the official commemoration of the centennial. Pardon me, that would be the 100th, yes, the centennial. And as I recall, Senator Warner--some of you might have known Senator Warner--played, along with Lieutenant Governor Everroad and some others, they did a role playing of the first day of the legislative session as a new state. And they had old suits on and they had beards on and they had even a toupee on or two. I don't know if you want to get that involved that much again. But it is to say that this will be something of great interest in the state. It will be something that you'll be actually very much involved in with parades and other activities. And I'm just so pleased to add my support to this group. They're doing a really good job and they're doing it at the time they need to and that is two or three years out. Any questions? [LB744]

SENATOR MURANTE: Thank you, Larry. Are there any questions? [LB744]

SENATOR BLOOMFIELD: No, but I'll be blissfully re-retired by then. [LB744]

LARRY RUTH: Most of the senators weren't good actors, I might say that, too. [LB744]

SENATOR MURANTE: Thank you very much. [LB744]

LARRY RUTH: Oh, I will say this. Jacob...yes, Jacob is a student--that was remarked--but he was a student of mine out at Nebraska Wesleyan a year ago and he did a nice job. [LB744]

SENATOR MURANTE: Thank you. Are there additional proponents? Seeing none, are there any opponents? Are there any neutral testifiers? Senator Avery, would you like to

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close? [LB744]

SENATOR AVERY: I can't imagine what I could say that would improve on what has already been said. I'll end by saying that I'm proud to be associated with this group of people. This is an opportunity for us to show the rest of the United States what Nebraska is all about. And I think they'll be surprised and we'll be very proud of our state. Thank you. [LB744]

SENATOR MURANTE: (Exhibits 8, 9) Thank you. And before we close the...are there any questions for Senator Avery? Before we close the hearing there are letters of support from the Nebraska State Chamber of Commerce and Industry and Plummer Farms. And with that, we will close the hearing and that ends the hearings for the day and the week. Have a nice weekend. [LB744]