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Health and Human Services Committee and Judiciary Committee and State-Tribal Relations  
Committee  
November 14, 2013

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[LR262]

The Committee on Health and Human Services and the Committee on Judiciary and the Committee on State-Tribal Relations met at 1:30 p.m. on Thursday, November 14, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR262. Health Committee senators present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; and Mike Gloor. Senators absent: Tanya Cook, Sue Crawford, Sara Howard, and Dan Watermeier. Judiciary Committee senators present: Colby Coash, and Al Davis. Senators absent: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Ernie Chambers; Mark Christensen; Amanda McGill; and Les Seiler. State-Tribal Relations Committee senators present: Colby Coash, Chairperson; Lydia Brasch, Vice Chairperson; Dave Bloomfield; Al Davis; and Annette Dubas. Senators absent: Bill Avery, and Jeremy Nordquist.

SENATOR CAMPBELL: Uh-huh. And that will close our hearing on LR261 and we will then proceed to the joint hearing this afternoon with the State-Tribal Relations Committee and the Judiciary Committee and the HHS Committee on Senator Coash's interim study to examine the high rate of placement of Nebraska's Native American children involved in the foster care system. Senator Coash, start us out, please. [LR261 LR262]

SENATOR COASH: Okay, thank you, and I will be brief because I know we have a lot of testifiers. For the record, I'm Colby Coash, representing District 27 right here in Lincoln, introducing LR262. I was...here's how I got on to this issue. Every year we get a Voices for Children report and there's a lot of information in there and one of the things that I...that was glaring to me was that Native American children are extremely overrepresented in our child welfare system. They represent 1 percent of the total child population but account for 7 percent of children who are waiting for adoption and 6 percent of who are adopted. Native American children are more likely to be state wards than their peers. In Thurston County, home of the Winnebago Reservation, about 1 in

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25 children are removed from their homes and put into state custody. That's twice the rate of the county with the second highest removal rate. These are alarming statistics. And continuing efforts are being made to assist tribes and counties with decreasing the removal of Native children from their homes. There is a group working on...it's called the Indian Child Welfare Act, and they've been working diligently with the intent that if a Native child is removed from the home, that greater effort will be placed...will be made to place the child with next of kin or at least within the tribal community. That bill or that initiative could have its own bill, I would expect that it would, and will have its own hearing. So you may hear a little bit about that, but I don't want to make this hearing about a bill that will likely be coming. It's important to note that when we talk about Native American children in our state we're not talking about just children who are on a reservation. We have many more Native children who are not on the reservation, living across our state. So keep that in mind as you listen to the testimony. But Native American children do have different protections under the law through the Indian Child Welfare Act, and so there's an intersection there. And following my testimony you're going to hear from many individuals who have traveled across the state and are very passionate about the welfare of Native children, and we hopefully have some representatives here from some of the tribes across our state. We have Boys Town is here, the judicial branch, and HHS, and, as I mentioned, the ICWA Coalition. They're going to talk to us about Native American child welfare in greater detail, and I thank everybody for their attention. [LR262]

SENATOR CAMPBELL: Thank you, Senator Coash. This makes a good follow-up to the hearing that the Health and Human Services Committee had last summer in Macy. [LR262]

SENATOR COASH: Yes. [LR262]

SENATOR CAMPBELL: All right. I will remind everyone that, because we have so many people that want to testify today, that we will use the light system. So you will start with

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the green light and it will be like on for a fairly long time, you'll think, and it goes to yellow, and yellow means you have one minute. And when it goes to red, you're going to look up and I'm going to be the person going...and it's to be fair to everybody so that the last testifier has our attention as much as the first. So we will start with the list the Senator Coash has given to us and our first testifier is Judi gaisashkibos. Good afternoon. [LR262]

JUDI GAIASHKIBOS: Good afternoon. Thank you so much. [LR262]

SENATOR CAMPBELL: And we need you to state your name and then spell it for us. [LR262]

JUDI GAIASHKIBOS: Okay. My name is Judi gaiashkibos, that's J-u-d-i, gaiashkibos, g-a-i-a-s-h-k-i-b-o-s. I'm the executive director of the Nebraska Commission on Indian Affairs and I am a member of the Ponca Tribe of Nebraska and I'm also Santee Sioux. And I have been the director for the past 18 years, and when I started in my job I had two daughters that were very young girls, and now, 18 years later, I'm an elder and I am a grandmother of two little boys, so an eight-week-old and an almost two-year-old. So having said that, that gives me more pause, reason to pause and think about the seriousness of the matter before us. I want to thank Senator Coash and the State-Tribal Committee and all of you for giving us time to testify about this legislative resolution, LR262, because it is so important. As Indian people, we believe that what we do today impacts the next seven generations, and the number seven is very sacred and important, as is the number four. Today you've heard that our children are placed out of home seven times as often as other children, so that is really very serious. We have many testifiers from our tribes in our state that have come from long distances to be here because we value our children. They're our greatest resource and they have dual citizenship in our state. Many of our ancestors were forcibly taken to boarding schools, one here in Nebraska, the Genoa Indian School. My mother was a product of that school. The purpose of the school was to kill the Indian and assimilate us, so we had to

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learn all of the rules of the state. And to live in America, we do that. But what doesn't happen simultaneously always is that the policymakers don't learn about our first people's sovereign rights, and so they're really at a disadvantage when they make these decisions about the children. They don't understand our cultural values. They don't understand our legal rights either. So I think that what we'll hear today and my hope is out of this hearing that we'll address some of the educational deficits that we're facing about our culture, about past wrongs and what we can do to help educate all of the people that work with our children and put them in the homes. I think that we may also need to think about funding. I know that's always something that people don't like to talk about, but what I've heard for the past year as I have worked with the Nebraska ICWA Coalition is that there does seem to be a need for monies to address this. We need more workers. Besides, you know, we can't expect Sherri Eveleth to continue performing miracles. (Laugh) And so I really think that we owe a great debt of gratitude to her leadership and what DHS has done thus far. But I'm thinking that we must seriously look at that issue in the future so that we can minimize or lower the number of children placed out of home and put them back where they belong with their families and with their tribes. Yesterday I had lunch with a young man that's a third-year law student, a Native young man at the law school here. And he said that in his research over the last two years--he also worked at CEDARS Home for Children--that there was some concern or perhaps he thought that the reason our children were being placed in out of homes and that people wanted our children was more or less that there might be a bounty on our children, that they...people receive more money by taking our children. I don't know if that's true. I hope that we can look at that and explore and address that. I want to close. I know the light is...does that mean to stop? [LR262]

SENATOR CAMPBELL: One minute. [LR262]

JUDI GAIASHKIBOS: One minute, okay, so I'm going to be fast. I thank all of the people that come behind me. Their voice is more important than mine. I am honored to serve all of them and I hope you give them all the time that they need to express what I'm not

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able to do, because they work with those children directly. So in preparation for this hearing, I've been reading a book, "In the Light of Justice," by Walter R. Echo-Hawk, and he worked with the LB340 legislation here with dealing with human remains. So I want to read just one last little thing here that I think sets the stage for what America has to reckon with. This book is about the United Nations' human rights declaration and so, okay, if you'll just bear with me: We are confronted by a historical injury in the United States that must be rectified through a cathartic, not nation-building, process. Like many nations around the world, the United States is heir to a heritage of colonialism. That legacy brought injustice to Native Americans. This form of traumatization still lingers in our legal systems, institutions, and mind-set. It is strongly seen and felt in tribal communities. They are heirs to historical trauma handed down as a dark gift from the legacy of conquest and colonialism, and this has been with us so long that it is seen as normal. Despite this problem, ours is a just nation. It has continually strived to live up to its core values and been willing to self-correct at every painful detour, but it has been unable to come to grips with the Indian problem. At the same time, Native America has tried hard to make the best of the existing legal framework for many years, but it's still plagued by legal inequities and hard-to-solve social ills inherited from the legacy of conquest and colonialism. In short, an injury has occurred and we are confronted with the unwanted consequences. So I rise in support of correcting those wrongs and I beg of you to help us to do that today on behalf of our children. Wi'Bthu Ho. [LR262]

SENATOR CAMPBELL: Thank you, Judi. And Phoebe is going to run you down because we do need an orange sheet. [LR262]

JUDI GAIASHKIBOS: With my name and all. [LR262]

SENATOR CAMPBELL: So Phoebe has one and she'll give it to you. [LR262]

JUDI GAIASHKIBOS: Thank you. [LR262]

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SENATOR CAMPBELL: Okay. Our next testifier is Kim Hawekotte. Senators, if you have a question, I'm sorry, I should have...we're going to try to go through a lot of the testifiers so that we make sure we get everyone heard today. Good afternoon. [LR262]

KIM HAWEKOTTE: (Exhibit 8) Good afternoon, everyone. I am Kim Hawekotte, it's spelled K-i-m, last name H-a-w-e-k-o-t-t-e, and I'm the director at the Foster Care Review Office. I thought to shape this hearing this afternoon, some basic data in what we see with regards to our Native American youth in out-of-home care might be beneficial. So as of November 4 of 2013, in this state we had 3,737 children in out-of-home care. Of those children, 328, or 9 percent, were identified, and the key word I want to underline here is "identified," as Native American heritage. They're not always identified but we know that there is at least 328. Of course, these figures do not include children who are under the jurisdiction of the tribal court. These are state wards under state wardship. And needless to say, that is racially disparate compared to the 2 percent of the Native American population across the state. We then looked at, well, let's compare it to a year ago as to the number of Native American youth in out-of-home placement. As of a year ago, there were 308 Native American youth in out-of-home placement. I think our concern is, while this is only a slight increase of 20 youth, it's very concerning to us because of the fact that in the past year we have 600 less wards in out-of-home care as a state while this population is growing, and it is not matching the rest of the population of the state. Some other basic data that we did include in our testimony is with regards to gender of the Native American population. The ratio is about the same as every other racial group. With regards to the geographical location of these cases, 43 percent of these children are from Douglas County, 20 percent are from Lancaster County, and the rest are from 30 other counties in Nebraska. Number of removals, it was a slightly higher rate on the number of removals for Native American children. Forty-two percent had multiple removals. That's higher than the state average of 39 percent. I also gave a list on our testimony with regards to the placement types. You'll notice that about 64 percent of Native American youth that are state wards are placed in either agency-based foster care or relative child-specific foster care, but that

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also means almost 30...40 percent are placed other places. Number of placements, again this is a higher rate for our Native American children than the rest of the population for the state; it's slightly higher for Native American population. For those youth having four or placements it was 44 percent of these youth had four or more placements. The total population for Nebraska is running right around 40 percent, so it is higher for this. Number of case managers that are involved with these children is also higher than the state average of 51 percent; it's 59 percent. And then you heard me testify this morning, and I would just like to reiterate, on the Barriers to Permanency Project. On youth that have been continuously out of home for three years or more, we are showing disparate data with regards to Native American youth are staying out of home for longer time periods. I am open to any questions. I still have a green light, just...and I know the other people testifying after me will have a wealth of information on how to solve some of these issues. [LR262]

SENATOR CAMPBELL: Thank you, Kim. Senator Bloomfield. [LR262]

SENATOR BLOOMFIELD: Thank you, Senator Campbell. Your second and third paragraph says that we had 600 fewer children in out of home now? [LR262]

KIM HAWEKOTTE: Yes, as a state. [LR262]

SENATOR BLOOMFIELD: Your number says 4,320 this year versus 3,737 last year. To me, that's a 600 percent (sic) increase. Am I seeing something wrong? [LR262]

KIM HAWEKOTTE: No, I think you're reading it vice versa, Senator. In September of 2012, we had... [LR262]

SENATOR BLOOMFIELD: Okay. You're correct. [LR262]

KIM HAWEKOTTE: ...4,320. Now we have... [LR262]

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SENATOR BLOOMFIELD: Okay. All right. [LR262]

KIM HAWEKOTTE: Did that help? [LR262]

SENATOR BLOOMFIELD: Yep. [LR262]

KIM HAWEKOTTE: Thanks. [LR262]

SENATOR CAMPBELL: Senator Coash. [LR262]

SENATOR COASH: Thank you, Senator Campbell. Quickly, Kim, because I do want to get to the other testifiers, you've done a nice job of framing up the "whats." We've got disparate treatment of Native Children. I'm going to ask you the why and what your research has beared out in that way. [LR262]

KIM HAWEKOTTE: I don't know if I feel adequate to really answer that as to the why. [LR262]

SENATOR COASH: That's fair. We'll let other testifiers... [LR262]

KIM HAWEKOTTE: I think there's so many factors, I'd rather let the other testifiers talk to some of that. [LR262]

SENATOR COASH: I'm fine with that. That's the purpose of this hearing is, you know, we've gathered the data. We know we have...we know what the reality is for Native American children. We're trying to get to the "whys," which will help us get to the "how do we address it." [LR262]

KIM HAWEKOTTE: Correct. [LR262]

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SENATOR COASH: So I will leave that to other testifiers. [LR262]

KIM HAWEKOTTE: Thank you. [LR262]

SENATOR CAMPBELL: Senator Davis, did you have a question? [LR262]

SENATOR DAVIS: Just a brief one, and maybe you don't the answer to this. But looking at the data and the number of student...or children that are out, are we seeing a disparate capture of Native American children in different parts of the state or is it fairly uniform across or can you answer that? [LR262]

KIM HAWEKOTTE: Well, I think when you look at the geographical location of where these cases are, 43 percent are in Douglas County. But when you look at the number of all children in Douglas County that are Native American, it's 1 percent. But still 43 percent of these cases are coming from Douglas County, and Lancaster is about the same. So I do think we need to really take a look at county by county where are the biggest issues... [LR262]

SENATOR DAVIS: Uh-huh, that's what I wondered. [LR262]

KIM HAWEKOTTE: ...and ways to solve that issue based upon the county, because there are different county needs. [LR262]

SENATOR DAVIS: Thank you. [LR262]

SENATOR CAMPBELL: Any other questions? Thank you very much, Kim. [LR262]

KIM HAWEKOTTE: Thank you. [LR262]

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SENATOR CAMPBELL: Our next testifier is Amy Painter. Is Amy here? There's Amy.  
Good afternoon. [LR262]

AMY PAINTER: Good afternoon. [LR262]

SENATOR CAMPBELL: And go ahead and state your name and spell it for the record.  
[LR262]

AMY PAINTER: My name is Amy Painter, Amy is A-m-y, Painter is P-a-i-n-t-e-r. I'm the human services director for the Winnebago Tribe of Nebraska. I'm also an enrolled member of the Winnebago Tribe of Nebraska. And I have seven children. I supervise our Child and Family Services Program, and I'm recently new to...I just started my human services job January 2, 2013, but immediately realized that we have some issues in terms of child welfare. So I kind of wanted to let you understand how the Winnebago Tribe operates its child welfare program. We currently provide child and adult protective services under contract with the state of Nebraska for cases that occur on the Winnebago Indian Reservation and for ICWA cases involving Winnebago children in various county and state courts. We receive funding from the state to provide basic child protective services and adult protective services, and we receive very small funding from the Bureau of Indian Affairs to provide the ICWA services for children that enter courts through the county or the state. We receive administrative funding under our state child welfare contract from the state, so that's the only money that we have to hire caseworkers and to do all the work that we need to do for child and adult protective services. We also have a state IV-E contract that does not give any monies directly to the tribe. The tribe processes all the paperwork, does the daily management, but the state determines eligibility, makes payments, and does all the reporting to the feds for the federal reimbursement. The Winnebago Tribe does have a family code and we operate a tribal court system, and then we operate our program within this jurisdiction. We use the state of Nebraska child welfare system, which is the N-FOCUS system, to manage our child welfare data, so our data include an overall federal reporting level,

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which is not the case in many states throughout the nation. The state of Nebraska completes--I already covered that--the eligibility determination, service authorizations, and federal reimbursements for the IV-E. So basically, if we're not able to meet IV-E eligibility criteria, all other expenses are then coded to our child welfare contract. So some of the issues that we face in running our program is that the funding that we receive under our state child welfare contract is insufficient to provide quality child welfare services. We are understaffed and "underresourced," and we struggle (crying)... [LR262]

SENATOR CAMPBELL: It's okay. [LR262]

AMY PAINTER: I'm sorry. [LR262]

SENATOR CAMPBELL: It's okay. Just take your time. [LR262]

AMY PAINTER: We struggle to maintain services for children and families. We currently have 61 open cases that involve 131 children, and we have three caseworkers. Each caseworker is required to manage approximately 20 cases and this number has decreased since January, as our program works to improve our practice, our child welfare practice. To further compound the issue, we have children placed in the state of South Dakota, Minnesota, and Iowa, which further taps our caseworkers. We employ one case aide for the entire office, and we don't have any funding left to provide family supportive services for our children. So if one of our children is to enter the state through a state or county court, they would be...have access to potentially the family-based services that are provided by Candy Kennedy and her organization. None of that funding or services flows to our reservation. We don't have guardians ad litem or CASA services available to our children, so basically the only resource to the children that we serve is the caseworker. In the past, the data was not shared between the state and the tribe. That is something that we are working to overcome. We are now meeting with the state on a monthly basis to go over operations and continuous quality

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improvement in terms of our data management on N-FOCUS. And previously, we did not have management access so we could not even manage our own caseloads or programs. We didn't know what was showing up in the management reports that the state looks at, so that's something that we're currently working on. But again, with a huge caseload and the placements, the tribe has placement preferences in their tribal code. So if a specific family member is the desired placement preference according to our tribal code, and that family member resides in Minnesota, then we may have a child that's placed in Minnesota. Then... [LR262]

SENATOR CAMPBELL: That's okay. Go right ahead and finish. [LR262]

AMY PAINTER: I'll just go...we just have problems, issues with that, but we've done a lot of work. We have wrote, as a part of the ICWA Coalition, we wrote a diligent recruitment grant and we are the only tribe to be awarded that grant. It includes all four tribes in Nebraska, the state of Nebraska, the state of Iowa, and two educational institutions. So basically, we are paying the states to work with us to develop culturally appropriate foster care training, practices, and licensing. And we are trying to help the state because the IV-E is federal reimbursement dollars. Currently we're not able to license foster care homes, and so if we have children placed in...with a relative placement, it's not a licensed home, the state is not able to get the federal IV-E reimbursements for those. So basically what we really need is to continue the collaboration that we've started. We've brought money. We will continue to go after funding that's available. We may be the first tribe in the nation to get it's own ORI number so that we can process our background checks, which is a requirement for foster care licensing for IV-E placement reimbursement. We are also, the Winnebago Tribe, is also working on developing a IV-E plan whereby we would become direct...receive our reimbursements directly from the feds, so it's really important. So continued collaboration with the state to make sure that we're accessing all the dollars available and continuing to look for grant funding and being creative, and we are creative. We have very small amounts of money. The Winnebago Tribe contributed

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about \$400,000 in FY 2012 towards child welfare, and then this past year it dwindled to \$195,000, and the current year we're at \$80,000 because the tribes are facing the same economic problems that the state is and we don't have steady tax revenues that we can, you know, rely on. We have to rely on our casino revenues to fund our programs. So sadly, they still gave us \$80,000, but that's one of the programs that was cut. [LR262]

SENATOR CAMPBELL: Amy, I think we're going to try to go to questions because I.. [LR262]

AMY PAINTER: Okay. [LR262]

SENATOR CAMPBELL: ...I see some hands up over here that want to ask you some questions. Was there anything that...major statistic that you felt you needed to get on the record? [LR262]

AMY PAINTER: I don't. That was the thing, is we don't have access to the statistics from years past. I don't have any comparisons to make. All I know is what we've gained access to. InfoView is the management tool, we gained access to that yesterday on N-FOCUS. [LR262]

SENATOR CAMPBELL: Okay. Senator Coash, I know you have a question. [LR262]

SENATOR COASH: Sure. Thank you, Amy, for testifying. You manage the child welfare cases for all the Winnebago children. [LR262]

AMY PAINTER: Uh-huh. [LR262]

SENATOR COASH: Just...because I still try to get my head wrapped around this. Are these all...do you manage the cases for those children only for children who are on the reservation or also for Winnebago children who could be across...not living on the

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reservation? [LR262]

AMY PAINTER: We...it's all kids on the reservation, any federally recognized tribe within the reservation we manage. [LR262]

SENATOR COASH: Okay. [LR262]

AMY PAINTER: It wouldn't just be Winnebago. But if they're off reservation then that's when ICWA applies. So we may have a case that's transferred into our tribal court that originated in Sioux City, Iowa, or Lincoln, Nebraska. [LR262]

SENATOR COASH: So if a Winnebago child from right here in Lincoln, off, doesn't live on the reservation, is being pulled from the home, you could provide case management services if it was transferred to tribal court? [LR262]

AMY PAINTER: We do. [LR262]

SENATOR COASH: You do. [LR262]

AMY PAINTER: Uh-huh. [LR262]

SENATOR COASH: But if it's not transferred to tribal court, then that child, ICWA applies but that child is...the case is managed by... [LR262]

AMY PAINTER: The state caseworker. [LR262]

SENATOR COASH: ...the state caseworker. [LR262]

AMY PAINTER: Uh-huh. [LR262]

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SENATOR COASH: Okay. Just wanted to get that clear, because it's... [LR262]

AMY PAINTER: Yeah. [LR262]

SENATOR COASH: ...it's just a different situation depending on where the child is.  
[LR262]

AMY PAINTER: Yeah, and that designation is made in...so if we do transfer to our court then, in N-FOCUS, becomes a tribal ward, regardless of whether it's placed on the reservation or off the reservation, and then becomes our responsibility and falls under our funding. [LR262]

SENATOR COASH: So your, what did you say, three workers are managing cases both for children who are on the reservation but also managing cases for children who do not live on the reservation. [LR262]

AMY PAINTER: Yep. We have a caseworker that has to go to Minnesota. We have caseworkers going to Des Moines, Iowa. And because we want to do... [LR262]

SENATOR COASH: And all over the state of Nebraska as well. Okay. Thank you.  
[LR262]

SENATOR CAMPBELL: Senator Dubas. [LR262]

SENATOR DUBAS: Thank you, Senator Campbell. Thank you so much, Amy, for coming today. I really do appreciate that. A couple of things, I just want to make sure I'm tracking with you right. You referenced several times access to Title IV-E as well as other financial resources. I'm not quite understanding why are you not able to access those types of dollars? [LR262]

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AMY PAINTER: Well, we signed a contract. I know we've had a state Title IV-E contract for six years and we never received training until I requested that after I started. So we were not able to make sure that the children...we were getting them eligible, but we didn't know about this, no one told us about the six-month income maintenance thing, and so we are updating that. So we were not provided with proper training. We're not able to license, we're not able to place our children at state-licensed foster homes and that's a requirement to get the IV-E dollars, which I'm sure the state would want to do because it's to their benefit. [LR262]

SENATOR DUBAS: So you actually had a contract signed but just the training, the information that you needed to know to access these dollars was never provided for you. [LR262]

AMY PAINTER: Uh-huh. [LR262]

SENATOR DUBAS: Had you not asked for them, they still wouldn't be provided for you. Would that be correct? [LR262]

AMY PAINTER: Yeah, it's been...we're getting more information and it's going well, but it's been a long, daunting process. So we're still not able to license homes, so we're still not able to access IV-E dollars for children that are placed in a home, other than an institution that's state licensed. [LR262]

SENATOR DUBAS: And what are the barriers to licensing these foster families?  
[LR262]

AMY PAINTER: Well, we came up with a plan and we submitted our first test one. The first one was the ORI. We have to get the ORI number for the federal background check. In the past, the State Patrol had completed the background checks, and at some point in time they said they were not going to be able to do that. So we then proceeded

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to get an ORI number entered into MOU with the Nebraska State Patrol and we pay them to process our federal background checks. [LR262]

SENATOR DUBAS: Okay. Do you have a liaison within the department or someone that you can reach out to that helps you answer these questions or gives you the information that you need, or is this something you've just had to do on your own? [LR262]

AMY PAINTER: We got...we didn't really have a lot of contacts. Sherri Eveleth was our only contact originally. Now that we're meeting on a monthly basis with all of the state officials concerning child welfare, we now have contacts. They give us an updated contact list every month. [LR262]

SENATOR DUBAS: So you feel things are improving then somewhat because you have that... [LR262]

AMY PAINTER: I feel like things are improving, but we still need...I get to do my last request was we need funding. We need funding for foster care licensing. We should have been included when that was asked, when that was contracted out. We need funding for TA training and mentorship and resource development, because basically we're just operating the best we can. We're always in crisis. [LR262]

SENATOR DUBAS: It definitely sounds that way. So if you are putting together a budget prepared on the financial resources you are working with right now, what is it that...do you have a number that you are looking at to help you meet all of these specific needs as far as licensing and training of your foster families, the case management, all of those things? What types of dollars are we talking about there? Do you have any idea? [LR262]

AMY PAINTER: It's probably, well, I didn't put a dollar to it, but I know that I need...if we could have a resource development person with access to funds to help us to get the

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training to bring materials. [LR262]

SENATOR DUBAS: So a lot of times it's just you don't know what you don't know, so you don't have anyone to help you navigate the system or get you going the right direction. So you pretty much are on your own as far as making sure your children are getting...and your families are getting the things that they need. [LR262]

AMY PAINTER: Yes. [LR262]

SENATOR DUBAS: Thank you. I appreciate it. [LR262]

AMY PAINTER: But the state has been helpful because we were not included in the field training budget but they have been creative in making sure that people come...people are coming now. They weren't before. [LR262]

SENATOR DUBAS: I'm glad to hear that and we just need to make sure that it continues. Thank you so much. [LR262]

SENATOR CAMPBELL: Senator Brasch. [LR262]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you, Ms. Painter, for coming here and testifying. How many tribes are there in the state of Nebraska? Is there a number? [LR262]

AMY PAINTER: There's four tribes. [LR262]

SENATOR BRASCH: There's four tribes. Is the situation for the Winnebago unique to the Winnebago or are the other tribes in the same dilemma, the same situation: lack of funding, lack of information, lack of training? Is your case isolated or are we going to learn that there's all four tribes have the same situation? [LR262]

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AMY PAINTER: I can't speak for the other tribes, but we meet as a coalition to work together so we've tried to share resources and information. And the state is meeting with all the tribes as group, so. [LR262]

SENATOR BRASCH: And is there intercommunication between tribes then so... [LR262]

AMY PAINTER: Yes, we do. We try to help each other. We're very closely located to the Omaha Tribe and so we will work with them for coverage. We've done shared coverage. If there was an emergency call, our on-call worker might take the call so I... [LR262]

SENATOR BRASCH: And do you...okay, you don't want to speak for them but are you aware of their situation with financing, with assistance, with training? That's not something you're even aware of or is that correct or...? [LR262]

AMY PAINTER: No, I'm aware of it. [LR262]

SENATOR BRASCH: You're aware. [LR262]

AMY PAINTER: I'm aware that they are in a struggling situation. [LR262]

SENATOR BRASCH: So it's a, yes,... [LR262]

AMY PAINTER: Yes. [LR262]

SENATOR BRASCH: ...they are also. It's not unique to just the Winnebago Tribe. [LR262]

AMY PAINTER: Yeah. [LR262]

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SENATOR BRASCH: And your needs and the number of children requiring assistance, or the families, is it rising, declining? And it goes back to Senator Coash's question, is we know the "whats" but why? You know, how is this...what is attributing to the situation? [LR262]

AMY PAINTER: I know we don't have resources to provide supportive services to families and then sometimes...we don't have licensed homes so sometimes we're not able to place children in our own communities and provide them with needed resources, which would be optimal for reunification, especially if the parents are in. So we have had to rely on other state-licensed facilities, and I think that we can do a better job if we could just get a little resource, resources and training, to develop the programs within our community. We would be able to reunify faster and provide families with more tools so that they may not reenter the system. Right now we don't have that. [LR262]

SENATOR BRASCH: Okay. Very good. I've been made aware that the other tribes are here to testify today. [LR262]

AMY PAINTER: Uh-huh. [LR262]

SENATOR BRASCH: So thank you. That's for the note passed, just so you know there's nothing...I'm not aware of everyone here to testify, I apologize. But I just didn't know if there was some sort of networking, you know, that you are collectively working together to solve issues, problems. If you have any similarities or if one tribe is being more successful than others at issues. But I appreciate, you know, your testimony and coming forward, and for all your work that you are doing. So thank you so much. [LR262]

SENATOR CAMPBELL: Thank you very much, Amy. [LR262]

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AMY PAINTER: All right. Thank you. [LR262]

SENATOR CAMPBELL: And be sure to take your water with you. [LR262]

AMY PAINTER: Oh, that's mine? [LR262]

SENATOR CAMPBELL: You bet. (Laughter) Phoebe takes good care of our witnesses.  
Our next testifier is Gwen Bargas Porter. [LR262]

GWEN PORTER: Can I have our council reps come sit up here, just here? [LR262]

SENATOR CAMPBELL: Sure. Good afternoon. [LR262]

GWEN PORTER: Good afternoon, Senator Campbell. I am Gwen Bargas Porter. I'm a  
member of the Omaha Tribe of Nebraska, and behind me is our Omaha Tribal Council.  
We have two that are absent, but I wanted to show...we wanted to show our support...  
[LR262]

SENATOR CAMPBELL: Welcome. [LR262]

GWEN PORTER: ...in what we're here for. [LR262]

SENATOR CAMPBELL: Thank you for coming. We do need you to spell your name for  
the record. [LR262]

GWEN PORTER: Gwen Porter, G-w-e-n, Porter, P-o-r-t-e-r. UdoN woNgithe tha it'te.  
Thank you for taking this time to hear the Omaha people. As the Omaha Tribal Council  
secretary, I provide you with testimony on behalf of the Omaha Tribe of Nebraska.  
Behind me is our government, our leaders, our voice, our tribal representatives. To  
refresh your memory, we have done this very exact interim study on our homeland, on

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the Omaha Tribe of Nebraska, on September 25, 2012, which is two hours north of here. We thank you for taking the time to hear many heartfelt testimonies surrounding the Indian child welfare. I want to point some things out to you that are of some significance to the Omaha people. I do see that the meaning of Nebraska is shared on the Internet, but also noticed that the tribe that possibly contributed to the naming and meaning of it is not recognized, being the Omaha Tribe, whom has been here and are still here. There were sister tribes that were all represented in this area, being the Ponca, Pawnee, Omaha, Kansa, and Oto. The tribe that is referenced when researching the meaning of Nebraska is the Oto Tribe. We all come from each other and our dialect is similar, and to translate Nebraska in the Omaha language, Ni'bla'ska, the meaning is Ni' is water, bla' is flat, ska is white; to translate into English is Nebraska, pretty much referencing the Platte River. I'm not trying to educate you on the history of Nebraska but only want to make you aware of the Omaha history within the state of Nebraska. Our ancestors occupied this area for centuries before Nebraska became a state. Since 1854, we are a treaty tribe, meaning we have a government-to-government relationship. These treaties are the supreme law of the land in bilaterally constructed nation-to-nation agreements intended to be legally binding for all time. Equality, rules, both governments agreed. We're both fully informed. This is for another discussion. What was made and is now done we have lived with. Our ancestors thought of the Omaha people today, their future generations' survival. That we do as a people; we plan for our future generations. What we do today is always with the thought of how it will affect them. I say these things because we feel it is important to remind you of who we are and where we come from. The Indian Child Welfare Act law of 1978 is a federal law. Tribes do not receive any special funding to assist with ICWA other than what is negotiated through the Indian Self-Determination and Education Assistance public law of 1975. What is made available diminishes every fiscal year. The past two years, the Omaha Tribe had what is known as a high-priority case that exhausted all funds. We were unable to establish an ICWA specialist to assist with all notifications coming into our office, case management, attend all scheduled hearings. The high-priority case consisted of educating social workers, attorneys, and judges of the 1978 law. We have

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a state contract. We have a contract with the state for child welfare IV-E services to tribal Child and Family Services of the Omaha Indian Reservation. The contract states we will be reimbursed up to 45 days at the minimum. The Omaha Tribe hasn't received reimbursement since April 2013. We have not received payment for May to October 2013. Reimbursements are near \$500,000. Our unemployment rate ranges 68 percent to 70 percent on the Omaha Indian Reservation. This month we were faced with having to consider closing the doors of our Child and Family Services with bills, foster care placements, and personnel costs now at \$196,000 deficit. As the government and decision makers, we had to make some tough decisions to take care of these important, vital situations--services to our children and families. We want this government-to-government relationship to flourish, to prosper on behalf of our children and families. But when we don't receive what has been agreed upon by both parties, it makes it difficult to see that through for our children and families. Through the tribal ICWA Office, it oversees all cases throughout the nation. Most times, it's always...it's with one person to have nearly, just for Lancaster and Douglas County alone, 20 to 25 notices come in, in a month to determine ICWA eligibility. Families that are involved with child welfare system off the reservation are being told, your tribe don't have anything for you or your kids; now make sense, being that the state has the upper hand in what the tribe receives or don't receive. There's some truth to these comments being made to the Native families. There are cases that transfer to the tribe that have Native children placed in non-Native foster homes. Tribes are always open and willing to work with current foster placements if they are willing and able to work with the tribe. Non-Native foster homes are warned not to work with tribes because they won't have all the resources that they have with the state. This is always considered because we don't want to disrupt the children's lives any further. With these two real-life scenarios, this partnership/contract all should be equal so that everyone succeeds. So when we don't receive our funding in a timely manner, it puts everyone in a difficult situation. We defend our culture, our traditions, our religious freedom, our language, Indian people. We have a vision for our people. I have come to know this and believe that there are no unimportant people among us. No one is greater or lesser than the next. Wakonda has

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gifted each and every one of us with talents and gifts. Thank you, Tribal Relations and Health and Human Services Committee. Thank you, Senator Coash, for bringing this before you. Aye wi' tha woNgi they. [LR262]

SENATOR CAMPBELL: Thank you very much. Questions? We'll start with Senator Dubas and work around. [LR262]

SENATOR DUBAS: Thank you, Senator Campbell. Thank you so much, Gwen. Is that correct? [LR262]

GWEN PORTER: Yes. [LR262]

SENATOR DUBAS: Thank you so much for coming here. So the state of Nebraska owes you \$500,000. [LR262]

GWEN PORTER: Near. [LR262]

SENATOR DUBAS: Is that correct? [LR262]

GWEN PORTER: A little over \$500,000. [LR262]

SENATOR DUBAS: What kind of correspondence have you been getting from the state as far as when that money may be coming, the reasons why it hasn't been paid? [LR262]

GWEN PORTER: We're working on it; it's coming. That's about it. [LR262]

SENATOR DUBAS: We're working on it; it's coming. That's what you've been told. Okay. And then I believe you stated you were going to close your center. Is it... [LR262]

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GWEN PORTER: That's what we were faced with. [LR262]

SENATOR DUBAS: Is it still open? [LR262]

GWEN PORTER: It's still open. [LR262]

SENATOR DUBAS: How have you been able to keep it open? [LR262]

GWEN PORTER: We had to take from something that's going to affect our future. We have to borrow from that, basically robbed Peter to pay Paul. [LR262]

SENATOR DUBAS: Okay. Have you talked with anybody about what kind of recourse you have to make the state pay their bill? [LR262]

GWEN PORTER: We communicate with Sherri Eveleth and Sherri Haber, and Kevin Young is now the person tasked to work on our billings. [LR262]

SENATOR DUBAS: Okay. Outside of the department, have you pursued any legal avenues or looked for any legal... [LR262]

GWEN PORTER: We're trying to trust this relationship and the agreement that we have. [LR262]

SENATOR DUBAS: As you should be able to, and so it's unfortunate that that hasn't happened. I really appreciate you bringing this to our attention very much. Thank you. [LR262]

SENATOR CAMPBELL: Senator Coash. [LR262]

SENATOR COASH: Those were my questions. [LR262]

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SENATOR CAMPBELL: Okay. Any other? So the \$500,000 is all in child welfare funds.  
[LR262]

GWEN PORTER: Reimbursements, yes. [LR262]

SENATOR CAMPBELL: Is any of it Medicaid reimbursements? [LR262]

GWEN PORTER: No. [LR262]

SENATOR CAMPBELL: Okay. [LR262]

GWEN PORTER: That's for foster care, our personnel,... [LR262]

SENATOR CAMPBELL: Oh, okay. [LR262]

GWEN PORTER: ...services. [LR262]

SENATOR CAMPBELL: Well, we certainly will check for you... [LR262]

GWEN PORTER: Appreciate it. [LR262]

SENATOR CAMPBELL: ...and I will... [LR262]

SENATOR DAVIS: Senator. [LR262]

SENATOR CAMPBELL: Oh, I'm sorry, Senator Davis. [LR262]

SENATOR DAVIS: Just one. Talking about this funding that you're short, has this  
happened before with the state or is this a one-time occurrence or is this fairly... [LR262]

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GWEN PORTER: It's ongoing. [LR262]

SENATOR DAVIS: Ongoing. [LR262]

GWEN PORTER: Uh-huh. [LR262]

SENATOR DAVIS: And how long have you been dealing with these kind of issues with the state? [LR262]

GWEN PORTER: That I'm aware of, as far as having a contract with the state, we've been in this contract for six years, I believe. Our CFS director is here, I was trying to get some information from her, update. In 2012 was when it really got strenuous when we were going by the reimbursement process, where we were having to submit all the documentation per case, receipts, requests, vouchers, all of that. [LR262]

SENATOR DAVIS: Thank you. [LR262]

SENATOR CAMPBELL: Any other questions? I want to thank you for coming but also for the tribal leaders to come. Thank you very much. I know it's time out of everyone's day, but it means a lot to have the leaders of the Tribal Council here with us, so thank you. Thank you very much. [LR262]

GWEN PORTER: Thank you. [LR262]

SENATOR CAMPBELL: On my list, Senator Coash had also listed if there were any other tribal representatives here that we have (inaudible) that would wish... [LR262]

SENATOR COASH: And we do have Misty Thomas. She's a tribal representative. [LR262]

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SENATOR CAMPBELL: Okay. [LR262]

SENATOR COASH: She's a tribal representative. She's down the list a little ways, so.  
[LR262]

SENATOR CAMPBELL: Okay. So I'm going to go ahead with... [LR262]

SENATOR COASH: Is that Misty? We have you down on the list, but. [LR262]

MISTY THOMAS: Okay. I can speak on behalf of the coalition and also on behalf of the  
tribe. [LR262]

SENATOR CAMPBELL: Okay. [LR262]

MISTY THOMAS: So I think he has me down for the coalition. [LR262]

SENATOR CAMPBELL: Would you like to...Senator Coash says that's fine because he  
put the list together. [LR262]

MISTY THOMAS: I have several handouts here. [LR262]

SENATOR CAMPBELL: And Phoebe will be glad to help you with those. [LR262]

MISTY THOMAS: And there's three handouts. [LR262]

SENATOR COASH: And as you get settled, we'll just kind of let folks know who's on  
deck. Following Misty, we'll have Judge Johnson, then we have two representatives  
from Boys Town, and then... [LR262]

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SENATOR CAMPBELL: Sherri from the department. [LR262]

SENATOR COASH: ...Sherri from the department. [LR262]

SENATOR CAMPBELL: Good afternoon. [LR262]

MISTY THOMAS: Good afternoon. [LR262]

SENATOR CAMPBELL: Would you state your name and spell it for us? [LR262]

MISTY THOMAS: (Exhibit 9) Yes. My name is Misty Thomas, M-i-s-t-y T-h-o-m-a-s. I'm the director of the social services department for the Santee Sioux Nation and an active member of the Nebraska ICWA Coalition since we started in 2009. The coalition...and like I said before, I can...I'm here to speak on behalf of the coalition as well as the Santee Sioux Nation. So the coalition is made up of all the tribes, the state of Nebraska representatives, attorneys, Nebraska Appleseed, and others that are concerned about ICWA compliance in the state of Nebraska. I've given you several handouts. There's three of them. There's one specifically on what the ICWA Coalition, who we are and what we do, some of our accomplishments. And also, like Amy had mentioned, the Diligent Recruitment grant for foster care. When we were applying for that, I was telling one of our colleagues that they should just give us the money because we were successful in pulling together that many people and that many entities and agencies, and we were funded; and we are waiting upon the award letter for that so we can get started with that. We have...I've also given you a handout on the number of cases that I was able to pull together for each tribe, to give you an idea of what our caseloads are. And the answer to your question earlier is, yes, we all face similar problems, lack of funding. And just to put that into perspective, I've been working with the tribe for seven years. And when I started I always thought that our relationship with the state was really, really good, and was proud of the fact that we had people at the state that were willing to support us and respect that government-to-government relationship. And as

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time went on, it seemed like we heard less and less and less from the state, and it was just Sherri Eveleth; she was our only contact with the state. We continued with our child welfare contract the best that we could. We...and then over time and then we got an invitation to a CQI meeting, a continuous quality improvement meeting; and it was very embarrassing because the numbers that they had brought forward to us, all of the tribes were on the same level and it was very close to zeros across the board. And then you looked at the other across the state and their levels were at, like, 80 and 90 percent to 100 percent. And so it was very embarrassing for us to sit at the table and have these numbers presented at this meeting, and I was...felt uncomfortable and very upset about it, and I made the mention to that, you know; and it's like the state...the tribes are always the last ones to come to the table. We're always the last ones to be trained. You know, we were the last ones to be trained on SDM and Title IV-E and all the needs that they've talked about already. And the answer that I got to that was the state was a sinking ship and they were trying to keep afloat themselves; and I understand that. And so in the meantime, while they were trying to keep afloat, we had basically drowned. So I just wanted to put that into perspective to answer your question. And so I've heard the question of why are Native children sometimes more likely to be in the system? And there's a lot of possible questions and answers for that. You know, there's...but one of the things, and Judi already talked about that, is intergenerational trauma or historical trauma. You know, are we...Native families, are we more likely to be violent or abusive towards our children? Are we more likely to be alcoholics or drug addicts or be neglectful? And do we not love our children? The harsh reality of the status of Native people is this as a result of historical trauma or intergenerational trauma. How many of you have heard those terms before? Real quickly, it is the result of the genocide tactics of the United States government. Two hundred years ago it was the goal of the United States to kill the Indian and save the men. Through the tactics of the boarding schools, reservations, forced relocation, and the removal of Native children from their homes, the U.S. government and other entities have been actively involved in trying to kill the cultural identity of Native people. Were they successful? Some would say yes; and others would say no, because we're still here. Nevertheless, the genocide tactics have

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had long-lasting effects on Native people, and some would say that genocide continues and historical trauma continues every time a child is removed from their home. The vicious reality of historical trauma continues. The trauma creates more trauma and more trauma. My purpose here today is not to bash the federal government or any federal...any governmental agency. I'm here to present the facts that, you know, this is where we are as Native people today, and hope that we can work together to help our people heal and overcome the effects of intergenerational trauma. [LR262]

SENATOR CAMPBELL: Thank you very much for your...I'm sorry, I was reading from your handouts for us. Questions? Oh, Senator Brasch. [LR262]

SENATOR BRASCH: Just very briefly. And I also want to thank you very much for answering the question and your testimony today. And what I've been thinking is the goal, I think for anyone, the tribes, others, is to keep families together and not just grow foster homes. And recently, during our last session, we looked at the juvenile justice system on, you know, how do we prevent youth from ending up in jail. You know, is it behavioral help? You know, we're revamping that system, trying to make sure we have more successful youth: the First Five programs, other programs. Years ago, this dates me a little bit, back in '90s, former Governor Kay Orr had an agency just for families and helping build and strengthen families. And, you know, I'm just wondering if...and I know...I believe that no longer exists, and it got absorbed into another agency. I would need to research that. But do you think helping...you know, is this apples and oranges? You know, if we assist families, do we assist children from the path of foster care? Or are the people here saying that's the best path, that we need to put children in foster care and we don't have...? You know, can you explain just a little bit to me, do you...have you thought about that or...you know? [LR262]

MISTY THOMAS: I think that is something definitely that we need to work on is, like Amy was talking about earlier, is resources for families. And that's one of the key areas that, you know, we would like to develop. And what we see a lot of time is, you know,

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we have...as tribes, we have a lot of the cultural resources and we would like to think of our culture as a protective factor and something that will help our families to be better themselves. And so we have the cultural strengths and resources, but a lot of times we don't have the funding to be able to put them to work. So that's definitely an area we've looked at. [LR262]

SENATOR BRASCH: When I first became a senator, I did serve Thurston County for about six months, until we redistricted. And I was contacted then by a person from a group in Thurston County. Is it Motherhood is Sacred? [LR262]

MISTY THOMAS: Um-hum. [LR262]

SENATOR BRASCH: I don't know, is that still existing? And it was with Winnebago Tribe. Are you familiar with that, where they were trying to work with parents, if they were parents or before they become parents, to educate youth? [LR262]

MISTY THOMAS: I think that's probably a question for the Winnebago Tribe to answer. I can't answer that. Sorry. [LR262]

SENATOR BRASCH: Tribe. Okay, I could...and that was done, so. Thank you for your valuable input here and your work. [LR262]

MISTY THOMAS: Sure. Thank you all very much. [LR262]

SENATOR CAMPBELL: Misty, I have a question. We heard from the Omaha Tribe about the \$500,000. Are you owed back payment for anything, by the department or the state? [LR262]

MISTY THOMAS: Right now, we just recently got our...oh, what is that, that agreement--the intermediary agreement. So basically our tribe was carrying us for the

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last month and a half. We basically operated with no funding. They were able to keep our staff on and that was it. So I don't know. I don't have the exact figures of what we would be owed at this point. I don't know that. [LR262]

SENATOR CAMPBELL: Okay. But you think that there may be a backlog of monies that you are owed, you just don't know the exact... [LR262]

MISTY THOMAS: Yes. [LR262]

SENATOR CAMPBELL: ...the exact amount. The other...and I was taking a look at the information that you've provided to us, and under that you talk about funding for mental health needs. Are you able to access any of the behavioral health in the regions that have money? Are you able to access those services or that money? [LR262]

MISTY THOMAS: Yes, we do. Well, we access them through the...we have the HEART Program which is the drug and alcohol program and the mental health program. So we work with them. We've also been working on a program called Access to Recovery, which would also help us with this area. But again, it's having the staff to be able to fully implement the program. But that's one of the avenues we're looking at for our tribe. [LR262]

SENATOR CAMPBELL: Do you mainly work with one region, Misty? [LR262]

MISTY THOMAS: As far as our ICWA cases? [LR262]

SENATOR CAMPBELL: Or...I'm trying to think what region that would be. [LR262]

MISTY THOMAS: For what? I'm not sure what you're asking. [LR262]

SENATOR CAMPBELL: Well, on the behavioral health regions. Are you primarily in one

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region, or across all six of them in accessing... [LR262]

MISTY THOMAS: In the state of Nebraska? [LR262]

SENATOR CAMPBELL: Yes. [LR262]

MISTY THOMAS: Primarily, probably one region, and we're in northeast Nebraska.  
[LR262]

SENATOR CAMPBELL: Okay. [LR262]

MISTY THOMAS: Knox County. [LR262]

SENATOR CAMPBELL: Because that would be something that we would want to take a  
look at, too, just seeing what the allocation of behavioral health dollars to the regions  
might be. And that's why I asked the question, because of your funding. [LR262]

MISTY THOMAS: And we're very rural, and so that makes everything even more  
difficult. [LR262]

SENATOR CAMPBELL: Oh, I'm sure. [LR262]

MISTY THOMAS: We have to take clients 75 miles one way to Norfolk in order to get an  
evaluation completed. [LR262]

SENATOR CAMPBELL: I understand the distance. We hear that a lot. [LR262]

MISTY THOMAS: Yeah, it makes things difficult. [LR262]

SENATOR CAMPBELL: Oh, I'm sorry. Senator Dubas. [LR262]

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SENATOR DUBAS: Thank you, Senator Campbell. Thank you, Misty, for your testimony. Looking at some of your suggestions and recommendations, you talked about the Legislature should create a committee that would work within the Children's Commission to represent Indian issues. So at this point in time, is there anyone on the commission that you either have dialogue with or that you feel is representing your issues at all, and that's your reasoning behind creating this committee that would work within the commission? [LR262]

MISTY THOMAS: I myself, I have not. But some of our...the people on our ICWA Coalition may have. And I know that a couple months ago they had asked me if I would be willing to serve on the Children's Commission, and I did respond that yes, I would be. But that's not gone anywhere yet and I'm not sure how that whole process works, but. [LR262]

SENATOR DUBAS: Okay. Well, I appreciate that. That's probably something I'll follow up with, so I thank you for your...thank you again for coming. Appreciate it. [LR262]

MISTY THOMAS: Sure. Thank you. [LR262]

SENATOR CAMPBELL: Senator Dubas, we added somebody in the last session and that person was at the last Children's Commission, has been pointed by the Governor. [LR262]

SENATOR DUBAS: Very good. Thank you for the information. [LR262]

SENATOR CAMPBELL: And I'm sorry that I can't remember the name of the person, but she was at the last Children's Commission. [LR262]

SENATOR COASH: I think Judi knows. [LR262]

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SENATOR CAMPBELL: Judi probably knows. That's okay. [LR262]

JUDI GAIASHKIBOS: We submitted three names, and the Governor selected Andrea Miller. She's Omaha Sioux. She's an attorney and she has five children. [LR262]

SENATOR CAMPBELL: Okay. It's just that the mike is not going to pick you up. The record is not going to pick you up. So we'll catch it at the end, how's that? [LR262]

SENATOR COASH: We do have a Native member on the commission, is the short answer to the question. But not a committee within the commission, which is what you were suggesting. [LR262]

MISTY THOMAS: Um-hum. [LR262]

SENATOR CAMPBELL: Yeah. You are asking for a whole committee. [LR262]

MISTY THOMAS: Yes. [LR262]

SENATOR CAMPBELL: Got it. [LR262]

MISTY THOMAS: All right. Thank you. [LR262]

SENATOR CAMPBELL: Thank you. Okay, we will return to the list and the next testifier is Judge Douglas Johnson. Good afternoon. Thanks for coming back. And we... [LR262]

DOUGLAS JOHNSON: (Exhibit 10) Thank you. I'm Judge Doug Johnson, D-o-u-g J-o-h-n-s-o-n. I'm a juvenile judge in Omaha-Douglas County, and I'm a past-president of the National Council of Juvenile and Family Court Judges. I thank you for the invitation to be here. I've got some materials that I'm passing to you. The first is a

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resolution in support of full implementation of the Indian Child Welfare Act. This was passed unanimously at our annual conference in Seattle, this past July; full representation across the country, tribal courts are included and members. And these resolutions were some of the best thoughts nationwide about the situation. And if I could just highlight a couple of paragraphs, some of which you've heard already. Whereas, Congress found that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and are over represented--Nebraska is one of the highest country, across the United States. It's generally rated 2:1. Nebraska is 5.9. Twenty-six states have a higher disproportionately index than 4.1 And the thoughts were that the administrative and judicial bodies often fail to recognize the essential tribal relations of Indian people and their cultural and social standards prevailing in their communities and families. And whereas, a renewed commitment to full implementation of the Indian Child Welfare Act will result in the preservation of the rights, cultures, connections, and traditions of Indian children and their families. And so the point is that we not only follow the letter of the law but the spirit of law through renewed collaboration, training. And to that end, some of the materials I have for you include, from our tribal liaison at the council, as we call it, a number of training opportunities. And I stand here today to tell you, as a faculty member of the National Council of Juvenile and Family Court Judges, that we will assist with training and we do this all over the country, and we've got a number of options here that you could take a look at. I also have brought a number of those. I can e-mail these to anybody, but I brought one full set, because it's kind of thick, and I didn't want to kill anymore trees. So lots of good things there about what we can do to improve it. And so as I look at the, you know, what we're dealing with here today, I'd like to highlight bullet (1) and (3) of LR262: opportunities for decision makers to gain competency regarding ICWA. That means everybody not just the judges; all the system stakeholders. And we have this turnover, as I've told you. So too for the compliance factor, not only the letter but the spirit of the law. The other document I've got is an ICWA educational video. This

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is new from 2013. This was put together by the National Resource Center for Tribes, and the Mississippi Band of Choctaw Indians. It's on YouTube. I've got the hot link for you. It's very moving about the Trail of Tears, cultural, historical trauma, intergenerational trauma. And so I stand here to pledge my support for whatever we can do to assist and do a better job of, you know, responding to children and their families who are Natives. And interestingly, I just point out the year after ICWA was passed, federally, in '78, I was a Jesuit and I was sent to Pine Ridge Reservation. I served there and also the Plainview Sioux Spiritual Center. And the main mission was: reparation of the damage we had done. And I learned a great deal, so I'm very committed to this issue. I thank you all for your willingness to take this on, and I pledge my support. As one quick win we might be able to get: What if we were to have a statewide summit on ICWA with some sort of a task force with tribal leadership creating this for an opportunity for better understanding of cultural traditions and ICWA itself and how we can better serve? And perhaps put on a summit about this, might be one quick win to try to raise the bar and awareness of what's going on. But I'm open to suggestions. Any questions? [LR262]

SENATOR CAMPBELL: Judge Johnson, you serve as the cochair of the Nebraska Commission on Children and the Courts, the Supreme Court commission. And has the commission had a separate committee on ICWA? [LR262]

DOUGLAS JOHNSON: Yes. [LR262]

SENATOR CAMPBELL: And could you talk a little bit about it, because I know you do, but I think we need for the senators, for them to know what's been done there. [LR262]

DOUGLAS JOHNSON: Yes. Judge Jamie Orr of Valentine had been a chair and was making a lot of inroads. He had to resign from that post. He couldn't take it. Judge Patrick Runge, who is also a tribal judge, has now taken that on. And we have our next meeting coming up in December, and we're going to find out what he's done. There's

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been some inroads to talk about collaboration; and it's about relationships. Not talking at, talking with. And so we look forward to that. We kind of had a setback when Judge Orr had to step down, so that's where we're at right now. [LR262]

SENATOR CAMPBELL: Okay. When we had the hearing in Macy, there was a lot of discussion about appointments to the tribal court and how they operate. For our benefit, how are the judges appointed to the tribal courts and how does that work? [LR262]

DOUGLAS JOHNSON: I've not been involved in that, but what I am told is that the tribe decides that. There are tribes throughout the country, some are lawyers, some are not, some are members of the tribe, some are not. And so I defer to the tribe and what they want to do. I think that's the right... [LR262]

SENATOR CAMPBELL: We spent a lot of time in Macy on that issue, and I just think it's interesting for us to have some background there. Senator Coash. [LR262]

SENATOR COASH: Thank you, Senator Campbell. Judge, one of the things that I heard from stakeholders across the state with regard to ICWA was that, you know, you'll see a...not all Native children look Native, all right? And so you might have a child that may claim enrollment, may not know, and there's just not the due diligence place to check that to see if that child, in fact, falls under those statutes, so that their rights as a tribal member are taken into account. So I wondered if you could...if you have any comment on that experience. The second thing that we hear is that even when a child does fall under ICWA, that they're, depending on where you are in the state, that you may find a judge who's just not up to speed or a caseworker who's not quite up to speed. It's, as you said, it's all stakeholders. But specifically, from your perspective of the bench, what kind of education are judges getting and making sure that those statutes apply appropriately and those rights are protected? [LR262]

DOUGLAS JOHNSON: Thank you. I'll got to the first question, first. Interesting that you

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bring this up, because this morning I teach juvenile law at Creighton Law School, and we were covering some ICWA issues today, and I gave them an example of a young attorney struggling to figure out what the law meant. So we had a prehearing conference and one of the questions is, is there any reason that the Indian Child Welfare Act would apply? Then you do your due diligence, get the notice out, invite the tribe, and build. We knew that. So the first petition didn't plead ICWA because they didn't know. They filed a leave to amend. Granted. They plead part of ICWA. They missed it. The defense objects. Another motion, leave to amend. Finally, three times, they get the right drafting. Now, to me, that's elementary lawyering. But they didn't know. So that's one level. And I said, when I had to go to some trainings years ago, and learned a lot about what we should do as judges, one of our friends in Oregon said, instead of "quiet" when you walk in the courtroom, the sign says, "Is there any reason to believe that the Indian Child Welfare Act may apply in this case?" That's what they put on their doors. So I come back from the training and I'm ready to go. We've got this case that's been open about seven months, already adjudicated, right--under the civil standard. So I go: By the way, any reason to believe that the Indian Child Welfare Act may apply? Prosecutor: no. Parents' defense: no. Guardian ad litem: no. CASA: no. Foster care: no. Everybody...caseworker: no. Dad raises his hand and he said: Yes, it does. I said: Really? He says: Yeah, my mom is Sioux, Sioux Nation. I said: Really? Well, we've got to get notice out. This guy was blond-haired, blue-eyed, and his name was Bojanski. We didn't ask the question...you can't assume. You cannot assume. And that's why we need to do that. The training, we have the Child Abuse and Neglect Institute that we run in our college, in Nevada, and I facilitate that. And we bring in...we have judges from all over the country, travel judges participate. One of our trainers is Judge Bill Thorne from Oregon. He's a Court of Appeals judge from Utah, who is Native American and well-versed in this, and he's been to Nebraska. I'd love to get him back, and others. So it's training, training, training. And somebody asked, why is it that we have this disproportionality? And I can't remember who. My feeling is, it's intentional or unintentional bias. We all have a perspective and it may not be intentional but we are doing great training on that to step back and rethink our assumptions as judges. We're

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doing specific training. But I am urging the council, we need to break that out so that all of the stakeholders have a piece of that, because we can't do it alone. [LR262]

SENATOR COASH: Thank you, Judge. [LR262]

SENATOR CAMPBELL: Thank you. Thank you very much, Judge, for coming back. It's always good to see you. [LR262]

DOUGLAS JOHNSON: Thanks. Who shall I leave this with? And I can get... [LR262]

SENATOR CAMPBELL: Senator Coash. [LR262]

DOUGLAS JOHNSON: Okay. And I can get...I can e-mail all the hot links if you'd like, and I can give it to everybody. It's all free and meant to be reproduced. [LR262]

SENATOR CAMPBELL: Excellent. [LR262]

DOUGLAS JOHNSON: Thank you. [LR262]

SENATOR CAMPBELL: Thank you, Judge. Our next testifier is Harley Upton. Good afternoon. [LR262]

HARLEY UPTON: Hello. I'm Harley Upton, H-a-r-l-e-y, last name Upton, U-p-t-o-n. I am here on behalf of Boys Town. I'm an ambassador of Boys Town. I strongly believe in Boys Town. Also I do represent the Ponca Tribe of Nebraska as well. I will not speak for them but I will speak for Boys Town. So I'm kind of nervous a little bit, it's kind of a new thing to me, so I'm going to go at it. I'm a certified family teacher at Boys Town. Boys Town has given me the honor of being in charge of the Native American boys program, for a little over eight years. Myself and my wife are enrolled members of a federally recognized tribe. During our time working at Boys Town, we have cared for over 65

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youth that are from federally recognized tribes, mainly, from the state of Nebraska: the Ho-Chunk, the Omaha, the Ponca, and the Santee Nation. Our program provides a family-style living. Basically, we give them a home away from home. We have cultural sensitivity, and that was one of the biggest things that Boys Town ran into years before me and my wife took over the program in 2005. Just to kind of backtrack from that a little bit, today I kind of come to you as one of them Indians that was pulled out of his home by the system. As I went on my journey through Boys Town, they were really culturally incompetent, I felt. I think that if there was some type of Native American program or type of awareness put in place during that time, I would have got through Boys Town in a better fashion than I did. But besides that, as of 2005, Boys Town hired me and my wife to come in and work with the Native American children. And we changed some things there. We opened some eyes. We built relationships with the tribes in the state of Nebraska. And one of the biggest issues that we can run into was trust. Is Boys town culturally...you know, are they competent? And yes, we are. As of that year, our Native American boys had their hair grow out long. We actually put in place a sweat lodge there, as well, where we had people from the Ho-Chunk and the Omaha reservation come down and put up a sweat lodge for our children as well. And at the same time, with me being there and my wife being there, we've trained our staff to become more culturally competent through the years. By this, we are bringing in elders from different tribes, educating staff on the culture. One of the biggest struggles that we run into right now in the past two years is funding, not with Boys Town but just with the tribes. We have a great program at Boys Town and a lot of the tribes are struggling to bring the kids into our program. And our numbers have gone down and declined in the past two years or so, and that's really sad to say because that program is a very good program. I hope that, you know, that the tribes will get some type of funding here in the future to get some of those kids to our program. One of the other things that we kind of run into, the problem too, is Boys Town is setting out goals to possibly maybe have a liaison that works with the tribes, to check on the kids when they go on home visits, to check in with the parents, to make sure that they're following those goals that we set out for them, and just to kind of make sure that we offer services to the families for a

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smooth transition for returning youth home. And some of the kids that we've had here that recently graduated, some have went off to the military, some have went off to college. I believe that Boys Town provides a great program for the Native American youth out there, who are out of home, who are being placed in a placement outside their home. I think that Boys Town should be one of those number one priorities, as well. [LR262]

SENATOR CAMPBELL: Questions? I see there's some questions here. We'll start with Senator Coash. [LR262]

SENATOR COASH: Thank you, Senator Campbell. Thank you, Harley, for coming. You did a great job testifying. You described...you're in charge of a program where Native kids from across the state come in, and it's on campus there, at Boys Town, where you and your wife provide that home? [LR262]

HARLEY UPTON: Um-hum. [LR262]

SENATOR COASH: Is there any outreach where Boys Town goes out into the tribal communities to provide support? [LR262]

HARLEY UPTON: When the program first started, there was, per se, a liaison that worked out there, an elder from the Omaha Tribe, and he worked specifically with the families and worked specifically with the kids. And he provided feedback to Boys Town on how to handle things and that type of deal. As of right now, one of our goals that, you know, myself and Father Boes, as executive director of Boys Town, have kind of talked about was possibly having a liaison or... [LR262]

SENATOR COASH: Do you think that there's some value in...I mean, the goal would be to have a kid stay at home... [LR262]

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HARLEY UPTON: Yes. [LR262]

SENATOR COASH: ...with their tribe. If you can't achieve that, I think, in my mind, you know, the second best thing is at least a culturally competent home, such as what you provide. So do you think there's some value in kind of reversing it and have more people like you going out into the tribes and supporting those tribes rather than having to wait until they have to come stay with you and your wife? [LR262]

HARLEY UPTON: I think Father Boes has more on that, on how he's going to be able to handle that and...like I said, our program, you know, we teach the kids, you know, to adapt to two worlds. Myself as a young kid, I didn't know how to adapt, you know, living on the Indian reservation and coming into a different world and having to learn a certain social skill, you know. One of the things that was very tough for me was looking someone in the eye. In our culture, we don't look no one in the eye. We kind of look down, you know, as a sign of being humble. But at Boys Town, I kind of teach the difference between that. I teach a kid, hey yeah, when you go home you're going to be able to, you know, stand there looking down when an elder talks to you; but at the same time, if you go into a job interview, you're going to have to look the employer right in the eye. So it's just kind of teaching the kids, as well as educating the families; and when we do educate the families we're building that trust. That's just the biggest thing, bottom line, is building that trust with the families, the Native American families, because there's always that same deal of, you know, that's the white man's way, we don't do that way no more. But if you look into the future, we're going to have to be able to balance that out to survive in this world. [LR262]

SENATOR COASH: Thank you very much. [LR262]

SENATOR CAMPBELL: Other questions? You did a great job. Thank you. [LR262]

HARLEY UPTON: All right. Yep. [LR262]

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SENATOR CAMPBELL: You shouldn't have been nervous at all. We'll see you next time, okay? Our next testifier is Father Boes. Good afternoon. [LR262]

STEVEN BOES: Good afternoon. Thanks for having me, Senators. Father Steven Boes, S-t-e-v-e-n B-o-e-s, National Executive Director of Boys Town. I'm here really in two capacities. I am the former director of the St. Augustine Indian Mission in Winnebago, Nebraska. I was there for eight years, and from June of '97 to June of 2005, when I came to Boys Town. Sadly, St. Augustine was part of the history of the boarding schools in the United States, very not only culturally incompetent but actively trying to destroy American Indian culture. The last four priests at Boys Town, and I'm one of them, we've actively tried to become more culturally competent. It started with Father Whiteing, then Father Bauwens, myself, and Father Korth now. All of us are working to establish a more culturally competent Catholic school for kids on the reservation. And just, by the way, about half the kids are Catholic and half aren't. But it's a really cool, great school. We have a lot of success to brag about. The average graduation rate for American Indian kids in the United States is about 40 percent, and our eighth grade graduates will go on, 80 percent of them will graduate from high school. Statistically, it's hard to measure, but about 1 percent of American Indians go to college, and we had about 10 percent of our kids that are graduates go on to college. So a lot of success, I think, and because of our cultural competence. When I came to Boys Town in 2005, I wanted to continue the work that had already been started there to increase cultural competence. In 1991, we opened our first Native American homes, because we discovered that Native kids were one of the only racial groups that had different outcomes from everybody else at Boys Town. They had shorter lengths of stay. The length of stay was, on average, three months. We had a little joke: He ain't heavy, he ain't here. When you run away, you're pretty easy to take care of. We've been able to lengthen that with our cultural competence to about 18 months. We're still not there yet. We're working on that. But that's the norm now and that's everybody else's norm as well. We also had extremely bad outcomes for kids after they left Boys Town, and now

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the average American Indian child has long-term outcomes that match those of others. One of the things that I'm here to talk about is the cultural changes that happened at Boys Town. We're not only about cultural competence but a change in direction towards keeping families together. When I came, in 2005, we were serving 12,000 kids in youth care, and only 25 percent of that 12,000 were being helped in their own home or their own community. That means we pulled out of the homes 75 percent of the kids we cared for. This year we will serve close to 32,000 kids, and 90 percent of them will never leave their own home, their own neighborhood, their own school, to get the help. We're committed to that change happening not only at Boys Town internally but across the United States as part of how we want to change the way America cares for children, families, and communities. So we're having more and more contact with kids. While they're pulled out of the home, we keep contact with the home. We have a unique program called On the Way Home, where we connect kids to their home school district, their home teachers, their own parents and neighborhood resources, so that when they go home, it's a one direction not a revolving door. Our proposals for the fix of the foster care program in the United States and the high rates of Native American placement are three. First, increased preventative services on the Indian reservation. This means do a little bit more common-sense parenting, or that's our model, or other parenting classes. When I was on the reservation, I asked the local librarian, what's the number one checked-out book here by adults? And they said, by a factor of 10 to 1, it was any parenting book was checked out ten times more than any other book. In-home services would be helpful to prevent children from being pulled out when they're identified as having problems. And then increased behavioral health. To that effort, we are working on telehealth: mental health, telepsychiatry, and telepsychology at Boys Town. We'd also suggest kin care. That's where you pay the parents of a relative to take care for a child. Again, you can't hold them to the same standards as you would hold a foster parent, you know, the education and things; but I think it's a very good fix and it keeps kids at home and on the reservation, or in their own neighborhoods, wherever they're from. And then the Parent Connectors Program is to require of people who pull children out of the home, especially Native children, to keep a connection to the home, strong.

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And that is my testimony. [LR262]

SENATOR CAMPBELL: Thank you, Father Boes. You always are right on. [LR262]

STEVEN BOES: I practice. (Laughter) [LR262]

SENATOR CAMPBELL: You must, because when you come to testify, I don't even have to watch the clock. Senator Dubas. [LR262]

SENATOR DUBAS: Thank you, Senator Campbell. Thank you. Good to see you, Father Boes. Mr. Upton referred to what sounded like declining numbers of Native Americans coming into your program. [LR262]

STEVEN BOES: Yes. [LR262]

SENATOR DUBAS I guess I would ask you to expand on that a little bit. [LR262]

STEVEN BOES: So I wish it was because they were staying with their folks, their parents, more. What happens is, as the tribes run out of money, they have less ability to pay, especially for the costly services of out-of-home care. [LR262]

SENATOR DUBAS: Do you have any trouble with reimbursements for the services that you provide for the Native children? [LR262]

STEVEN BOES: I'd have to ask Dr. Jerry Davis. I have no idea. [LR262]

SENATOR DUBAS: Okay. We can follow up on that later. [LR262]

STEVEN BOES: I could follow up. [LR262]

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SENATOR DUBAS: Thank you. [LR262]

SENATOR CAMPBELL: Other questions? Thank you, Father Boes. [LR262]

STEVEN BOES: Thanks. [LR262]

SENATOR CAMPBELL: Our next testifier is Sherri Eveleth. I apologize Sherri, I don't get that right every time. [LR262]

SHERRI EVELETH: Thank you, Senator Campbell. [LR262]

SENATOR CAMPBELL: Take your time. Phoebe will help you with the materials. Good afternoon. [LR262]

SHERRI EVELETH: (Exhibit 11) Good afternoon, Senator Campbell, Senator Coash, and members of the Health and Human Services, State-Tribal Relations, and Judiciary Committees. My name is Sherri Eveleth, S-h-e-r-r-i E-v-e-l-e-t-h, and I am the Indian child welfare program specialist for the Division of Children and Family Services in the Department of Health and Human Services. I am here to provide testimony in support of the department's role under the Nebraska ICWA, specifically those roles related to the issues outlined in LR262. LR262 is an interim study to review, investigate, and assess the state of Nebraska's compliance with both the federal Indian Child Welfare Act of 1978 and the Nebraska Indian Child Welfare Act--ICWA. As you may recall from the 2012 interim study hearing, many entities are required to comply with the ICWA, including the Nebraska Department of Health and Human Services, courts, attorneys, and other parties in child custody proceedings, and the Bureau of Indian Affairs. For the purpose of my testimony, I will focus on DHHS's role in compliance. The department recognizes the importance of complying with ICWA and is committed to taking steps to continually improve any compliance concerns. In order to ensure that the department is in compliance with ICWA, the position of the CFS Indian child welfare program

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specialist was created. As the current Indian child welfare program specialist, I assist CFS with ICWA compliance in several different capacities. I consult with CFS staff on ICWA policy and the application of the policy in individual cases, provide ICWA training to staff, and I have served as a qualified expert witness in specific cases. In addition, I have attended new judges orientation to provide them with ICWA materials, and I have worked with the court improvement project to provide ICWA materials to the Douglas and Lancaster County Juvenile Court judges. I also represent the department in the ICWA Coalition, a group of individuals addressing the implementation of ICWA in Nebraska and Iowa. On a monthly basis, I participate in conference calls with a national group of state specialists who share Nebraska CFS's commitment to continuous improvement and compliance with ICWA. As part of the commitment to continuous improvement, CFS is working with in-service areas and with external partners in order to develop local qualified expert witnesses, as there is a limited number of witnesses available to participate in the court process. Qualified expert witness testimony is required when placing an Indian child in foster care, and when terminating parental rights. A member of the child's tribe is the preferred qualified expert witness in these cases. To better meet the needs of Native American children and families, the department has worked to fully integrate ICWA into all aspects of work with children and families, and to develop clear and concise ICWA procedures and training materials. Since the 2012 interim study hearing, I have been attending monthly CFS operations and continuous quality improvement meetings; and tribal representatives have been invited to attend. CFS has begun to revise and update written ICWA procedures and training materials which have been posted to the department's CFS training tool Web site. In addition, central office has held short- and long-term internal planning meetings with the tribes to discuss ways to enhance ICWA compliance. The CFS is also in the process of identifying any potential changes to the CFS data system--N-FOCUS--to better identify ICWA cases and gather ICWA data. Discussions and plans are ongoing, and other states' efforts have been reviewed. CFS recognizes the need to gather a baseline of information and to track identified data for ICWA compliance. The number of Native American service providers, Indian children in foster care, other data relevant to

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ICWA cases, and the criteria to gather the data, are complex. ICWA cases use the same terms but may have different definitions than non-ICWA cases. One example is the definition of Indian child. Before CFS must comply with ICWA, a court must find that a child is either a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. However, for purposes of federal reporting, CFS in Nebraska, as is the case in all states, identifies children based on race. Not all American Indian or Alaska Native children, by race, are members or eligible for membership in federally recognized tribes. It's necessary to identify, gather, and analyze appropriate data; and CFS is working to do so. CFS's next steps will be to develop systemic ways to gather relevant data. CFS also recognizes the need for communication between central office and service area staff, and systems teams are a recent development that has shown success. System teams are dedicated to a topic or issue, and the ICWA system team includes CFS staff and tribal representatives from Nebraska-based tribes. Feedback indicates that system team calls are helpful, and service area staff and tribal representatives have offered helpful suggestions to improve ICWA training and compliance in Nebraska. CFS collaboration with tribes has been enhanced over the last year. CFS contracts with the Omaha, Winnebago, and Santee Tribes, for child welfare and adult protective services, and for access by those tribes to federal Title IV-E funding for out-of-home care. CFS also contracts with the Omaha, Winnebago, Santee, and Ponca Tribes for independent living services for tribal youth and for domestic violence services. In addition, CFS coordinates and collaborates with tribes on child welfare issues, with the federal Department of Health and Human Services Children's Bureau, through the Nebraska ICWA Coalition, the Nebraska Commission on Indian Affairs, the Community Initiative for Native Children and Families, and on specific issues and in child welfare cases. Recently, the CFS collaborated with tribal representatives from all four Nebraska tribes, Iowa DHS staff, and staff of Briar Cliff University and the University of Iowa in requesting a grant to recruit Native foster homes. This grant was awarded to the collaborative group on October 7, 2013. CFS has also worked with tribal representatives to identify needs of tribal systems to better serve children and families who come to the attention of tribal

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systems. A tribal operations and continuous quality improvement, or CQI, group formed this summer and meets monthly. The operations and CQI process brings all four tribes together as well as CFS to collaborate and problem solve. The location of the meetings rotates among the four tribes. Discussion includes child welfare issues, including independent living, adult protective services, and domestic violence, and a review of N-FOCUS data related to tribal wards, including monthly visits of tribal wards by tribal workers, family team meetings, and documented placement changes. Included in the attachment I've provided you is information and data on the reporting of cases of children who are tribal wards, numbers of children in DHHS or DHHS-OJS custody who are identified as Native American, numbers of CFS foster parents identified as Native American, and additional information on active efforts and culturally appropriate services. Discussion during the CQI meetings focuses on what needs to occur to improve the outcomes over time. Regular review of data helps each tribe identify areas of success and areas needing improvement. The review of the data and reports is one way to focus on specific areas of the work that has been shown to improve outcomes for children and families. For example, we know that regular and quality contact with the youth promotes ongoing assessment of child safety and timely permanency. In summary, LR262 is a welcome opportunity to highlight the importance of ICWA and to review the work that CFS has accomplished over the past year in collaboration with tribes. CFS continues to pledge commitment, both internally and in collaboration with others, for continuous improvement to ensure compliance with ICWA. Thank you for the opportunity to provide testimony regarding LR262. I would be happy to answer any questions you may have. [LR262]

SENATOR CAMPBELL: Sherri, as we start down the road of questions, I do want us all to remember Judi's initial testimony, and I don't know if you were here... [LR262]

SHERRI EVELETH: I was. [LR262]

SENATOR CAMPBELL: ...when she talked about Sherri pulling out miracles. So I want

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us to caution that we don't want to shoot the messenger with some of the questions we're going to ask you,... [LR262]

SHERRI EVELETH: Thank you, Senator. (Laugh) [LR262]

SENATOR CAMPBELL: ...because when we were at Macy, again and again and again we kept hearing about this Sherri person. And finally, at the end of that hearing, we got to meet you. So we do appreciate all that you have done. I would like to start, however, with obviously the big question, and that is, why are we \$500,000 in arrears of paying the tribe or the testimony? So could you kind of enlighten us on that issue? [LR262]

SHERRI EVELETH: Thank you, Senator. I appreciate the opportunity to respond. The child welfare contracts with the Omaha Tribe, the Winnebago Tribe, and the Santee Sioux Nation, were in existence when I became a department employee in October 2006. They are two-year contracts and they have been renewed every two years. The Omaha tribal representative, Ms. Porter, Councilmember Ms. Porter, testified that part of the funding was due from the contract that ended on June 30, 2012, and ongoing into the current contract that began July 1...I'm sorry, that ended June 30, 2013, and the new contract that began July 1, 2013. In the previous contract there was a requirement for an intermediary; and in large part, the intermediary required a number of things that were slow to process. I met with the Omaha Tribal Council and a number of representatives, fiscal representatives, on January 3 of this year. At that time, the intermediary was waiting to request reimbursement from August of the previous year for \$130,000, and that request was pending...it was being held up because the intermediary was waiting for a \$200 receipt for clothing. I offered and asked for the intermediary to submit the billing for the entire \$130,000 amount minus that \$200 receipt for clothing, and asked that the intermediary submit a supplemental request for reimbursement for the other amount. Since that time, the intermediary requirement has been discontinued and the department is reviewing all documentation, all authorization. I met with Brenda Cline and DeAnna Parker. Brenda Cline is the tribe's fiscal

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representative; DeAnna Parker is the director of Omaha Tribal Child Protective Services. This past Friday and again two weeks prior to that, it was my understanding that the payment for July had been processed, two weeks prior to this past Friday, that...and this past Friday, Ms. Cline reported that they had received payment for July. There is documentation for August and September that was reviewed and submitted for payment this past week. That documentation was received just this past week. It was less than a 72-hour turnaround time from the time that the department's administrative assistant received the documentation required to process the report and the time that finance was provided with the department's approval to process the payment. Payments sometimes take up to 45 days. The Prompt Payment Act is part of the contract with the Omaha Tribe. The contracts with the Omaha Tribe, the Winnebago Tribe, and the Santee Sioux Nation are available on the department's public Web site. [LR262]

SENATOR CAMPBELL: So given these payments, will we then...will they be current or will they still be owed money from the other \$130,000? Or is this catching them all up? [LR262]

SHERRI EVELETH: There is some documentation missing. There are requests from the Omaha Tribe for reimbursement for foster care for cases that are showed as closed in 2012 on the system, but they're requesting foster care payments for 2013; so there are some issues that need to be resolved, and we're working with the Omaha Tribe to resolve those issues and to gather that documentation as quickly as we can and process that payment as quickly as we can. [LR262]

SENATOR CAMPBELL: I can't speak for the Tribal Relations, but I'm sure that the committee, that they would join us in that when you get this resolved, could you send an e-mail to the committee so we know that it's been resolved and they have...or if there's additional problems that need to be taken care of? Because I could sense a lot of concern on the part of the senators, because that's a lot of money. [LR262]

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SHERRI EVELETH: Understandably, yes. [LR262]

SENATOR CAMPBELL: So if you could do that, Sherri, that would be really helpful to know that that matter has been taken care of, because it sounds like you are working through that issue. The other question I'd have and then I'll let my colleagues ask some questions, but I'm concerned about the continued funding issues, I mean, that they feel underfunded or they aren't Title IV-E compliant. Is there something that we need to do from a statutory that would aid in that problem of...? Let's deal with the IV-E compliance first. [LR262]

SHERRI EVELETH: In regard to IV-E compliance, comprehensive IV-E trainings, all-day trainings, were provided to tribal staff in 2007 and again in August 2009, with IV-E-specific knowledgeable staff traveling from Lincoln to Norfolk, Nebraska. All tribal staff were invited and indeed required to attend the trainings. There have been continuous e-mails in addition to those trainings that were provided. There were materials provided at those trainings. I have packets of those materials. There were e-mails answering IV-E questions. For questions that I did not know the answers to, I went to Margaret Bitz or Ruth Grosse, and now Manuel Escamilla; his supervisor as well, Doug Kreifels. There has been continuous contact about IV-E, the requirements of IV-E; and there has been continual work with all tribes on IV-E, training and requirements. [LR262]

SENATOR CAMPBELL: All right, because it's certainly one of the issues that we wanted to help them drawn down, you know, that money; so whatever. Because they also talked about staff and personnel. So there's some noncompliance on some other issues. Am I hearing that right? [LR262]

SHERRI EVELETH: There has been...there has been some IV-E concerns in the past. There were...prior to the August training in 2009, tribally licensed foster homes were on N-FOCUS as licensed homes, and the department was make IV-E payments to those

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homes. The department became aware that none of the national criminal history checks required by IV-E regulations were being completed, so the department said we must have those national criminal history checks, and there has been a very long process in the tribes being able to complete those history checks. But it's my understanding that that has been resolved, that those national criminal history checks can be completed now and hopefully the IV-E funding will be available to reimburse tribally licensed foster homes. [LR262]

SENATOR CAMPBELL: Do we need to provide another, you know, large training or something to help them come into compliance here? [LR262]

SHERRI EVELETH: Department staff have visited reservation offices in order to provide training. I'm not aware of any comprehensive all-day training that's being planned at the present time, but it will be an ongoing, as needed, as requested, available training. [LR262]

SENATOR CAMPBELL: Okay. We might want to return to that. We'll go the other questions. Senator Coash, did you have a question? [LR262]

SENATOR COASH: Thank you. Just to dovetail on what you said. I mean, I think the most recent data I heard you say with the training was 2009. [LR262]

SHERRI EVELETH: Yes. [LR262]

SENATOR COASH: So it is probably worth the department's effort, I would think, to reengage in that training given that we're pushing four years past it. But we'll revisit that. You are...did you...did I hear this right, that you are the only Indian child welfare program specialist in the department? [LR262]

SHERRI EVELETH: I am. [LR262]

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SENATOR COASH: So you in your position represent the sum total, at least, of personnel resource that is put toward supporting tribes, supporting Native kids, become ICWA compliance. I mean, it's...you're kind of a one-woman show? [LR262]

SHERRI EVELETH: My position is specific to Indian child welfare. I also have the support of administrators. I attend the tribal operations meeting, as well as the department's operations meetings. [LR262]

SENATOR COASH: Right. [LR262]

SHERRI EVELETH: Yes. [LR262]

SENATOR COASH: But there's just one of you. [LR262]

SHERRI EVELETH: It is only my position that is specific to Indian child welfare, yes. [LR262]

SENATOR COASH: Okay. So that out of all of these challenges that we've heard with compliance and documentation and all of that, and your reputation precedes you. We certainly hear your name whenever these things come up. But it just...it seems to me that with the scope of the problem, the one resource of Sherri may not be enough, as competent and as hardworking as we know that you are. And so that's not a question; that's just a comment. I find it interesting with the scope of the problem, we've decided that the best we can do is one specialist with administrative support. [LR262]

SENATOR CAMPBELL: Questions Senator Dubas. [LR262]

SENATOR DUBAS: Thank you, Senator Campbell. And thank you, Sherri. And I too appreciate all of the work that you have done to help the tribes. And I think we've heard

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the judge talk about the importance of training across the board when it comes to ICWA just because there's...it's just a very hard policy, I guess, to wrap your mind around and really understand. It must be very complicated, I guess is what I'm trying to drive at. Would that be a correct statement? [LR262]

SHERRI EVELETH: The Indian Child Welfare Act in and of itself is a straightforward law. When you get into case specifics, it can become very complex, yes. [LR262]

SENATOR DUBAS: Okay. All right, so then that would reinforce the judge's comments about the importance of training across the board, whether it's in the judicial branch or HHS or anybody who has any contact with ICWA; training would be critical, correct? [LR262]

SHERRI EVELETH: Yes. [LR262]

SENATOR DUBAS: And is that...does that training fall under your purview, or are there others who help in providing training? [LR262]

SHERRI EVELETH: In part, under my purview. All new workers for the department receive new-worker training, and a component of that training is training in the Indian Child Welfare Act, as well as NFC workers. Their family permanency specialists have a requirement for Indian child welfare training. In addition to the training provided by the Center for Children and Families in the Law, I have provided a number of ICWA trainings in individual service areas. I believe that Through the Eyes of the Child had a March 2009 ICWA training that I provided on behalf of the department, and sponsored by Project Harmony, the National Council of Juvenile and Family Court Judges, Through the Eyes of the Child, National CASA, as well as a number of other organizations. [LR262]

SENATOR DUBAS: But it sounds like this training needs to be constantly ongoing,

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because.. [LR262]

SHERRI EVELETH: Yes. [LR262]

SENATOR DUBAS: Okay. All right. The question that the judge said he saw on a courtroom door about, does ICWA apply to this case, is that a question you or your caseworkers or the people that work in, with ICWA, is that a question that's asked up front, or is it just something that it either is or it isn't? [LR262]

SHERRI EVELETH: It is question that is asked up front in a number of different ways in the new-worker training, in the Indian child welfare training. New workers are told that they need to ask in a number of different ways. They need to ask about tribal membership. They need to ask if family members have received services from Indian health services. If anyone has Native American heritage or Indian heritage. The two terms may be offensive to persons who are tribal members. Very often, tribal members refer to themselves as their tribal relationship rather than I am Native American or I am Indian. And some of that is included in the new-worker training, yes. [LR262]

SENATOR DUBAS: Thank you very much. [LR262]

SENATOR CAMPBELL: Senator Bloomfield and then we'll come to Senator Brasch. [LR262]

SENATOR BLOOMFIELD: Thank you. It runs in my poor old mind that when we met up in Macy that you thought maybe there was some help coming your way? Is that on the horizon anywhere, or am I hallucinating? [LR262]

SHERRI EVELETH: I believe that Director Pristow testified to the department looking at the need for increased resources. I believe that his statement was that I would be operationalized and included more in the administrative proceedings, and there have

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been efforts by the department to take a look at resources and where they can be allocated. [LR262]

SENATOR BLOOMFIELD: Do you see any light on the horizon, or...? [LR262]

SHERRI EVELETH: I'm always hopeful. [LR262]

SENATOR BLOOMFIELD: Okay. Thank you. [LR262]

SENATOR CAMPBELL: Senator Brasch. [LR262]

SENATOR BRASCH: Thank you. And my question is very brief: Is your office based out of the State Office Building here in Lincoln, or Norfolk, or where...do you people come see you or do you go see them? [LR262]

SHERRI EVELETH: I am housed in the Norfolk office. I travel statewide providing trainings, providing consultation to staff. My work as a qualified expert witness, which hopefully will be ending so that I can return more to the administrative duties, and qualified expert witnesses will be identified as tribal members testifying from children's tribes. [LR262]

SENATOR BRASCH: I have no other questions. Thank you. [LR262]

SENATOR CAMPBELL: Any other questions? Thank you, Sherri, very much; and we appreciate the information that you brought and thank you for your work. [LR262]

SHERRI EVELETH: Thank you, Senator Campbell. [LR262]

SENATOR CAMPBELL: Do we have others in the room who wish to provide testimony this afternoon? Okay. Judi, if I could...oh, I'm sorry. Oh, could you come forward,

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please? Thank you, I didn't see that. I apologize, I didn't see your hand back there. I apologize. Would you go ahead and state your name and spell it for us, please?

[LR262]

FRANK BEAR KILLER: My name is Frank Bear Killer, F-r-a-n-k, the last name is B-e-a-r K-i-l-l-e-r. It's two words. And I reside here in Lincoln. I'm a member of the Oglala Sioux Nation, and I've resided here over 30 years now and been involved with the Lincoln Indian Center quite a bit. But before that, I was with IBM, and I retired now and I'm just taking it easy. But the concern that I have when I heard about this opportunity to express myself, I come up here because I have a concern about this Indian child welfare law, and the federal law I'm very familiar with, and then also you have the state law. I was working at the Indian Center for two years, '92, '93, as an Indian child welfare specialist. And during my time there, I encountered a lot of the obstacles and things that concerned me at that time. And one of the biggest concerns that I had was that there was that reluctance. There's a reluctance to turn over when a tribe intervenes and says we will take over here now. There is that reluctance by the system to let go of that child. There's obstacles. So I had a big concern about that. There was an Indian judge out of Arizona. He specialized in Indian child welfare law. So he came up here; he provided some training in Grand Island to the County Judges Association. Helped clarify that gray area between state to the tribes, helping them understand it; you know, (inaudible) boundaries. That was one of the biggest issues that the judges had. They didn't know how to proceed with that; so that was clarified, and hopefully resolved that issue by letting go of the children, letting them go back to their tribes. I am concerned about my people here. There is very little representation or very little support from my people. The Oglalas, the Rosebuds, Cheyenne River, Lower Brule, predominately western Nebraska. We're a large group out that way, and our numbers here are growing also, so we're a substantial number. The Omaha Nation used to be highly represented here. We're comparable; we're close to that. Estimates, about 4,000 here in Lincoln. But through the public school systems here, about a year ago I run across one of the articles here: Eighty-eight different tribes are represented here, so there's diverse

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representation as far as our culture goes. I have a concern that when we are doing anything with the Indian children, taking our Indian children, my people always, waichasha, you know, holy beings, special people. So that's something that really touches my heart, and I've followed this law since its inception. So the big concern that I have is that when they're taken, there's a time frame that was established at which tribes are supposed to get their notification. But it doesn't necessarily happen to every case. A majority of the cases maybe be in the final stages of parental termination, or even at the stage of adoption. You know, that's way down the road. So the communication and identification of our people, our children, is really a crucial element. And over the years, now in '92 and '93, I figure that's about 20 years or so, now, I figured that staff, CPS, your social workers, should have adequate training about Indian child welfare law. But over the last six months, seven months that I've been involved with the Indian Center again, I'm finding cases that come and I am talking to people, my people, getting them necessary information to who to contact, which tribe it is. Getting them involved back into our own system so that their children can be protected. What I'm finding out is that I reach out a little bit further and I talk to caseworkers. They know nothing about Indian child welfare law. They don't know that. And if they do refer to Indian child welfare law, it's the state law, which is good but it's kind of weak. It needs a lot of beefing up. Federal law does apply here because, you know, we are supposedly sovereign nations, so there's supposed to be a state-to-state compact, an understanding. But it doesn't necessarily apply here, and I think that's something that is, should be, a concern. Our people here, across this country here, and I know there's four distinct tribes that are located here, but there's also the little tribe right there along the Missouri line at Rulo. There's a tribe right there. My people, like I say, are western Nebraska. We don't have any representation in the system here. We don't have a caseworker out there. I think the state program has one out there but it doesn't necessarily represent our Native people. I think one of the other concerns that I have, and it's really kind of an important aspect of this here, is that our children are bring taken on higher numbers over the past several years. One of the things I also do, as that as a retired person, you know, I get to watch the news. I understand there's a big ban,

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forbidden now, children being adopted from Europe. And when I heard that, that was probably about a year and a half ago, when I heard that I got concerned for my people. I think we'll be...we're the easy targets. So I have a concern that our people are going to be taken more and more and more. And I think the system itself as far as Indian child welfare goes is terribly underfunded. It does not have enough staff across the country. That's standard. I mean, we're barely scraping by with some of the people. So that's something that I have a real severe concern for. And I appreciate your time for doing this, and I commend you to hear and listen to all of the people that I heard testify today. I say thank you. Wi'bthu ho. Pilamaya. [LR262]

SENATOR CAMPBELL: Thank you, sir, for coming. Question? Senator Davis. [LR262]

SENATOR DAVIS: Mr. Bear Killer, I represent the district just south of the Pine Ridge and Rosebud. So the questions you brought today I think were really appropriate and was something that I'm really glad you came to talk about. Because we don't have a designated tribe within the state of Nebraska, do you think that Indian children from that part of the state are not as well represented as those in which there are tribes present in the state? [LR262]

FRANK BEAR KILLER: Yes, I do believe that, because one of the things that, too, along with that, their reluctance to relinquish custody is the fact that now you're talking about a tribe that's across the state line. So that's another issue that arises where you're reluctant to let another state take custody or, let alone, another tribe to take custody of our own children. There's that reluctance. And we protect our children. There's a good program up there, On Track, and it has a good solid track record and they really do a lot of research on all our children's families, and so that they try to put them in good family relationships. [LR262]

SENATOR DAVIS: And so from your knowledge of the program, is most of the work done through the Pine Ridge Reservation for children here in terms of bringing the

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Indian population involved into the discussion? [LR262]

FRANK BEAR KILLER: I'm been fortunate to be called upon to come to the courts with On Track people. And the reluctance, like I say, is to let go. They want to take control of the children. They want to bring them home. They want to bring them back to the families up that way, and then start developing a family reunification plan, which is something that's lacking with our state. Our state of Nebraska doesn't have a real good track record as far as reunification goes, and that's something that's lacking in that. But our people do. They're willing to protect that child. So I think that...more and more, that's something that needs to be acknowledged. And Rosebud is the same thing. And Rosebud has a unique situation where they say, okay, you lost your child; we're going to give you back that child, but these are the things that you have to do to keep your child. And they get one shot. So at least that's something that happens for them right there on the Rosebud. Pine Ridge is considering that too. [LR262]

SENATOR DAVIS: Thank you. [LR262]

SENATOR CAMPBELL: Thank you very much, sir, for coming today. Even if you're retired, it's still important that you spend your time here. So thank you. [LR262]

FRANK BEAR KILLER: Yeah. Thank you. Thank you. [LR262]

SENATOR CAMPBELL: Judi, if we could impose upon you, I want to make sure that the record...would you like to come forward? And for the transcribers, this is Judi gaiashkibos, who testified initially. And, Judi, would you just for the record, indicate that you had (inaudible). Let's go back to the Children's Commission so we get your comments on the record. [LR262]

JUDI GAIASHKIBOS: Okay. The Indian Commission was contacted to submit three names, and then the Governor would select from the three names. So I sought

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people...in fact...well, I'd rather not say the other people that weren't selected, but some were in the room. And three names went forward and the Governor selected Andrea Miller. She's Oglala Sioux, a graduate of the law school here. She practices at Simmons Olsen Law Firm in Scottsbluff, and she has five children. She has attended one meeting. So there is that representative. [LR262]

SENATOR CAMPBELL: Thank you very much, Judi. [LR262]

JUDI GAIASHKIBOS: Is that all? [LR262]

SENATOR CAMPBELL: You bet. I wanted to make sure we got that comment on the record. With that, Senator Coash, any closing comments on your part? [LR262]

SENATOR COASH: Well, I appreciate everybody's attention and all the testifiers. [LR262]

SENATOR CAMPBELL: Okay. With that, we'll closing the hearings for the day, and thank you all for coming, and see you tomorrow. [LR262]