

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020  
Rough Draft

**BREWER:** Good afternoon, ladies-- good morning, ladies and gentlemen. Little bit different schedule we're on now. Welcome to the Government, Military and Veterans Affairs Committee. My name is Tom Brewer. I am from Gordon and represent the 43rd Legislative District, and I'm the Chairman of this committee. We have our committee members with us here today, and we will start with introductions on my right with Senator Blood.

**BLOOD:** Good morning. I'm Senator Carol Blood, and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska.

**LOWE:** John Lowe, District 37, which is the southeast half of Buffalo County.

**HILGERS:** Mike Hilgers, District 21: northwest Lincoln and Lancaster County.

**LA GRONE:** Andrew La Grone, District 49: Gretna and northwest Sarpy County.

**HUNT:** I'm Megan Hunt, and I represent District 8 in midtown Omaha.

**BREWER:** And my staff here today, I've got Dick Clark, the legal counsel, and Julie Condon is our committee clerk. All right. First off, I want to give a shout out. This mask was made by one of the senator's mothers, and it was obviously unique in that. So to, to Wendy and her mom, thank you for the camouflage mask; I need it. If you are speaking, it probably is going to be best to not wear the mask. We've got the plastic shields here. But for the rest, I would ask that you keep them on. With that said, let's run through some administrative things. First off, our page is Ashton right back here. Today we're here to have a public hearing on LR345. At this time, I would ask everyone to either silence or mute your phones so we don't have any interruptions. The senators will be working off computers up here, but they're just getting their information or checking on, on confirmation of information. If you wish to-- I take that back. We'll have two testifiers today and they've been identified, but I would still ask them to fill out the green sheets. We'll have the page distribute information from the front so that he doesn't have to reach over us. If you have information to hand out, please notify him and he will take care of distribution or making copies if you need it. We did not receive any letters, so I won't bother going through that. When you are up to testify, we'd ask that you'd come to the front of the room and sit in the testifiers' chair, where Senator McDonnell is now,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020

Rough Draft

and state, spell your name for the record. Speak into the microphone clearly so it goes on the official record. We'll begin with testimony from the introducing senator, which in this case will be Senator McDonnell. We will not have opponents, proponents, or neutral today, and we're not going to have a time limit on the testifiers as long as we are reasonable about the amount of time that they utilize. With that said, Senator McDonnell, welcome to the Government, Military and Veterans Affairs Committee.

**McDONNELL:** My name is Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l. I represent Legislative District 5: south Omaha. Good morning and thank you, Chairperson Brewer and all the members of the committee. I understand this is your only hearing today, which I appreciate you taking the time and, and traveling here for this one issue. It's an important issue. And Dr. Larry Bradley is here with us. And Dr. Larry Bradley has a great deal of passion for this, this issue, and he will be speaking after me. I brought this interim study to examine Nebraska's efforts to protect our archeological and paleontological resources, and promote cooperation between the government agencies, tribal governments, and other stakeholders, regarding the discovery and the removal or borrowing of archeological or paleontological resources from all lands in the state. Nebraska has historically led the original efforts to protect these spaces and resources from destruction and pilfering in 1937, with the establishment of the Nebraska Standard Specifications for Highway Construction, and again in 1959, by authorizing the Department of Roads, now the Department of Transportation, to enter into agreements with the state agencies to remove and preserve archeological and paleontological and historical remains. With more than one-- 10,600 archeology sites and 21 sites on the National Register of Historical [SIC] Places, Nebraska is home to one of the best records of geological and geoscience history in the United States, second only to the American Museum of Natural History. And Nebraska has a potential abundance of available sources to study. You will hear testimony from Dr. Larry Bradley, who brought these concerns and desires to protect paleontological resources in Nebraska and honor the lands in which they were recovered from. Currently, the Department of Transportation is authorized to enter into agreements with other state agencies to remove and preserve archeological, paleontological, and historical artifacts disturbed by highway construction, and to use highway funds for this purpose. The Paleontological Resources Preservation Act of 2009 excludes Native American lands from the Department of the Interior's authority and does not include remains covered by the Native American Graves Protection and Repatriation Act or items covered by the Archeological

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020  
Rough Draft

Resources Protection Act of 1979. We seek to ensure Nebraska's works to strengthen relationships with Native American tribes through consultation and recognition of paleontological remains discovered on their land and acknowledge paleontological remains found in the past. Since 1990, the University of Nebraska has done an amazing job coming into compliance of the 1990's Native American Graves Protection and Repatriation-- Repatriation Act. Compliance with the NAGPRA has become an integral part of the State Museum's work. Since 1998, over 97 percent of human remains have been repatriated and over 43,000 historic artifacts have been returned to their rightful owners. The University has been steadfast in their work to resolve and acknowledge these historic wrongs. They have a position that actively works with Native American tribes to identify and repatriate human remains in their care. New discoveries are reported to local law enforcement and then handled by the Nebraska State Historical Society. For their part, the Nebraska State Historical Society is guided by the National Historic Preservation Act, which requires state and local agencies using federal funding or permitting to include tribes as consulting part-- parties on tribal lands. The Nebraska Department of Transportation currently treats all of their projects, regardless of funding source, as federal undertakings to maximize the involvement of stakeholders, including tribes. The Nebraska State Historical Society is also guided by the Nebraska Archeological Resources Preservation Act, where they are developing policies for consultation with tribes on tribal lands. It should be noted that these laws cover human remains and archeological resources, and they do not cover fossils, paleontology, or geo-- geological resources. It is our hope that the geological record, paleontological resources, and fossils discovered on Native lands within the Nebraska be treated as though they were archeological discoveries, and that the state of Nebraska works in consultation with the local tribes on paleontological findings on Native land and acknowledge the tribal land currently-held artifacts were discovered on. I want to thank you for your time. I'm going to try to answer your questions. I'm going to, I'm going to be here for closing, but I want to say a few more words about Dr. Larry Bradley and the passion he has. And the reason we're sitting here today is because he brought these issues to me. And I, I want to-- I sometimes tease Larry a little bit about being in my mind, the Indiana Jones of Nebraska, because that's what kind of passion he has. And you can't manufacture passion. It's got to come from, from the heart. He's written a book. He's-- he teaches at the University of Nebraska at Omaha. He spends a great deal of time on this issue. And I believe you're going to have a chance to learn a great deal from him. And he's here to answer your questions, and he wants to educate you and make

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020

Rough Draft

sure that you understand what's happened in the past, and what we're trying to do currently now, and where we should be trying to go in the future. So I'll be here for closing and I'll try to answer any of your questions now.

**BREWER:** All right. Thank you for that opening. Questions for Senator McDonnell? I've got just a quick one for you. If we go through today and, from the testimony we hear, there's obviously a void or a, a need to change the way we currently have our regulations and laws, are you thinking that we'll take the end result of this and use it, then, to write legislation to bring next session? Is that kind of the path you're looking at here?

**McDONNELL:** That's-- well, dependent on what we learn here--

**BREWER:** Right.

**McDONNELL:** --and how we can work together. And I think we can all agree on if there's ways to approach issues and, and resolve possible current problems or avoid future problems without introducing legislation, I think that's the best way to go. But this right now is-- that's the reason for the study, is to try to find out how can we all work together? What's happened in the past? Let's learn from our mistakes, but then let's also recognize the good things that are going on today. And then how can we actually still improve for the future? So this is just the step to have the discussion, make sure that we have all the information, and make sure everyone's trying to work together before we talk about any kind of legislation.

**BREWER:** I totally agree. Thank you for that opening. And you're going to stick around for closing?

**McDONNELL:** I'll stick around. Yeah, I'll be here for closing. Thank you.

**BREWER:** Thank you. All right. We will begin with our first testifier. We have handouts. Oh, we've got some procedural things here. And Larry, welcome to the Government Committee, whenever you're ready.

**LARRY BRADLEY:** Thank you, sir. I appreciate everyone being here. It seems like it was on my behalf, and people coming from all over the state of Nebraska to be here to hear this issue, and I'm honored and humbled. And I-- before I begin, real quick, I would like to recognize a couple of people in the audience. One, my wife, Dr. Sylvia Rael, she's a, a physician in Omaha, a frontline physician.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020  
Rough Draft

**BREWER:** Larry, for the record, can we do the--

**LARRY BRADLEY:** Yes, sir.

**BREWER:** --the name and--

**LARRY BRADLEY:** Larry Bradley, L-a-r-r-y B-r-a-d-l-e-y, and I live at 6068 Country Club Oaks Place, Omaha, Nebraska-- 68152.

**BREWER:** Thank you.

**LARRY BRADLEY:** And recognize a few folks. One, my wife, she's a frontline physician in Omaha on the, this pandemic. And also, in the back row, Dr. Rudi Mitchell. He's on the Native American Commission here, so he'll be just observing today. And if I didn't-- miss anybody, please forgive me. Be sure to get the-- the page gets these out. Hello, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Dr. Larry Bradley, and I would like to provide you all some background on this issue and subsequent reasons I wholeheartedly support LR345. From the first in 2003, while I was a doctoral student in the Department of Geography at the University of Nebraska, the University of Nebraska State Museum and the Nebraska Department of Roads dispossessed a plesiosaur from the Santee Sioux Reservation in Knox County without consulting the tribe whatsoever. As that was going on, I consulted other University of Nebraska officials and the media, and this came about. And in the meantime, I had asked if Santee Sioux school students could participate in that dig. I was told no. They cited safety reasons that the dig site is too close to a state highway. And at the time, that made sense. A couple of months later, their museum Web site depicted non-Native American kids participating in the dig with plaster all over their hands. So in my opinion, that was blatant discrimination by the University of Nebraska and and the Nebraska Department of Roads on the Santee Sioux on their own land. It was from that point forward that my dissertation was created. And ultimately, I presented an original contribution to science that provided the physical material evidence of who, what, when and where paleontological resources were dispossessed from the Great Sioux Nation. In June of 2-- June of 2019, I was interviewed by the Chicago Field Museum and PBS about my research and my book, which you have a copy of. The interview took place on the Oglala Lakota College, on the Pine Ridge Reservation from where my stepfather was from. Over the summer in 2020, the PBS special "Prehistoric Road Trip" aired, and my interview was shown in Part 3. Since that time, my book has sold hundreds of copies, and numerous museums and universities around the country have recently consulted me

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020  
Rough Draft

about similar dispossession issues. So what this new elevated interest in the history of fossil dispossession tells me is, once again, here we are, the state of Nebraska has a chance to be a leader on this issue. And currently, the Nebraska Department of Transportation, formerly the Department of Roads, is authorized to enter into agreements with other state agencies to remove paleo resources disturbed by highway construction, including construction on Native lands without consultation with the local tribes. It is my hope that the University of Nebraska, my alma mater, would seize this opportunity to be a leader on this issue in the Big Ten, amongst academia, and around the world. And in that PBS interview, the spotlight is on Nebraska, because I did talk about this for as much as they'd allow-- or talked about it for an hour and half, but you get ten minutes after the cut. But it brought forward this important issue. The Society of Vertebrate Paleontology, the international governing body on vertebrate paleo collection and laws that pertain thereof-- and I'm a member of that-- will have their annual conference in Minneapolis, Minnesota, in October 2021. I've been in close contact with SVP officials to ensure the distinct possibility of a workshop that will include Indigenous people from around the country to address the history of fossil dispossession by museums and universities, including our University of Nebraska. And this is the right place at the right time, because, as we know, Minneapolis, Minnesota, has been recent ground zero for racial reform for our country and beyond. As an-- I'm also elected to the NRD board. I give you-- I submitted a resolution that called for any NRD personnel or contractors working for the NRD to consult the tribal governments if any paleo resource is found while conducting work on any Native American reservation within the jurisdiction of the Papio-Missouri River NRD. And that resolution passed unanimously with total bipartisan support. So I'm requesting the committee to look into specific legislation that states: 1) any museum or university within the state of Nebraska that has curated paleontological resources from historical Native American lands, including other states, throughout the entire history of its collection, make known in any identification tag, display case, or Web site catalog, the origins of the specimens' basic locality and when the specimens were collected from Native American-owned and/or tribal lands; 2) that any government, agency or university within the state of Nebraska seeking to collect any paleontological resource from tribal lands or in civil jurisdiction of any reservation boundaries, consult with the appropriate tribal government officials; and 3) and that any government agency or university within the state of Nebraska seeking to collect any pale-- paleontological specimens, either embedded or in situ fossils or loose surface fossils, must report to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020  
Rough Draft

the respective tribal governments from which lands those fossil resources were collected, including fossils collected and curated from the beginning or inception of that agency or university collection. Finally, I want to thank the Government, Military and Veterans Affairs Committee in seeing the importance of this issue. I hope I have helped make you all understand what a wonderful opportunity this is to make the state of Nebraska a leader in this area. I'm willing to participate in any subsequent talks or discussions on how to make Nebraska the leader on this issue. Regarding fossil dispossession committed by any Nebraska government entity from Native American lands, I say we must all acknowledge the past, be totally transparent and ever forthright from this time forward. Thank you, esteemed senators, and I would be happy to answer any questions.

**BREWER:** All right. Thank you for your, your testimony. Just real quick, the book that you handed out here, "Dinosaurs and Indians," this is a work that you initiated how long ago? And what all was in it?

**LARRY BRADLEY:** Yes, sir. I initiated that about 2003, 2004. It's part of my doctoral dissertation. It is my doctoral dissertation; I had to get this published. And it, it, it includes many fossils dispossessed, not just from the University of Nebraska, but the South Dakota School of Mines, Yale Peabody Museum, and other entities. But there is sections that include University of Nebraska and the history thereof. For example, the-- when we look at the Santee Sioux Reservation in the 1970s, 1980s, they-- as they were constructing a road, to blacktop a road on that reservation, they collected thousands of microfossils and a few remains or bones of large vertebrates, and never consulted the tribe. And what they do-- and it's not just the University of Nebraska-- but they, on their identification tag and display cases, they say that it's collected from Knox County, and never do they annotate or let-- log in people to know that Knox County was the Santee Sioux Reservation. So that's a practice that perhaps, maybe we can hopefully stop, and people can acknowledge where exactly the fossils came from. Those fossils that were collected from that Santee Hill, the elders told me about how they used to have Hanbleceya there, where they-- Vision Quest at that hill. So there may have been some violation of federal laws, you know, religious act-- Native American Religious Act [SIC] and other laws. You know, there's that potential. Now, how much do we go back in the past? But we want to move from this point forward, and that's what this is all about. And I want to be as positive as possible, but we certainly need to acknowledge the past.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020  
Rough Draft

**BREWER:** And who I guess is essentially the watchdog over, if there is a-- I guess if we are digging or making a road or digging a foundation for a building and someone finds something, is the University who they call? Or is there a agency within the state government that has oversight that would determine whether or not that's actually something they should be concerned about?

**LARRY BRADLEY:** As I understand, the-- it would be, you know, people usually, if they find a fossil, they will-- it filters to the University. If it is through the highway construction, they have a highway salvage paleontology program. Shane Tucker may be the person in charge of that program. I went through grad school with Shane. And there's also a resident vertebrate paleontologist at the University of Nebraska, and they-- probably part of the State Museum, as well. And they would be the ones to oversee that, these issues definitely brought to their attention. Again, trying to stay positive, but there was the old guard that really didn't, you know, didn't want-- to my opinion-- didn't want this information to be out. And now that PBS interviewed me, it's sort of like, genie-- the genie is out of the bottle, and much of the, you know, scientific world, the nation sort of looking at this. But with regards specifically to the state of Nebraska, there's no, I'd say, real fossil czar, paleontological czar, but it's the highway salvage paleo-- highway salvage paleo collection and the vertebrate paleontology professors at UNL.

**BREWER:** And I got a note to get ahold of the Department of Transportation to see if, you know, how-- how they see their need to handle it, because it would be interesting to see their perspective on that, too. All right. Questions? John Lowe.

**LOWE:** Thank you for coming today. What happens if-- because-- so your first bullet point says "Any museum or university within the state of Nebraska that has curated paleontological resources from historical Native...lands, including other states, throughout the entire history of its collection." What happens if they don't have records of where it comes from? Are they going to have to go back to where they required those from?

**LARRY BRADLEY:** And that's a very good question, Senator. In my work, when you look at the type of fauna and flora and also you get into the geological science, the formation, you get to like the White River Group, you start to get into where you find these fauna and flora, but specifically fauna. And they're able to denote like if they're from the Badlands of the-- South Dakota. You know, we have a lot of that fauna also in the state of Nebraska, as well. But what's-- let me give

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020

Rough Draft

an example in, in how-- the State Museum there, I asked them, are these all the fossils you have for, from all the Native American reservations? And they said, oh yes, that's all the fossils, that's everything we have-- as I'm, you know, finishing up my doctoral dissertation. And then I would go way back into the tomes of the Love Library and pull out something, and there's-- from 1939, there's something that says, well, there was a mastodon from Thurston County collected in 1900. Well, that, that Thurston County is the Omaha Reservation. And I said, well, what about this? Oh, oh, we forgot about that. And they'd say the-- trying to remember the-- Barbour or, you know, Professor Barbour, he was bad at note-taking, and somehow we lost the field notes on that particular fossil so we couldn't tell you exactly where they found it. And that's a little bit suspect in my mind, but maybe we'll give him the benefit of the doubt. But that's somewhat suspect because these scientists were very meticulous in their field notes. And so if they just say they lost them-- but again, yes, there's that-- there can be that specter of possibility that they lost notes. Can they determine exactly which fossil, out of the thousands that they have? It would be a massive undertaking. But you can derive or be able to-- not say exactly pinpoint, but get real to the point where they were found, geologically speaking. That's something like when the-- at the federal level, and you have federal inspectors, the FBI-- you have a rock, gem, mineral show, say, in Arizona somewhere. And then they have these rooms full of fossils on the table. And you may see, you know, there's fossils, then, where they illegally collected and they end up on the black market. That's-- that has happened. We're not going to pretend that might not exist in the state of Nebraska. Certainly, you know, I'm not going to pretend it doesn't occur in some of the reservations of South Dakota. And there's a lot of this onion-- when you start to peel the layers, there's a lot of good hard-core questions that need to be, you know, in this study that need to be asked.

**LOWE:** I'm just thinking that, you know-- I can think of, right now, three private museums that are owned by families and that would also be accompanied by this. And they would not have the funds to go back and try to research where each and every artifact comes from if they didn't know when they purchased it for their museum.

**LARRY BRADLEY:** And, you know, for funds-- and, you know, we all get around to what's the fiscal note on this? And I, I don't-- I'd give you an example. For my doctoral dissertation. I didn't have any funds. I drove-- I flew to New Haven, Connecticut, on my own dime. I drove back and forth to the reservation, Pine Ridge, on my own dime, Santee Sioux Reservation, Rapid City, Lincoln. And-- but for those private

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020

Rough Draft

museums, I would maybe encourage where grad students, you know, a grad student can undertake that. That would be a good work for a grad student or a doctoral student, and, and perhaps they can look at the University or the state of Nebraska for governance on that. But a private collection, not to let them off the hook because if they, you know, what might have been collected over time. Now, I'm sticking specifically to paleontological resources. There may be some bigger questions on the archeological and, maybe, human remains; I don't know, as far as that. As I was raised by Lakota since I was two years old, for me, being around human remains, that part was taboo because I was told the spirit can sort of follow you home. So I'm sort of sticking just to paleo. But yes, I would think that is an issue that needs to be brought up and to be looked at and scrutinized.

**BREWER:** All right. Additional questions? Currently, if you are working with the University, is there a single point of contact with the university that you, you go to? Or is it a department, then, that specifically works these issues?

**LARRY BRADLEY:** Let's say that the Geology Department at the University of Nebraska, and start with the director of the State Museum, and they'll be able to, I'm sure, to filter and point to the right person. Yet if that's the-- to that point and then, hopefully, the, the new-- relatively new president of the university, the chancellor, the regent board, they would see the, the positive in this, and they'd want to end this on a positive note that the University could be a leader in the Big Ten on this issue certainly. And that-- and I think that's the big thing here. The state of Nebraska was one of the leaders on the NAGPRA law, at least at the state level, that eventually became federal legislation, the Native American Graves Repatriation Act [SIC], and the human remains that was housed here at the University. And just real quick-- wrap it up-- when that was finishing up-- the mid 80s, late 80s-- that controversy over human remains at Nebraska, here I come along, wanting to be a grad student. And I was naive, and I was saying, hey, look, I was raised by Lakota, I have three-- you know, I double majored biology, geology. I'd be the person to be an ambassador for science and paleontology. And they told me that, no, we're not accepting you into the paleo program. So I asked them, well, why not? What about them? Well, for them, it's yes, for you it's no. And the Geography Department did accept me at face value, and this, you know, this work. But it's, it's science. And I thought this was all done and gone. And then PBS dug up the research, if you pardon the pun, and they aired it. And now it's back out in the forefront of the nation, and I may be one of the nation's leading experts in this area. And I just implore the, this committee to maybe advance this,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020  
Rough Draft

certainly, and recognize that Nebraska has the chance to be out on the forefront again on this type of issue.

**BREWER:** All right. Thank you for your testimony. And one more check-- any additional questions? All right. Again, thank you for your testimony,--

**LARRY BRADLEY:** Thank you, sir.

**BREWER:** --and thank you for the book.

**LARRY BRADLEY:** Yes, sir.

**BREWER:** Oh, we should have-- yeah, I think we've got somebody from History Nebraska here-- I think, I thought.

\_\_\_\_\_: No.

**BREWER:** No History Nebraska?

\_\_\_\_\_: No.

**BREWER:** All right. Well, in that case, come on up.

**McDONNELL:** Thank you again. I think you recognize that Dr. Larry Bradley's-- his, his passion, his, his investment that he's put in, and his willingness to try to work with all of us to try to improve things. Now, I know this committee will have a report and recommendations. And, and my office, my team with Alycia and Tim, have spent time working on this. And, and we're willing to continue to work with, with this committee and, and the information that Dr. Bradley has given us to pass along, and to look at possibly, again, recognizing the wrongs of the past, but also what we're doing right today and how we can improve on that for the future.

**BREWER:** All right. I think-- and we'll probably have to distribute this later, that-- was it History Nebraska?-- did want to have input. And I want to say it was on the other side, the archeological side of it, so that we get both sides of this. And that probably will be critical in, in the big picture, too. So I'll double-check on that and make sure everybody gets a copy of that to look at. All right. Questions for Senator McDonnell? All right. Seeing none,--

**McDONNELL:** Again, thank you, and thanks for taking the time to be here today and your interest in this issue.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Government, Military and Veterans Affairs Committee October 16, 2020  
Rough Draft

**BREWER:** All right. All right. And with that, we will close on LR345.