

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Government, Military and Veterans Affairs Committee
February 24, 2012

[LB1170 LB1171 LR371 LR381]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, February 24, 2012, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1170, LB1171, LR371, and LR381. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Charlie Janssen; Russ Karpisek; Rich Pahls; Les Seiler; Kate Sullivan; and Norm Wallman. Senators absent: None.

SENATOR AVERY: Welcome to the last day of hearings before the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I represent District 28 here in south-central Lincoln and I chair the committee. Before we start, let me introduce the committee members. Soon to join us will be Senator Rich Pahls from Millard, he is on the end down here; next to him is Senator Les Seiler from Hastings; and Senator Charlie Janssen I think will be joining us soon, he is from Fremont; next to him is Senator Scott Price, the Vice Chair of the committee from Bellevue; seated to my right is Christy Abraham, the legal counsel. On my left here is Senator Russ Karpisek from Wilber; and soon to join us will be Senator Kate Sullivan from Cedar Rapids; the last one there is Senator Norm Wallman from Cortland; and on the very end is Sherry Shaffer, the committee clerk. If you plan to testify for or against any of these bills, we ask that you fill out this form. It is available at each entrance to the room. We want you to be careful to write legibly, print if you can, so that we can read it. If you are interested in recording your opposition to or support for any of these bills but do not wish to testify, there is another form also available at the entrance to the room, another form to fill out, and just provide the requested information. If you have a printed copy of your testimony, we would need 12 copies. If you do not have 12 copies, our page will get them for you. Our page is Catherine Larsen from Omaha. Just give what you want us to see to the clerk and we'll take care of it. If you have any documents you'd like for us to look at, just follow the same procedure. We will be hearing four bills today in the order as they are printed on the postings outside each door, starting with LB1170, and then that will be followed by LB1171, then LR371, and LR381. If you have any electronic devices that make noise, please turn them off. If you are, however, a member of the credentialed press, we do allow you to have laptops for the purpose of doing your reporting. But that is the only exception so please cooperate with us on that. The testimony will proceed in the following manner: The introducer of the bill gets the opening statement, followed by proponents, then opponents, and neutral testifiers. Closing remarks are reserved for senators only. We ask that you observe our light system. The green light is a four-minute time allotment. That's followed by an amber light which means you have one more minute to finish your testimony. When the red light comes on, we want you to be finished. If you're in midsentence, I will not stop you but soon after that I will. Okay. We will start with LB1170 and, Senator Christensen, welcome to the committee.

[LB1170]

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SENATOR CHRISTENSEN: (Exhibit 1) Thank you, Mr. Chairman, members of Government, Military and Veterans Affairs Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n, represent the 44th Legislative District, and I'm here today to introduce LB1170. LB1170 seeks to create greater transparency and clarification for voluntary contributions to a separate segregated political fund of corporations, organizations, and associations. Similar laws in other states have been called "paycheck protection laws". These laws seek to make sure that employees, officers, directors, stockholders, and members of corporations, organizations, and associations have expressly agreed to opt into their dues being used for political activities. These laws are based on the idea that no one should be forced or through an unknown or unnoticed procedure opt out process and willingly contribute to political activities that they do not support. LB1170 seeks to better accomplish this goal in Nebraska. The bill would amend Section 49-1469.06 by requiring corporations, organizations, associations that have separate segregated political funds to provide to its employees, officers, directors, shareholders, members with knowledge of the previous year's expenditures from such a political fund and their written authorization on an annual basis. Though it may be argued that a mechanism to opt out of your membership dues going to fund political activities make contributions voluntary, I would argue that true voluntary contributions are the contributions made with full knowledge of how your membership dues are likely to be spent and the corporation, organization, association has persuaded you to invest in their political activities by which you then give them your written authorization. There's no way...or sorry, this way, there is no opportunity that you will pay for political activities by default which you do not agree with. You're opting in before my money is taken from my paycheck or your check is cashed and you are being properly informed of how the funds you've...have previously been spent. There is a very reluctant...sorry, very relevant quote from Thomas Jefferson in which I recently became aware. He said, "To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical." I believe that a majority of Nebraskans would agree with that statement. I do not know how much of this may be happening in Nebraska because those that have contacted my office were few. However, if you are the person it has happened to, it's a very big deal. Some of those who contacted my office brought up another problem that we did not put into this bill but I thought it was appropriate to discuss. If one of the members of an organization or association allows a portion of their dues to go to political activities, they pay less in dues for the operation of the group than the member who does not allow a portion of his dues to go to political activities. A union member of 20 years from Omaha brought this up wanting all members to pay the same dues, and all funds go into political activities should be above and beyond the dues owed. In addition, we have heard complaints about the difficulty of finding where on the form that some organizations, associations use in their opt out for your funds to be used for political activities. I would ask that you consider certain requirements for conspicuous notice such as large, bold font on such forms. There are some ideas for the committee to think about as they consider this bill. What is fair and appropriate when it comes to funding political activities? Again, I believe that this is an

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important bill that creates a distinction that funding political activities should be done up front. I'd be glad to try to answer any questions. [LB1170]

SENATOR AVERY: Thank you, Senator. Questions from the committee? Senator Pahls. [LB1170]

SENATOR PAHLS: Good afternoon, Senator. Thank you. Any time...and I think this is a great man, but any time that anybody quotes Thomas Jefferson, he did own people. You see what I mean? [LB1170]

SENATOR CHRISTENSEN: Yeah. [LB1170]

SENATOR PAHLS: So he just...I mean, he was a great man but he did have some of his own flaws. Here's a point I'd like for you to make clear to me. There are organizations out there, and right now...because at one time they were my adversary since I was administrator of the teachers group. Actually, a lot of times we were on opposite sides. If you belong to that union and they take money out of it, do they not know? Is that what you're telling me, they don't know? [LB1170]

SENATOR CHRISTENSEN: Well, I've had people say they didn't know it was being done or didn't know how to get out. But specifically in one you mentioned I think there is a box that you can check and opt out of. I asked for some of these from certain organizations which I didn't get a copy of. I have a...I think it's the Bar Association one here, which you can find the opt out area there. But that's not really for political contributions but is for lobbying side of things. It's a little different, but. [LB1170]

SENATOR PAHLS: Okay. Well, speaking of lobbying, sometimes that's more powerful than the checkoff I think. [LB1170]

SENATOR CHRISTENSEN: Yes. [LB1170]

SENATOR PAHLS: I mean, if you take a look at some of the votes, you can almost see on the floor that some of these are not from the heart; they're from the head or the pocketbook, I truly believe. But you're telling me right now...because they're the one organization, to be honest with you, that I dealt with in the past. And I'm just trying to make this clear, NSEA does have a checkoff and it's...the people who are members of that, which I'm not or never was, it's clear to them where their money is going or not. [LB1170]

SENATOR CHRISTENSEN: Well, they have told me that since it's done on a local level because it's done by district by the local people, they don't necessarily hand out: we done this group, this one. And I think they can get it, but it's done on a local level; it's not done by the headquarters themselves at NSEA. [LB1170]

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SENATOR PAHLS: Okay. Well, do you have any concern for Club for Growth, which comes in state outside, many of them. Do you have any concerns for Samuel Adams, those groups? [LB1170]

SENATOR CHRISTENSEN: Sure. This is not limited just to unions. This was broader than that. [LB1170]

SENATOR PAHLS: Yeah. Okay. That's what I'm saying. To me, there are some of these groups that just bring in...funnel money in, and we're seeing it right now at the national level. [LB1170]

SENATOR CHRISTENSEN: Yes. [LB1170]

SENATOR PAHLS: I mean, it's almost scary. You know, I mean, a billionaire can control lots of votes indirectly. [LB1170]

SENATOR CHRISTENSEN: Correct. That's why if any of these corporations or unions, anything, had to show what you done the previous year would help people decide whether they want to contribute being involved in it, because that way you're participating where you want to instead of if you don't remember to check the box or you don't find the box. You know, if there were some uniformity of maybe the box is always located by where you sign the form or it's always the first line that's bold print, different things that way could improve this process. [LB1170]

SENATOR PAHLS: Okay. And just one more. This is a sort of fun question. Do you believe the corporation is a person? The Supreme Court ruled on that. [LB1170]

SENATOR CHRISTENSEN: I can't even tell you how the Supreme Court ruled, but I don't know that I'd call it a person but it operates as a tax entity. [LB1170]

SENATOR PAHLS: Okay, okay. Thank you. [LB1170]

SENATOR AVERY: Senator Wallman. [LB1170]

SENATOR WALLMAN: Thank you, Chairman Avery. Welcome. This sounds like it may be good but, you know, as you probably have stockholders and major corporations as well, and they give campaign money, maybe against me even, and I own stock in that company, I don't have a checkoff, do I? [LB1170]

SENATOR CHRISTENSEN: Correct. [LB1170]

SENATOR WALLMAN: They're not going to do it. So this is going to be tough to be fair

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across the board. You know, I greatly appreciate your question. You know what I'm saying? [LB1170]

SENATOR CHRISTENSEN: Yeah. [LB1170]

SENATOR WALLMAN: Thank you. [LB1170]

SENATOR AVERY: Let me ask you, Senator, we're really talking about political action committees here, right? [LB1170]

SENATOR CHRISTENSEN: Sure. [LB1170]

SENATOR AVERY: Do you know of any PACs operating in Nebraska that have compulsory contributions? [LB1170]

SENATOR CHRISTENSEN: Well, basically if you...they don't have an opt out, there's...one of the groups told me that you just have a 30-day period that you can write a letter and opt out. You know, that's something you got to remember to do in that time frame, but it's all during the time frame that you're typically signing up so you should think about that. But if you have to...that your funds are going to be used for unless you opt out or write that letter to get out, that's probably going to contribute more to that fund than if people had to opt in. And that's like in that last paragraph I read somebody said, you know, they wish everybody paid the same for their dues and then the political was on top because then it...everybody contributes equally and fairly instead of...and voluntarily instead of the compulsory part is if it's in there and you don't think to check that box or forget to, you just got forced to contribute where you didn't intend to, so. [LB1170]

SENATOR AVERY: I presume this handout came from you, right? [LB1170]

SENATOR CHRISTENSEN: Yes. [LB1170]

SENATOR AVERY: Ratified state paycheck protection laws. [LB1170]

SENATOR CHRISTENSEN: Yeah. Just different states that have done something similar. [LB1170]

SENATOR AVERY: Seven, eight states. [LB1170]

SENATOR CHRISTENSEN: Yeah. [LB1170]

SENATOR AVERY: Not a stampede, is it? [LB1170]

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SENATOR CHRISTENSEN: No, it's not. [LB1170]

SENATOR AVERY: Any other questions from the committee? You're going to stick around, I know you're next. [LB1170]

SENATOR CHRISTENSEN: Yes. [LB1170]

SENATOR AVERY: All right. Proponent testimony. Welcome, sir. [LB1170]

BRAD STEVENS: (Exhibit 2) Good afternoon, Chairman, senators. My name is Brad Stevens, B-r-a-d S-t-e-v-e-n-s, and I'm the Nebraska state director for Americans for Prosperity, a statewide advocacy organization committed to free markets and limited government, and we strongly support LB1170. Paycheck protection is legislation that institutes a fire wall between membership dues originally intended to fund the administration of organizational operations and political activities. Paycheck protection simply gives members a choice, a choice to fund or not fund the nonadministrative aspects of the organization while still retaining their membership. We believe current statute is meant to create such a fire wall between membership dues and political activity. Yet you can see from the handout that we are distributing, we believe the spirit of the law is not being fulfilled. What we are passing out is a copy of the dues statement from the Nebraska Bar Association. And let me be clear, we respect and appreciate the work of the Bar Association. We're not meaning to single them out. This is merely a copy of a form to illustrate our point that we were able to get our hands on for...as an example to this committee. What you'll see on the second page, and I took the liberty of circling it in red, that's an example of what the opt out looks like. So the dues statement for this particular organization, it's four pages long, on the second page in what I think is probably eight-point font, you see what is the opt out. So that is the point, that's the intent of LB1170. Don't make union members, members of any activity or association have to go through a four-page document, find the eight-point font and find where they're supposed to initial to do the opt out. If we're going to have true...which is already in Nebraska state statute, this fire wall between...which everyone has a right to participate in the association and trade union of their choice, in the fire wall between their dues being used for political purposes, we believe there should be an opt in. And that's what LB1170 accomplishes. This is not an effort that...we're going to be real for a second, this is not an effort designed to eliminate unions, trade associations. Rather it's about providing workers the ability to protect themselves from financially supporting political causes that they wouldn't otherwise agree with. No one should be forced into contributing to political causes. Yet what we see through these opts out and what's happening in the state of Nebraska currently, members are directly contributing to candidates not of their choosing but the choosing of the organization's leadership. Paycheck protection is about putting all organizations on an equal footing in providing the transparency and accountability for the organizations and their members. We believe LB1170 is about transparency and fairness. No one has a right to your money

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for political purposes without your explicit consent. So thank you for your time and I'd be happy to answer any questions you may have. [LB1170]

SENATOR AVERY: Thank you. You stressed the importance of transparency. [LB1170]

BRAD STEVENS: Correct. [LB1170]

SENATOR AVERY: Does your organization actually operate in a transparent manner in this state? [LB1170]

BRAD STEVENS: Yes. [LB1170]

SENATOR AVERY: You do. [LB1170]

BRAD STEVENS: Yes, sir. [LB1170]

SENATOR AVERY: Do you report to the A&D Commission? Do you file with Accountability and Disclosure? [LB1170]

BRAD STEVENS: We follow the laws in the state of Nebraska. [LB1170]

SENATOR AVERY: Do you file with Accountability and Disclosure? [LB1170]

BRAD STEVENS: I have as a registered lobbyist, yes, sir. [LB1170]

SENATOR AVERY: Does your organization file? This is simple English. [LB1170]

BRAD STEVENS: Yes. I'm a registered lobbyist and I filed with... [LB1170]

SENATOR AVERY: Does your organization file with the Accountability and Disclosure Commission? [LB1170]

BRAD STEVENS: We have followed all... [LB1170]

SENATOR AVERY: Question in English. [LB1170]

BRAD STEVENS: Yes, as a registered lobbyist I filed with the Clerk's Office and with NADC. [LB1170]

SENATOR AVERY: Does your organization? [LB1170]

BRAD STEVENS: Again, we have filed myself representing my organization. [LB1170]

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SENATOR AVERY: You're not going to answer the question. Any...Senator Wallman. [LB1170]

SENATOR WALLMAN: Thank you, Chairman Avery. I'm not going to pick on Senator Avery's point of thought. But if I'm a major corporate that gives money to your organization and I'm a stockholder, do I have the chance to opt out what you give to the political my opposition? [LB1170]

BRAD STEVENS: What I would offer, Senator, and it's a good question, what I would offer is that if you were going to make a contribution to an organization which you said was political, then you know what the political leanings and goals of that organization are. [LB1170]

SENATOR WALLMAN: No, this is nothing about giving. This is about if I'm a stockholder. [LB1170]

BRAD STEVENS: If you're...oh, stockholder in a corporation? [LB1170]

SENATOR WALLMAN: Yes. [LB1170]

BRAD STEVENS: Okay. [LB1170]

SENATOR WALLMAN: And they decide to give it here and there and everywhere. I don't have a say, do I? [LB1170]

BRAD STEVENS: I mean, that's... [LB1170]

SENATOR WALLMAN: Is that transparency? [LB1170]

BRAD STEVENS: That's a question that has merit. What we are arguing in the aspects of LB1170 is that everyone has a right to belong to a union, everyone has a right to belong to a association or trade group of their choice, but there should be that fire wall between belonging to that organization and having your dues being used for political purposes without your consent. Now if there's going to be a bill to widen that scope, I don't...you know, I'd be interested but I don't believe that there's one filed in this session. [LB1170]

SENATOR WALLMAN: Thank you. [LB1170]

SENATOR AVERY: Senator Karpisek. [LB1170]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Mr. Stevens. So you said this isn't about unions; it's about transparency. [LB1170]

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BRAD STEVENS: Correct. [LB1170]

SENATOR KARPISEK: So speaking of getting hands on things, I have my hands on a letter that you wrote talking about stopping big labor from using members' dues for political purposes. [LB1170]

BRAD STEVENS: Correct. [LB1170]

SENATOR KARPISEK: So it's not about big labor. [LB1170]

BRAD STEVENS: Political purposes without the members' consent. [LB1170]

SENATOR KARPISEK: I asked you if it was about unions and big labor and you said no. However, in your letter here it says big labor five, four times, prevent unions from soliciting voluntary funds, so. [LB1170]

BRAD STEVENS: And that's exactly what the bill would do without having their member's explicit consent, which is we believe it's an issue of fairness, is if you're going to be a part of a... [LB1170]

SENATOR KARPISEK: I believe it's an issue of fairness. [LB1170]

BRAD STEVENS: ...union organization, association, you have a right to be a part of that without your dues money going to political causes without your consent. [LB1170]

SENATOR KARPISEK: So if someone gives money to you but they don't have an opt out, correct, on what they use it for? [LB1170]

BRAD STEVENS: If they want to make a donation to myself? [LB1170]

SENATOR KARPISEK: No, to your organization. [LB1170]

BRAD STEVENS: To my organization. I think it's pretty transparent what our organization stands for. [LB1170]

SENATOR KARPISEK: And you don't think maybe NSEA is? [LB1170]

BRAD STEVENS: Again, to be a member of...your example of NSEA, members of my family are members of NSEA because they get the liability insurance and that's why they're a part of NSEA or teachers unions, and it's perfectly acceptable and responsible to do that. They don't necessarily want their dues but they're not necessarily part of NSEA because of political reasons. They don't necessarily support NSEA using their

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money for political causes without their consent. And that's what this bill offers is to be a part of these unions, organizations, associations, and to have that ability to make your...to again have that fire wall, which is already a part of statute. When you look at the statute that we're dealing with here, that's already...the law of the land is that there's supposed to be a fire wall. But we leave these opt outs in that example that I gave you in these...you know, the document that went forward... [LB1170]

SENATOR KARPISEK: I love what you're trying to say this does and I wish you would practice what your preach. Thank you. [LB1170]

SENATOR AVERY: Let me ask you this, do you have dues-paying members of your organization? [LB1170]

BRAD STEVENS: No, we do not. [LB1170]

SENATOR AVERY: You don't. You operate strictly on the basis of contributions, voluntary contributions. [LB1170]

BRAD STEVENS: Correct. Correct. [LB1170]

SENATOR AVERY: Do you have any limits on what you will accept in a single contribution? Do you have any desire to report those contributions, because you don't do it? [LB1170]

BRAD STEVENS: We're under no obligation to do so, sir. [LB1170]

SENATOR AVERY: It's because of what reason? [LB1170]

BRAD STEVENS: That is Nebraska law. [LB1170]

SENATOR AVERY: Because you file as a 501(c)(4), right, with the Secretary of State? [LB1170]

BRAD STEVENS: Yes, we are a 501(c)(4). Yes, sir. [LB1170]

SENATOR AVERY: Yeah. So you circumvent the reporting requirements in the state of Nebraska by filing with the Secretary of State as a 501(c)(4), knowing that you are a political organization engaged in political activity, and you deliberately do this so you don't have to report. [LB1170]

BRAD STEVENS: I would disagree with your characterization. [LB1170]

SENATOR AVERY: On what grounds? [LB1170]

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BRAD STEVENS: We are here testifying in support of LB1170. If you want to ask specific questions about our organization and what we stand for, I will simply say this, sir: We believe that under the First Amendment we have the right to petition our government, which is what we ask people to do. When they join an organization, they can send an e-mail, write a letter to their state senator supporting LB1170. We ask people if they want to attend events, you know, the free association. Everything that we do is protected under the First Amendment. And we...there is no where in the federal or state law that for our organization when we ask people to take a position on issues, to attend events, to be involved in what we do, there is no where in the First Amendment that has an asterisks that says: as long as you fulfill the obligations that Senator Avery believes that you have. [LB1170]

SENATOR AVERY: You are making a case for transparency. And I am saying you ought to hold your own organization to the same standard. That's all. [LB1170]

BRAD STEVENS: Thank you, sir. [LB1170]

SENATOR AVERY: Senator Pahls. [LB1170]

SENATOR PAHLS: And I do...I appreciate that you did circle it so that way I can see it. It's like a lot of contracts I sign, though, I can't find the...you know, unless I spend hours on their fine print. Now this sort of seemed like a harmless organization as I look at this. I mean, I think these guys are harmless. [LB1170]

BRAD STEVENS: Like I said, this is just an example. We're not trying to single out the Bar Association. We think they do good, respectable work. [LB1170]

SENATOR PAHLS: Yeah, yeah. And I understand that. And while I also think that even though at times I've been on the other side of the NSEA. Now is their...do you have their form? Is it as hidden as this one? [LB1170]

BRAD STEVENS: I was not able to get a copy of the NSEA's. But the point is that you have...when you look at current Nebraska state statute, it already says in state statute that there is supposed to be this fire wall that all contributions to and expenditures from separate, segregated political funds shall be limited money or anything of ascertainable value obtained through the voluntary contributions of the employees or members. So when you have an opt out, like this example provides for, and so other organizations, other unions, it might be NSEA, it might be local unions, it could be other ones, they're interpreting this legislation as allowing for what you just said, a hard-to-find, small print, opt out. And we believe that's too difficult. That is not living up to the spirit of the law. [LB1170]

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SENATOR PAHLS: Okay. I agree. This is hard to read. But I'm looking for the form, because I think one of the largest...I'm defending the NSEA, I have to wow. I mean, not that they're a bad organization but I've had conflicts with them in the past. On their form I see this is some...but you're telling me that their form is the same way as this?
[LB1170]

BRAD STEVENS: I do not know. I haven't seen their checkoff. [LB1170]

SENATOR PAHLS: And that's all I'm asking. [LB1170]

BRAD STEVENS: Yeah. [LB1170]

SENATOR PAHLS: Okay. [LB1170]

BRAD STEVENS: I can't speak to that. [LB1170]

SENATOR PAHLS: Okay, okay. And I'm not trying to put you behind an eight ball at all to be honest with you. But also I picked up on, you said that sometimes educators belong to NSEA for the liability. And to be frank with you, most school systems automatically have a million-dollar liability on their staff without the NSEA. I think that's probably pretty standard because they want to protect the "staff" as well as NSEA. I'll ask you the question, am I being unfair? I made a statement earlier. We do have outside monies coming into the state that almost seem to swamp some races without outside money. Is that...and since that's...you're okay with that? Do you think that's good for the state of Nebraska? Just your opinion. [LB1170]

BRAD STEVENS: To answer your question, I believe if we're going to talk about being involved in those types of activities, I...honestly I just...it's outside of this scope of LB1170. If you're going to ask my personal opinion on...I think you talked earlier when you were questioning Senator Christensen about the PACs at the national level and I'm assuming you're talking about, you know, the pro...the different candidates at the national level and their PACs. I mean, speaking personally, I would rather that we didn't have the limitations on what you can give to individual candidates and that way people wouldn't be driven to these PACs. And then you would know, you know, you're giving it to the President's campaign or you're giving it to Mitt Romney's campaign and then all of that through those campaigns. You know, they can't use this, well, I can't control the PAC so, therefore, you can't hold me accountable line. I wish we could get away with that...away from that. [LB1170]

SENATOR PAHLS: Well, then I take it from you then, let's say if I'm running at the national level and there's a PAC out here, I probably know what they're giving. I mean, I cannot have legally anything to deal with them but I probably have a pretty good idea who's contributed to them and things such as that. I mean, it's on the news who throws

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money. [LB1170]

BRAD STEVENS: Sure. [LB1170]

SENATOR PAHLS: Okay. And I'm not totally against what your organization is doing. I mean, I just...I think I like the idea of transparency on everything, even on this and on all the organizations. I think it would be a better world myself. [LB1170]

BRAD STEVENS: Sure. [LB1170]

SENATOR PAHLS: Thank you. [LB1170]

BRAD STEVENS: Thank you, Senator. [LB1170]

SENATOR AVERY: Just one observation. On this Bar Association form, you're right. That's a pretty small font. But it's my understanding that lawyers are trained to read the fine print. (Laughter) [LB1170]

BRAD STEVENS: That's very true. [LB1170]

SENATOR AVERY: Any other questions for Mr. Stevens? I don't see any. Thank you for your testimony. [LB1170]

BRAD STEVENS: Thank you for your time. [LB1170]

SENATOR AVERY: Any other proponent testimony? It's just getting fun, guys. (Laughter) All right. Opponent testimony. Good afternoon, sir. [LB1170]

FRANK DALEY: Good afternoon, Senator Avery and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the Executive Director of the Nebraska Accountability and Disclosure Commission, and I'm here today to express the commission's opposition to LB1170. As I understand it, the bill really has the praiseworthy intent of ensuring that contributions into separate segregated political funds, or PACs, are voluntary in nature. And I guess I submit to you that I think by law we're already there. Section 49-1469.06, which is the statute amended by LB1170, currently provides, "All contributions to and expenditures from a separate segregated political fund shall be limited to money and anything of ascertainable value obtained through the voluntary contributions of the employees, officers, directors, stockholders, or members of the corporation...labor organization, industry, trade, or professional association." That's what the current statute is. And I think maybe it helps to look a little bit at the current practices of PACs in the state of Nebraska. The most common way that a contribution is made to a PAC is that someone writes a check to the PAC, in other words, a check to XYZ PAC, and that's a voluntary

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act in and of itself. And typically when someone is writing a check to a PAC, they know what the PAC does. They know what types of activities, what types of candidates the PAC typically supports, things of that nature. That's the most common way that PACs receive money in the state of Nebraska. The most common alternative is for the contributor to agree to divert part of his or her dues or part of his or her paycheck into a PAC account. It might be in rare cases a situation in which a PAC is a for-profit corporation and employees have the opportunity to checkoff part of their paycheck into that political action committee. It must be done in a voluntary way. Another way that it's often done with membership organizations is that there is some sort of checkoff as part of the dues or some addition to the dues, things of that nature. So when a contributor is either writing a check or agreeing to that diversion of dues or paycheck, he or she knows that his money...his or her money is going to a political campaign. Now I agree also with the concept of transparency as to how the money is used and so forth. But if we have a political action committee that's organized under the laws of the state of Nebraska, if a potential contributor wants to know how that money has been used in the past, it's pretty simple. All they have to do is look at our Web site and they can see that the...what contributions or expenditures the PAC has made going back to 1998. So that information is available and the contributor can always look at our Web site or ask the PAC how is the money being used. LB1170 requires written authorization from each contributor each year on the use of contributions. And I guess that...I suppose I understand the concept if people are making monthly contributions out of a paycheck or out of dues or things of that nature. But the language as drafted here does create some sort of confusion and some administration and enforcement problems. If a contributor, along with other contributors, makes, for example, a contribution to a PAC in 2011, when is that contributor's money considered to have been used if they make a single one-time contribution? How many years after that does the PAC have to notify the contributor and get authorization to use that money? And that's kind of a problem, particularly for the PACs where someone writes a check. They write a check, maybe it's for \$250, maybe it's for \$300. When is that money considered used such that in subsequent years they no longer have to be notified regarding the use of their PAC or the funds? So at any rate, that's all I really have to say. Thanks for the opportunity to testify today. And even though we disagree on this one, I do thank Senator Christensen for, number one, his interest in the Accountability and Disclosure Act and in the concept of voluntariness and transparency. [LB1170]

SENATOR AVERY: Thank you, Mr. Daley. Questions from the committee? Senator Sullivan. [LB1170]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Mr. Daley. Have you seen a variety of these forms like with the NSEA and then also organizations that have PACs so to sort of identify how easily or not easily it is for an individual to identify whether...? [LB1170]

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FRANK DALEY: Well, I've certainly seen the one from the Nebraska Bar Association, and every year I sit there and decide, do I want to check off no lobbying or (laugh) never. I've seen some over the years that come in a variety of different forms. What I tell PACs when they're forming, when they're looking for advice is that the law requires voluntary contributions. You want to make sure that you can document the voluntariness of the contribution. So you either have a form signed or a letter or something of that nature so that if your PAC is audited or if there's some issue as to voluntariness that you can substantiate that. [LB1170]

SENATOR SULLIVAN: How often are audits performed? [LB1170]

FRANK DALEY: Sporadically. If there's a problem, typically. [LB1170]

SENATOR SULLIVAN: Thank you. [LB1170]

SENATOR AVERY: Any other? Senator Pahls. [LB1170]

SENATOR PAHLS: Okay. Let's say that I belong to...apparently right now we're looking at unions. And so, okay, I check off, you know, I can take my money out. Is that taken out in one lump sum or is that...you know, because they get a monthly paycheck, is that how that's...? [LB1170]

FRANK DALEY: I think it's done in a variety of different ways, and I'm not sure I can speak to all of the ways that different unions will do it. I would expect that different unions have different approaches to it. By way of example, with some, a portion of your union dues are taken out with each paycheck and to the extent that you've agreed that some of the money can go into the PAC, that happens at that time. Other types of membership organizations, not necessarily unions, may have annual dues, such as the Bar Association which is not engaged in campaign activity for candidates, in which case they may check off at that point in time. There are also a variety of other approaches that different organizations take such as the reverse checkoff and things of that nature. So how they do it really runs the gamut. [LB1170]

SENATOR PAHLS: You're right. It's a variety. [LB1170]

FRANK DALEY: It is, it is. [LB1170]

SENATOR PAHLS: Okay. Thank you. Thank you. [LB1170]

SENATOR AVERY: Any other questions? Don't see any. Thank you. [LB1170]

FRANK DALEY: Thank you very much. [LB1170]

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SENATOR AVERY: Any other opponent testimony? Welcome, sir. [LB1170]

KEN MASS: Senator Avery, members of the committee, my name is Ken Mass, that's M-a-s-s, representing Nebraska AFL-CIO today. Paycheck deception. We are also here in opposition to LB1170, which is basically known as paycheck deception. Paycheck deception is an attempt to silence working families. As working families under unions increasingly speak out on important and political and legislative issues, a coordinated nationwide campaign to silence them is mounting and has been in several different states, this same kind of legislation. By introducing initiatives and legislation throughout the country designed to limit working families participation in political and legislative process by singling out unions for the burdensome restrictions. Backers of this effort claim to be protecting the interest of working families and representing their proposals as a campaign finance reform. In truth, the initiatives are designed to silence the voice of working people. And they are a direct response to the AFL-CIO's aggressive education and mobilization efforts among working families that in the past couple of years have helped pass proworker legislation and hold Wall Street accountable for its greed. These antiworker proposals single out unions, proposing tight controls and burdensome regulations that won't apply to anyone else. Union members already have more protections than members of other organizations, and unions already are subject to more strenuous reporting requirements. As it stands, union members have a choice. No worker can be forced to fund a union's political or legislative activity. Union members choose whether to join a union, set their own dues, elect their own leaders, and vote on where and how the money will be spent. The minority of workers who disagree with union political activities can choose not to belong to the union. In states where they still have to pay a fee to cover union representation, they are not required to pay the amount that goes to the political and legislative activities. Corporation, by contrast, don't give shareholders, employees, or customers any say in their political activities. Union members want their unions to be involved in the political arena. For example, overwhelming majority of union members support the AFL-CIO's position on working families issues. Eight-six percent, for example, approve the creating jobs or investing in infrastructure, while seventy-three percent oppose raising the social security retirement age. Initiatives to further screw the political balance of power are being discussed as campaign refinance reform. They're not. Their current campaign finance system already unfairly rewards wealthy contributors. To be serious, reform efforts can just limit the role of working families and their unions. That's the end of my testimony. I'd answer any questions if there is any. [LB1170]

SENATOR AVERY: Thank you, sir. Questions from the committee? Senator Pahls. [LB1170]

SENATOR PAHLS: Well, then I'll ask you the question. Can you...because apparently you've seen a lot of contracts, when your organization or groups who work within that organization, is it pretty clear, that checkoff? It's not hidden? [LB1170]

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KEN MASS: It's pretty clear what? [LB1170]

SENATOR PAHLS: Pretty clear that they know what they're signing or...? [LB1170]

KEN MASS: Sure, sure. We have in our organizations that belong to AFL-CIO. We have what we call quick checkoff. The international unions and locals have that. They sign an individual card to contribute on. And you asked the question, how often do they take it out. They take it out by so much per pay period. It might be once a week, once every other week, or once a month, or whatever. An X amount of money per pay period they take out and it goes to the...it goes from...in the PACs, it goes to the international union. That doesn't stay locally. You can't, that money has to go to the international unions. Okay. And you have organizations that have COPE funds or legislative funds, not PAC funds but COPE funds, where that could stay locally. And, there again, that...they're very aware of what they're putting on there because I, Ken Mass, sign a card for X amount of dollars per pay period and I sign it and I date it and that money comes out of my paycheck. And there's a little slot up there that says: for COPE deductions. Okay. It comes out and I'm very aware how much money I have coming out and how much is being taken in, so. [LB1170]

SENATOR PAHLS: So the argument that you don't realize that you're putting money in is not really valid. [LB1170]

KEN MASS: No, it's not. [LB1170]

SENATOR PAHLS: Because you would know that. [LB1170]

KEN MASS: Yes. Yes, sir. [LB1170]

SENATOR PAHLS: Okay. [LB1170]

SENATOR AVERY: Any other questions? I don't see any. Thank you for your testimony. [LB1170]

KEN MASS: Thank you. [LB1170]

SENATOR AVERY: Any other opponent testimony? We're still on LB1170. Okay. Anyone wish to testify in a neutral position? Good afternoon. [LB1170]

KATIE ZULKOSKI: Good afternoon, Chairman Avery, members of the committee. Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying today on behalf of the Nebraska State Bar Association. I want to be very clear on two specific points. The first one is I'm testifying neutrally today because we are not taking any position at all on this bill. I just want to

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make very clear that our organization does not have a PAC. And the form that was passed out, it's unfortunate that they did not discuss passing that out with us earlier; we would have cleared up for them that that is not to do with PAC funds. Those are...we do not use funds from the Bar Association to support candidates. That is for the...that checkoff is for lobbying expenses, and that's because of the Supreme Court case out of California. And I'd be happy to answer any questions. [LB1170]

SENATOR AVERY: So the Bar Association only lobbies on behalf of the Bar's issues. You do not support candidates at all? [LB1170]

KATIE ZULKOSKI: That's right. [LB1170]

SENATOR AVERY: Okay. Senator Pahls. [LB1170]

SENATOR PAHLS: Thank you. So I'm to understand then, because I thought there was a PAC out there by the trial attorneys. That's separate... [LB1170]

KATIE ZULKOSKI: That's very different. The Bar Association, every attorney in Nebraska to be licensed you are a member of the Bar Association. Then the Trial Association and things like that, those are separate groups. [LB1170]

SENATOR PAHLS: Oh, okay. Okay. Thank you. [LB1170]

SENATOR AVERY: (Exhibits 3-5) Any other questions? Don't see any. Thank you. Any other neutral testimony? Senator Christensen, you're waiving? Okay. Let me...I want to enter into the record a letter of opposition to LB1170 from the NSEA; a letter of opposition to LB1170 from the General Drivers and Helpers Local Union No. 554; a letter of opposition to LB1170 from the Nebraska Association of Public Employees. All right. That ends the hearing on LB1170. We will now open the hearing on LB1171. And welcome, Senator Christensen, once more back to the table. Now are you going to stir things up again? [LB1170]

SENATOR CHRISTENSEN: (Exhibits 1-2) Thank you, Mr. Chairman, members of the Government, Military and Veterans Affairs Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District. LB1171 would adopt the Balance of Powers Act. It seeks to set up a formal process by which state Legislature can review federal legislation, which goes beyond the federal government's authority as expressly given in the Constitution of the United States, to protect the liberties of the people of the state of Nebraska through nullification. This bill is founded in the idea that the Constitution of the United States is a compact between the states creating the federal republic that is limited to the power that was expressly given to them by the states in the Constitution to serve the states. The bill argues that the states create this compact and are parties to this compact, which created the federal government. It is

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only logical, then, that they have some say in the constitutional...as parties who ratified the Constitution, which specifically limited to the powers of the federal government. When the federal government believes it can make any law, rule, or regulation through creative interpretation of several clauses in the Constitution, the document becomes more and more meaningless. When all three branches of the federal government get it wrong, then it only makes sense for the states to exercise the power of nullification on unconstitutional law within their state, protecting the liberties of the people and the constitutional powers of the state. The Ninth and Tenth Amendment to the Constitution of the United States were added to confirm the balance of powers between the state and federal government, clarifying that the powers not expressly given to the federal government in the Constitution are powers given to the states or the people. LB1171 is a bill seeking to reestablish the proper balance of power between the federal government and the states at a time when the federal government is increasingly asserting power it has not been given through the constitutional amendments. Sections 2 and 3 of this bill are findings, decorations, and acknowledgments of the Legislature. Section 4 would create the Committee on Nullification of Federal Laws. This committee would be appointed by the Exec Board of the Legislature, would consist of 19 members of the Legislature, 6 members from each of the Nebraska three congressional districts, and the Speaker as the chairman. If you look at your fiscal note, I believe the Fiscal Office interpreted the language as a total of six members coming from three congressional districts. I believe that can be easily clarified. The committee would meet at the call of the chair and evaluate federal laws, judicial mandates, and executive orders, and make recommendations to the full legislative body for debate. The rest of the bill provides the procedural guidelines and requirements for notifying the other states, the federal government, and other congressional delegation. I've handed out information that provides responses to typical arguments against the idea of nullification. I'd be glad to try to answer any questions. [LB1171]

SENATOR AVERY: Thank you. What's wrong with just...if you disagree with a federal law, what's wrong with going to court and having the courts decide? That's the way we traditionally do it. [LB1171]

SENATOR CHRISTENSEN: Correct, but if you look at what's been going on for a number of years now, you see a movement where the judicial is making laws that were recently set up for the legislative branch. You see a number of things where they're not separating their powers the way it was set up in the original Constitution. So going to court doesn't necessarily mean they're going to follow the original intent of the Constitution. [LB1171]

SENATOR AVERY: So you would take the Supremacy Clause in the Constitution and essentially ignore it? Wouldn't you have to amend the Constitution to get rid of that clause? [LB1171]

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SENATOR CHRISTENSEN: Well, it would be nullifying that, yes. [LB1171]

SENATOR AVERY: You can't nullify the Constitution by state law. [LB1171]

SENATOR CHRISTENSEN: Well, if you...in doing this, you're setting up...the states created the federal government and said what powers they have. It's just going back to the original Constitution. It's just been stepped on for so long most people don't even realize it's the Constitution. [LB1171]

SENATOR AVERY: The last time...I'm not going to belabor this too much, but the last time states tried to go their separate ways was in 1861 and we fought a civil war to resolve that. You're not hoping to go down that path, are you? [LB1171]

SENATOR CHRISTENSEN: It might be the only way to save this nation, let's put it that way. [LB1171]

SENATOR AVERY: (Laughter) Questions from the committee? Senator Karpisek. [LB1171]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Senator Christensen. Wouldn't it be easier just to secede? [LB1171]

SENATOR CHRISTENSEN: That's sure a possible way of doing it and there's been even books written on they think the center will secede from the outsides and things that way and become three nations. It's...you know, yes, that is an option. [LB1171]

SENATOR KARPISEK: And then I'm sure you wouldn't mind me putting on an amendment that would also do this for state laws because everything that we pass down on cities and counties. [LB1171]

SENATOR CHRISTENSEN: That's fine. [LB1171]

SENATOR KARPISEK: Good. I'd like that. (Laughter) Thank... [LB1171]

SENATOR CHRISTENSEN: I like the lowest level being in control. [LB1171]

SENATOR KARPISEK: Okay. Good. Thank you, Senator Avery. [LB1171]

SENATOR AVERY: Are you advocating anarchy? Don't answer that. (Laughter). I'm afraid you might say yes. Any more questions? All right. You going to stay around for closing? [LB1171]

SENATOR CHRISTENSEN: Yes. [LB1171]

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SENATOR AVERY: Okay. Proponent testimony. Welcome, sir. [LB1171]

RALPH BODIE: Members of the...Ralph Bodie. Good afternoon, Senator. [LB1171]

SENATOR AVERY: Spell your name for us. [LB1171]

RALPH BODIE: Ralph Bodie, B-o-d-i-e, Liberty, Nebraska, proponent for LB1171. I might say that the bill is meant to bring constitutionality to legislation or mandates that may be drifting to a state level, and we need to recognize those and refrain from the use of those laws or mandates or executive orders. Much problems have been related to that kind of authority in the past and will be continuing to center the authority into the federal government. Now the importance of doing this relates to all of us here, and I'm not individually pointing this as a weakness in our group here. But the citizens as well as senators come from the same body of people. We all are citizens of this great nation. And of this group here, most of us have taken an oath more than once to defend and support the Constitution of the United States and so help you God. The supreme authority is our Judeo-Christian roots in most of our beliefs here, but it's not limited to that. So that's where we should be looking for the authority in anything congressionally put together by the three branches of government. And remember that the federal government, the legislative body, Congress, brings those bills before us for the legislation that we approve to accept as the authority from the federal government. With that come many strings attached normally through funding. It has been noticed over the period of my lifetime that it continues to increase, and that authority is very damaging to our nation because it drifts us into more a centralized government where the central government...the federal government has more authority than the balance of powers it was intended to have. We have three branches of government at the federal level: legislative, judicial, and executive branch. And of those branches, the founders made a framework that we live by. They call it the Constitution of the United States. That's a very important thing for all of us to understand. And the state government reflects that of the federal government. So as we accept mandates that are unconstitutional, we're not defending the oath that we support and took to the state government or to the federal government we swore to be a member of the armed forces. Now I took an oath to my service to the Navy. I took an oath to my service in the federal government as a civil servant. And I still support and defend the Constitution of the United States. I hope that we can all see the logic in that process because it's important to do that in our representation of the country for the senators, for the citizens. And how can we have free enterprise unless we notice and recognize those forces? Through the balance of powers, we can straighten our nation out with balance, because that powers can't be centralized at the federal government. There's been talk of that and acceptance of that in many people, and we're all going to have differences of opinion. But the Constitution is the ultimate power and force in our government. And at the state level, it reflects the federal level's intent of the Constitution. We all have our ideas of principles, but in our

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governance of this great nation, we must be principled. I would like to reflect on the principles that I've kind of composed. They're different than others that I've seen. But I believe in faith-based morality should lead and guide our lives. If we have no faith and we're secular or humanistic, who are we answerable to? Okay. Individual freedom and liberty. We see too many people in this nation now that are not individualists. They're group thinkers. Their ability to understand their lives belong to groupthink, political correctness, diversity, planning, and overregulation. Thirdly, free enterprise is what made this nation great. It's what makes us exceptional. And, furthermore, limited government plays an important part in the roles we see today. And, finally, strong national defense secures the blessings of liberty. Now I'm running out of time here. I could probably go on for another five or seven minutes, but I have two tools of governance that will be helpful to all of us to understand. Essential Liberty is one of them. It's a pocket-sized book you can understand the rules...the thoughts and philosophy of the founders, is written by the founders and published by Mark Alexander with Patriot Post. I will share this book to look at while I'm here. And, furthermore, I have another book that's called The 5000 Year Leap written by a lawyer in 1986. And he did it because he saw the weakness in candidates or congressmen. [LB1171]

SENATOR AVERY: Sir, your red light is on. [LB1171]

RALPH BODIE: Yes, sir. And this was a great book and I provide it for all of you that wish to have this book. [LB1171]

SENATOR AVERY: Thank you. Thank you very much. Questions from the committee? Senator Wallman. [LB1171]

SENATOR WALLMAN: Thank you, Chairman Avery. Thanks for coming up here. This is your house, you know. [LB1171]

RALPH BODIE: Thank you, Senator. [LB1171]

SENATOR WALLMAN: And I agree with a lot of what you said. But when we started the United Nations and all this stuff, you know, our powers went all over the world. And that's why we have a hard time controlling costs, don't you think? [LB1171]

RALPH BODIE: No. The United Nations isn't part of the United States of America. [LB1171]

SENATOR WALLMAN: I know, but we fund it. [LB1171]

RALPH BODIE: Well, it should be taken out of service in the United States. It's a dangerous thing. It supports global governance, Agenda 21, and it will bring our nation to an end as we know it under rule of law. We will become a totalitarian state under the

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United Nations. [LB1171]

SENATOR WALLMAN: Thank you, sir. [LB1171]

SENATOR AVERY: You don't worry at all about what would happen to this great nation, I agree with you, this great nation and I revere the Constitution as you do,... [LB1171]

RALPH BODIE: Thank you, Senator. [LB1171]

SENATOR AVERY: ...you don't worry at all about what would happen to this country if we all start going our separate ways as states? How are we going to hold together as a nation? How are we going to exercise our influence in the world if we do that? [LB1171]

RALPH BODIE: Well, in contrast to what Senator Christensen said, and not to not belittle what he said, there is no room for secession in our nation. We all understand that that's not an option here within this LB1171. Secession isn't on the table. So what we have to do is strengthen the states to put the context of authority in the right elements of constitutional authority. Because the founders realized through the study from Publius and Cicero what we needed to combine our strength of our nation. In other words, we took several different types of government under Publius and converted them into what we developed in our nation's framework. And over here at Cicero's level, he incorporated the strength of our laws of natural order, you know, the laws of the creator into our Constitution, which made us a much more powerful nation. Now if we take those individualist ideas that I represented earlier and put them in all the states, that's where the greatness of our nation lies. And by continuing to bind together under state law and get other states to recognize the authority of the supreme...of the federal government in our nation, we'll continue to bind the states together and balance the powers effect between the federal and the state level. It's not about civil war; it's about...not about secession; it's about strength of our nation as where we are. [LB1171]

SENATOR AVERY: Any more questions? Senator Janssen. [LB1171]

SENATOR JANSSEN: Thank you, Chairman Avery and members of the committee. I apologize for my late arrival. I apologize to you as well. I don't know your name. [LB1171]

RALPH BODIE: Ralph Bodie. [LB1171]

SENATOR JANSSEN: Thank you, Mr. Bodie. You mentioned, and maybe I heard this wrong since I was getting my notes together, said as diversity is one thing that you mentioned. Is that a bad thing or did...? [LB1171]

RALPH BODIE: Okay. Well, yes, it is, Senator. Diversity, political correctness break

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down the moral integrity of the individualist. They make it into a groupthink. We can't have those elements in our society and be strong as an individual. The individual makes up a family unit. The family unit makes up a community. A community makes up a county and a precinct and a...the counties come together as 92 or whatever and we make a state. And that's what's important in this state is our understanding of what diversity, political correctness, planning, and overregulation do. They destroy the intent of a firm understanding in constitutionality. Those ideas are basically totalitarian.
[LB1171]

SENATOR JANSSEN: Could you give me what your definition of diversity is? [LB1171]

RALPH BODIE: Well, diversity. We should accept word uses different than what we believe they are. In other words, some people don't like the idea of diversity in accepting homosexuality in places or accepting certain laws that might be preventing other people from enjoying the same privileges like there's a difference. We're all citizens of this nation. [LB1171]

SENATOR JANSSEN: Thank you. [LB1171]

SENATOR AVERY: Any other questions from the committee? Thank you, Mr. Bodie.
[LB1171]

RALPH BODIE: Thank you, Senator. And see me after the hearing and I'll be glad to provide you with a book. [LB1171]

SENATOR AVERY: Thank you. Any other proponent testimony? Welcome, sir.
[LB1171]

GREG LYONS: Hi. I'm Greg Lyons, L-y-o-n-s. I'm sorry, I'm not...I wasn't expecting to testify today. But, Senator Avery, I wanted to kind of address a question you had about why not use the courts. I think, in my opinion, the most compelling reason to not use...to not rely on the courts is that kind of a fundamental concept of a court is you have an independent and objective body or person deciding a case. If you were to go to the state court, the state that that court is essentially employed by the state, correct? And so they're not going to be really an independent body. Same with the federal court, even the Supreme Court. They're all part of the federal government. And wouldn't it be kind of like if you had a dispute with your neighbor, would you want your neighbor's...an employee of your neighbor or your neighbor's brother deciding the case for you? I think that's the most compelling reason for the concept of nullification. One other thing I would like to say just briefly, I don't think we necessarily have to look at this as going the civil war route. The...it's sort of been done and I'm not a proponent of marijuana use, but an example of this type of thing, like I think we're all aware of the way California has kind of ignored federal laws on marijuana use in some instances. And it does result in friction

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between the federal government and California but it hasn't really...you know, it hasn't resulted in, you know, any, you know, rebellion or anything like that. And I just wanted to make those points that it didn't seem like those were being made anywhere yet.
[LB1171]

SENATOR AVERY: Thank you. Questions from the committee? Thank you, Mr. Lyons. Any other proponent testimony? All right. We'll move to opponent testimony. Senator Chambers, (laugh) you have been eager I would say. [LB1171]

ERNIE CHAMBERS: (Exhibit 3) Mr. Chairman, members of the Government Committee, my name Ernie Chambers, C-h-a-m-b-e-r-s. I live in Omaha, Nebraska. I have a profound respect for the Constitution. I graduated from law school but I will not join the Bar Association, therefore, I'm not allowed to practice law, although I make use of my knowledge of the law. I'm going to make a few comments, then I'm going to offer some amendments based on where this bill will take you. When I was in the Legislature, if there was a bill that I didn't like at all but I thought it might be passed, then I would offer changes so that if and when it did pass it would be in better shape than prior to my administrations. When I saw this proposal, like that young person in the "Night Before Christmas" we call it, but it's really the Visit of St. Nicholas, I laughed when I saw it in spite of myself, and it was all I could do to control my laughter. This would make Nebraska a laughing stock. This bill mentions something on page 9 or 8 about notifying the other states when Nebraska commits one of these stupid things so that Nebraska can retain the esteem of these states. If these states had any concern for the people of Nebraska, they would probably determine how many officials participated in this so-called nullification and got them some medication and sent it to Nebraska. This is what I call that monkey see, monkey do, copycat, claptrap. I don't think this committee is going to advance this bill, but they say strange things happen in a legislative setting. I don't understand why they didn't include interposition, if they know what that is, when the question about the Supremacy Clause was offered. That is found as Article VI of the unamended Constitution. Since they want to talk about the founding fathers, the founding fathers wrote Article VI. What they're talking about in terms of Ten, that's not an original article; that's an amendment. And it's an amendment to the Constitution. I know Senator Christensen did not craft this. I remember him being smarter than that when I was in the Legislature with him. This thing has grammatical errors, bunglesome syntax, misstatements of fact, law, and constitutional provisions. It is the type of thing which if a child in grammar school--well, I think they might have some form of civics in grammar school--wrote something like this, he or she would not pass. There are fanciful, fallacious, so-called interpretations of the Constitution which purport to be the findings of the Nebraska Legislature. They're not even the findings of the senator who offered this. Senator Christensen didn't fashion this and I'd venture to say that some right-wing group, which has its own branch of political correctness, put this together and they want to see just how silly legislators can be. Now the Senator has every right to bring such a proposal, and it's good to get these things out in the open, and I as a

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citizen have every right to criticize and oppose it. Now because of the amounts of time that we have, there were some specific things I wanted to get into in the bill. But before my time runs out, I wanted to offer some amendments into the record. Secession is on the table, by the way, when you see where you would be taken. Read Section 6, which I don't have time to do right now because my time will run out. The first amendment I would offer is on page 8, line 11. I would strike the word "simple" and insert "simpleminded." It said by a simple vote by a simple majority. I say "simpleminded" majority. I'm not even going to be able to finish my amendments but I'll try. Page 9, line 10, after the period insert--because we're talking about what this committee can do--such measures that they can take shall include but not be limited to the power to: (1) Create and raise an army to be known as The Army of the State of Nebraska, to complement the Nebraska Navy in order to provide for the defense of the state and its people against all enemies whatsoever; (2) Implement a Military Draft to compel service by every able-bodied male above the age of six years old, to include those who have been dead no more than 72 hours at the time of receipt of a draft notice. And I do play by the rules, my time ran out on me, so I will stop. [LB1171]

SENATOR AVERY: Thank you. I appreciate your respecting our time limits. Senator Seiler wants to engage you in conversation. [LB1171]

ERNIE CHAMBERS: Thank you. [LB1171]

SENATOR SEILER: Thank you, Senator Avery. Senator Chambers, I would like enter...and just forget about this bill, but something that's been bothering me that I want your information on. Right now we seem to have the Attorney General can jump on any federal law and file a lawsuit against it. I was wondering what your thoughts were about having the Legislature have any input before that lawsuit is filed. [LB1171]

ERNIE CHAMBERS: I think it ought to be done because the Attorney General is one person, a member of the executive branch. And when a lawsuit is filed, that is done on behalf of the entire state of Nebraska, all of the citizens. The Attorney General is a lawyer for the state, not an autonomous, free-wielding individual to pick and choose for political reasons the type of issues to put the state on record for. So I think it would be very wise, whoever the Attorney General might happen to be, even if it were me, to have consultation with the Legislature. And since the three branches were mentioned, it would be good to just point out briefly that the Legislature is the only branch that represents the people. That is the people's branch. The executive carries out the law and doesn't represent the people. The judiciary interprets, construes, and applies the law but does not represent the people, only the Legislature. So when a position is to be taken by an elected official that would impact on the integrity and reputation of the state, the people's branch ought to have something to say about it and not by way of invitation of the Attorney General. It should be in statute and required in the same way that the statutes require the Attorney General to offer opinions to members of the Legislature

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and other named agencies of government. [LB1171]

SENATOR SEILER: See, that's where I thought this legislature (sic) was headed when I first read it and started into it, but it didn't take long to figure out it was going off in left field. But the thing that... [LB1171]

ERNIE CHAMBERS: Oh, it goes off in right field. [LB1171]

SENATOR SEILER: Oh, I'll call it left field. [LB1171]

ERNIE CHAMBERS: Okay. I know. Okay. (Laughter) [LB1171]

SENATOR SEILER: But do you think during your lifetime you'll ever see the Ninth, Tenth versus the Fourteenth ever satisfied everybody? [LB1171]

ERNIE CHAMBERS: Say it again. [LB1171]

SENATOR SEILER: The Ninth Amendment, the Tenth Amendment versus the Fourteenth Amendment ever satisfy everybody? [LB1171]

ERNIE CHAMBERS: No. There's a tension between and among them and it cannot be otherwise because those who talk about the power of the Tenth Amendment are usually talking about what is called states rights... [LB1171]

SENATOR SEILER: Right. [LB1171]

ERNIE CHAMBERS: ...where they can deprive people of my complexion of any and every right. They would like to repeal the Thirteenth, the Fourteenth, and the Fifteenth Amendments, and then allow slavery. See, people... [LB1171]

SENATOR SEILER: Now that's a little bit of an extreme view of the Ninth and Tenth. [LB1171]

ERNIE CHAMBERS: Not if you have relatives in the South as I have who, without slavery, are subjected to some of the things that happened to them such as police coming into their house without a warrant, without even knocking, and no probable cause. [LB1171]

SENATOR SEILER: Oh, I understand that. It happens with white people also, Ernie. [LB1171]

ERNIE CHAMBERS: And then taking people to jail. But not in the way that it happens to us because they don't call you a peckerwood, a cracker, a honky, or whatever. But they

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use that n-word when they come to us. [LB1171]

SENATOR SEILER: Now they call me a kraut. Ernie,... [LB1171]

ERNIE CHAMBERS: There is going to be... [LB1171]

SENATOR SEILER: ...I want you to take just a step further. If you had your authority to figure out how you could justify the balance on those, do you have any thoughts on it? [LB1171]

ERNIE CHAMBERS: How I could justify this that they're offering? [LB1171]

SENATOR SEILER: No, no, no, no, no. Stay away from this legislature (sic). [LB1171]

ERNIE CHAMBERS: Oh, okay. [LB1171]

SENATOR SEILER: The balance between the Ninth, Tenth, and the Fourteenth. How would you balance those? [LB1171]

ERNIE CHAMBERS: That's what the courts do. [LB1171]

SENATOR SEILER: That's my point. [LB1171]

ERNIE CHAMBERS: And the way they do it is to have before them an existing controversy between parties whose interest are contrary. [LB1171]

SENATOR SEILER: Okay. [LB1171]

ERNIE CHAMBERS: Then they take evidence and information. They have their clerks do research and don't just from the hip or a fast lip take a position based on emotion. And when they deliver an opinion, that is a dissertation explaining the decision that they arrive at. So I don't think there's any way that you could make one universal statement that would accomplish what your question embraced. [LB1171]

SENATOR SEILER: No. [LB1171]

ERNIE CHAMBERS: And it's why I think the courts on occasion will say even when they give a decision in a case, we are not deciding, then they mention tangential issues that might seem to be implicated, but they say this is narrowly applying to this little segment because they can see that it's such a broad multifaceted issue that they can't resolve it all and it's best to do it on a case-by-case basis. And this is why I think the courts do what they do and legislatures do what they do. You don't have to have any qualification to be in the Legislature except to live some place a certain amount of time, be a certain

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age, and outside the penitentiary. And to show how things happen, when they set up this committee, for example, there's a provision in the bill that says they study every federal rule, regulation, executive order to determine constitutionality. And yet you don't have to be trained in the law to be on that committee. You don't even have to know what the Supremacy Clause is. You don't have to realize that the word supreme means paramount, most powerful, that then which nothing is greater. And that Supremacy Clause, as I was going to say, was put there by the founding fathers. It mentions three things: the Constitution, the laws, and treaties. So when some of these people come up here or go other places and say we don't like this agreement with this, the country, we don't like the agreement with that country, they don't know what the Constitution says. So the very Constitution they invoke has told them already that the Constitution, the federal laws, and the treaties constitute the supreme law of this country and any provision in a state constitution or law to the contrary notwithstanding--told them specifically. I don't care what you put in your statutes. I don't care what you say in your constitution. This is the supreme law and anything you say that conflicts with it is a nullity, then they're going to come up here and say: We're going to nullify the Constitution. We don't like this; we don't like that. They're going to set up a committee with 19 people. Any determination can be made by 25. You only need six more. Since it's to be the work of the Legislature, why not let the Legislature sit as a committee of the whole and resolve it in that manner if you're going to do this? But if you read those amendments that I offered, you will see that they're the types of things that would have to be included among those powers given to this committee to enforce by whatever means they think necessary and withstand any action by the federal government. So that would include: having the Governor call out the National Guard to lay siege to Offutt Air Force Base so that there could be no U.S. planes allowed to take off or to land; close down every federal agency in this state; take possession of all of their assets; put under arrest and take into custody every federal agent, official, including judges, U.S. Marshals, and mail carriers. That's what you have to do to carry out this stuff. And you think anybody is going to sit still for that? If I were in or out of the Legislature and the law remained what it is, and I'm not just saying this to disparage people who really have mental illness. I'm very concerned about that. So I'm not making anything in my statement to disparage that. There was a time when you'd be paid a certain amount like a bounty if you turned somebody into the authorities who was what they called in those days crazy, an imbecile, or moron--and words like that were in the statute--I'd get me a net big enough to encompass 25 state senators and I would collect a bounty on all of them. This is the craziest nonsense I ever confronted in my life that was offered seriously. [LB1171]

SENATOR SEILER: Senator? [LB1171]

ERNIE CHAMBERS: Yes. [LB1171]

SENATOR SEILER: Have you covered all your amendments yet? [LB1171]

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ERNIE CHAMBERS: Just one thing... (laugh) oh, yeah, I should have gone at that... [LB1171]

SENATOR SEILER: You got most of them in already. Why don't you slip the rest of them in. [LB1171]

ERNIE CHAMBERS: But see, I try to have something nice to say about everything if I can. So if this were to be fodder for a stand-up comedy routine at a conference of historians or constitutional lawyers, then I think whoever performed it could probably go a long way. But other than as a part of a comedy routine, I think it is utter nonsense. And I expect this committee to bury it. [LB1171]

SENATOR SEILER: Senator Avery, I have no further questions of this witness. [LB1171]

ERNIE CHAMBERS: Well, some things you don't wind up at all. [LB1171]

SENATOR SEILER: Thank you. [LB1171]

SENATOR AVERY: One purpose of the question-and-answer period is to allow you to finish your testimony. [LB1171]

ERNIE CHAMBERS: Thank you and I appreciate that. [LB1171]

SENATOR AVERY: Questions? Senator Karpisek. [LB1171]

SENATOR KARPISEK: Thank you, Senator Avery. Thank you, Senator Chambers, for your amendments. And I agree we would need them, but I was a little bit disappointed that they weren't in rhyme. (Laughter) [LB1171]

ERNIE CHAMBERS: If I had done that, Senator Karpisek, and believe me...this man remembers me, the temptation was strong but they would have thought I was being facetious and not given this the seriousness to which it was entitled. But it was a strong temptation. [LB1171]

SENATOR KARPISEK: Thank you very much for testifying. Thank you, Senator Avery. [LB1171]

SENATOR AVERY: Any other questions? Senator Pahls. [LB1171]

SENATOR PAHLS: I do have one final question. Have you covered all the amendments that you think that are important? [LB1171]

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ERNIE CHAMBERS: Let me see, and I won't read the entire amendment. But I will tell you why I think these kind of amendments would be necessary if this bill were done in seriousness. You are saying in effect that the state is sovereign in the sense of having no power above it which has greater power. And that's why you would have to have secession on the table. If the only reason the state is a part of the United States is a voluntary relationship and there can be no compulsion to hold the state there even against its will, you'd have to take language from the Declaration of Independence that says this state is entitled to sever every political connection to the United States as the colonies could sever connections with Great Britain. And that they would be entitled to exercise all the rights and privileges that every free and independent state can do, such as levying war and things like that. That's where this type of legislation would take you. You cannot go halfway. You cannot tell the federal government we're not going to obey the law. Suppose Senator Janssen, with whom I'm sure I have great disagreements, had a judgment in federal court against my corporation in New York that also had business in Nebraska. And he was going to enforce his judgment in Nebraska, but the right-wingers didn't like a certain court decision that made that possible, so they'd say: Senator Janssen, you're out of luck. You cannot enforce that judgment in Nebraska. And Senator Janssen, look how young he is, naive and thinking the Constitution means what it says, says, well, things like this from one state are to be recognized by the other states. And they say, but not in Nebraska. Uh-uh, partner. You got to go somewhere else. So then what's to happen? They haven't thought of those things. And although what I'm saying might be seen in a lighthearted way, and I don't believe this thing will go anywhere, these issues are serious. No matter what simpleminded language it is couched in, we need to be familiar with the Constitution, how important it is, have a respect for it, and remember, or maybe you weren't aware, there are several places in the Constitution that declare my people to be property, it recognized our enslavement. There's only one provision in the United States Constitution which was exempted from amendment. They could amend it to have a king. They could amend it to have a parliament. They could amend it to do anything they wanted to but there could be no amendment to interfere with the slave trade before 1808. So if you want to know what the core value of this country was, it was the right to declare property in certain people. My people were like pigs, chickens, and cows. And the Constitution itself said, you can touch everything else but you cannot touch the slave trade by amending the Constitution. I read the Constitution and maybe that's my problem. I take these things very seriously. And with all of its faults, with all of its flaws, with all of the situations where courts don't interpret them the way I think they should to protect our rights--and why do I say ours, when you raise the bottom of the barrel, you raise everything in it--but it's the best that I've got. I've got to hold to the Constitution. I've got to try to protect it. I've got to say even if everybody recognizes it by violating it, I have to push for the inviolate existence of the Constitution and the laws, the safety, the protection of people situated as mine, not just black people, lies with the law and with its integrity. And I want to see the law, even though it often falls on me like a lash, respect it,

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maintain, because it gives me a hook on which to hang something to argue for better treatment. So when things like this come up, if I hadn't started out in a lighthearted way, you might think I was out of my mind. But these things damage the Constitution. They damage the integrity of the law. You all are not in a position where you have to be as concerned about it as I do. But I hope I've said enough to let you know that there are those of us who might seem to be in a position to be the last ones to speak for a Constitution that recognized slavery, that protected slavery, that declared me to be three-fifths of a person. Why would I not say like some people, it's a compact with the devil and an agreement with hell and burn every copy of it? Like some people say about me in my community, Ernie, you ain't much but you're all we got. So that's what I say about the Constitution. [LB1171]

SENATOR PAHLS: Thank you. [LB1171]

SENATOR AVERY: All right. Any more questions? I don't see any. Thank you. [LB1171]

ERNIE CHAMBERS: Thank you for the opportunity. [LB1171]

SENATOR AVERY: Thank you very much. [LB1171]

SENATOR SEILER: Thank you, Senator. I enjoyed it. [LB1171]

SENATOR AVERY: All right. Any other opponent testimony? [LB1171]

KATIE ZULKOSKI: Good afternoon, Chairman Avery, members of the committee. Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying on behalf of the Nebraska State Bar Association. I'll keep my testimony very short as it is the thankfully last day of committee hearings. We do think...the Bar Association does think that there are appropriate ways to challenge laws that are thought to be unconstitutional through the court system and that that is the appropriate mechanism to do so. [LB1171]

SENATOR AVERY: Any questions from the committee? I don't see any. Thank you. Any other opponent testimony? Any neutral testimony? Okay, your turn. Senator Christensen waives closing on LB1171. That ends the hearing on LB1171 and we'll now move to LR371 and invite Senator McCoy. Welcome, Senator. [LB1171]

SENATOR McCOY: (Exhibits 1-2) Thank you, Chairman Avery, members. For the record I am Beau McCoy, B-e-a-u M-c-C-o-y. I represent the 39th District in the Legislature, and I am here with you this afternoon on the last day of hearings to introduce LR371, which is referred to as the national debt relief amendment. LR371 seeks to ask the Nebraska Legislature to apply for an amendment convention Article V of the Constitution. The heart of the amendment comes down to 18 words, "an increase in the federal debt requires approval of a majority of the legislatures of the separate

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states." The federal debt, as we all know, is not new to our country. We've had public debt since 1791 that was incurred during the American Revolutionary War. The problem is the level of debt that we are leaving for our children and grandchildren and the rate at which it is growing. Since 1980 we have raised the national debt ceiling about 40 times, and on February 6 of this year our nation's gross debt was \$15.56 trillion. Our country's children have not signed a mortgage or cast a vote but they are saddled with this debt. It's hard to comprehend how much a trillion dollars really is. One trillion dollars will buy you 4,405 Boeing 747 airliners at \$227 million apiece or we could build, as we sometimes talk about, high-speed rail 12,195 miles of high-speed rail at \$82 million a mile, which would be five rail lines between L.A. and New York. Before we start pointing fingers, you'll notice that the handout I provided with you there's plenty of blame to go around. It's not a party problem. The debt has risen, whether Republicans are in power or Democrats are in power in Washington. It's a systemic problem in my mind. We need to change the system, and the national debt relief amendment it's my belief may be the best option to change it. I was made aware, as some of you may know, have the opportunity now have a leadership position at the Council of State Governments Midwest region and was made aware of the national debt relief amendment by a senator from North Dakota who is the original sponsor of this. The Goldwater Institute in Arizona has a lot to do with this issue. And Senator Curtis Olafson from North Dakota, as I've gotten to know him over the last few years, has successfully gotten this passed in North Dakota and in the state of Louisiana. And this year I introduced this as it is being introduced in 22 other states across the country in legislative sessions. And it's pretty simple in my mind because the national debt relief amendment requires approval from a majority of state legislatures to increase the national debt. This allows the American people to have a voice through the government closest to them, the state legislatures, before new debt is authorized. It's consistent in my mind with the separation of powers philosophy that guided our Founding Fathers and delivers on their vision of government of the people, by the people, and for the people. As you see on the other handout, amending the Constitution is a two-step process with proposition and ratification. Article V allows two methods for proposing amendment: Congress or national convention. What I think is important about this issue is sometimes you get into the discussion, we've all seen it in Washington the last few years, of balanced budget amendment or this would be another alternative. And I think what's important to me as we talk about a balanced budget amendment is it seems to be there's no clear-cut way how to go about that. Analysts will say, well, there's many different complicated formulas. It's difficult to get both parties to agree to how such a balanced budget amendment would be proposed. This seems to me to be one clear-cut way, as I've studied this issue and had the opportunity to talk to a number of analysts about this, that we could go about finally getting a handle on the federal debt. Because I think as we all watch the news on a daily basis, if we don't get a handle on the debt, I don't believe that we want to be in the position that Greece is in currently. And I think there's a distinct possibility that that could happen. And I believe that not only do what we do here on a daily basis in the Nebraska Legislature do we try to keep our house, fiscal house in

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order, but perhaps this is a way that we can help perpetuate that forward and help at the federal level get our national house in order. And with that, I would close, Mr. Vice Chairman, and take any questions if there are any. [LR371]

SENATOR PRICE: Thank you, Senator McCoy. Are there any questions from the committee? Senator Janssen. [LR371]

SENATOR JANSSEN: Thank you, Senator McCoy, appreciate you introducing this. And this is not a partisan question. Is there any alarm that the...or am I looking at this graph wrong, that the...it's increasing right now faster than it ever has before, at least on your chart that I'm looking at? [LR371]

SENATOR McCOY: I certainly think there's probably that worry. I think that that chart shows that it was probably just as much of a problem, maybe not to the degree what that chart shows in the current administration, but clearly the previous administration that served eight years in Washington did not help the national debt whatsoever. And so while it may be increasing at a more dramatic rate this last three years, I would say that chart says that it's a bipartisan problem. [LR371]

SENATOR JANSSEN: I agree. It just seems that it's going up just looking at your chart, just getting this, that it's going up much, much, much faster than I'm looking at the Cold War era and it didn't go up that much during the entire Cold War era. I mean that's not the entire, but of what I see in this chart. So I didn't know if that's the reason that kind of brought this bill is just kind of getting out of hand so quickly recently, and that's not just the last three years. I'm looking back eight years. Is that kind of...? [LR371]

SENATOR McCOY: Well, I think this, you know, obviously with four kids in our house under age eight you just look at the math of this, and I'm not an economist, but you look at this federal debt and you just realize how do we extricate ourselves from this problem? And if we don't do something, it's going to get to a point before too long that will we ever be able to get ourselves out of it? And so any way, in my mind, anything that we can do to help with that we should, not to take away from the role the federal government plays because it is an important one. But in this particular route, I would assume that if enough states proposed this, and clearly there are quite a number that are, we would get to a point that probably a convention would be called as is what's happened in the past. This particular pathway for a convention hasn't ever actually come to fruition because usually when enough states got along, when it appeared that it was going to happen, it was called and never actually had to go through this complete process at the state level. But if enough states get this or have this happen, in my mind, maybe we'll finally get the federal government to address this. That's my hope. [LR371]

SENATOR JANSSEN: Thank you, Senator McCoy. [LR371]

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SENATOR AVERY: Senator Price. [LR371]

SENATOR PRICE: Thank you, Chairman Avery. Senator McCoy, notwithstanding the alarming growth rate that we see in this federal spending, one of the things that would concern me on the passage of such an amendment, I mean do you recall how fast it took for our nation to react to Pearl Harbor? How fast it took us to declare an act of war on Pearl Harbor or... [LR371]

SENATOR McCOY: Well, as my historical memory is correct, (inaudible) it was barely 24 hours as I recall. [LR371]

SENATOR PRICE: Right. So and then we've got Desert Storm I and II, etcetera. And if our Legislature is out of session or other ones are out, this time period could become, particularly now with these asymmetrical wars that we're getting into, one concern I have, not that I'm against it, but I would caution for is we may hamstring the ability of the federal government to respond because of the asymmetric. I mean putting boots on the ground and iron on the way is one aspect now, but a digital way I don't have to do that. So I'd be concerned that we would be hamstringing our ability to protect our borders. I mean we have a hard enough time protecting our borders without a war. I'd be very, very troubled how we do it if we actually had an enemy at the gate. [LR371]

SENATOR McCOY: Well, I understand that concern, Senator Price, and the national debt relief amendment as I understand it and as it's being proposed in again 22 different states, this particular legislative season and the two states that it's passed in, it still allows Congress to respond in a case of national crisis and for exactly the reasons that you just articulated. [LR371]

SENATOR PRICE: Okay, great because I worry about how we define crisis, Senator, but I appreciate that. And I wanted that for the record. Thank you. [LR371]

SENATOR AVERY: Senator Seiler. [LR371]

SENATOR SEILER: Thank you, Senator Avery. Senator, maybe you said it and I missed it, how many states have to ratify this amendment before it can be placed on the ballot or placed in a convention? [LR371]

SENATOR McCOY: I want to...I know I have that somewhere here. I apologize I don't know the number off the top of my head, but again it's...I want to say it's 30 as I recall, but...and I don't believe that's the exact number. But as I had mentioned before, we've never actually gotten to that... [LR371]

SENATOR SEILER: Right. I understood that. [LR371]

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SENATOR McCOY: ...all the way through that process. And I can get back to you that exact number, apologize. [LR371]

SENATOR SEILER: I was just curious as to how many states had to adopt that. [LR371]

SENATOR McCOY: Yes, I'm sorry. It is two-thirds I'm noticing here from my notes. [LR371]

SENATOR AVERY: Any other questions? I have one. What safeguards do you have in this proposal to prevent a runaway convention where you try to limit it to the debt ceiling and it becomes completely...complete overhaul of the Constitution? There is some real dangers there. [LR371]

SENATOR McCOY: That is a concern that has been mentioned pretty much in...I think that part of that may have been in that handout. And if not, I have rules here that there's a professor from the University of Montana, Robert Natelson, who's gone through and really talked about the 20 rules that would govern such an Article V amendments convention. And I would say that a runaway convention is not really a concern that in Louisiana and North Dakota that's recently passed this that wasn't really part of the narrative. And in the research that my office and I have done, it really appears that on close examination that doesn't appear that that would be a concern in this because this is so narrowly focused. [LR371]

SENATOR AVERY: But once convened the convention can decide on its own rules and its own scope of this authority. That's where the danger is. [LR371]

SENATOR McCOY: That again is a concern I would agree. I think we would have to weigh whether or not the crisis, such that it is, fiscal crisis, still necessitates that we attempt something. And you would hope that if you got to that position that you wouldn't have to worry about that at such a convention. But I would agree that that is a valid concern that would be out there in that case. [LR371]

SENATOR AVERY: Yeah. And I can imagine a runaway convention that would take the First Amendment and, if not scrap it altogether, severely limit the scope of the First Amendment. And that's just the beginning of what could happen. Well, this doesn't have to be a constitutional law seminar. [LR371]

SENATOR McCOY: One that you would be well qualified to teach, Senator Avery. [LR371]

SENATOR AVERY: No, I wouldn't either. Questions more from the committee? I don't see any. Thank you. Are you going to stay around to close? [LR371]

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SENATOR McCOY: Thank you, Chairman. I will if need be. [LR371]

SENATOR AVERY: Proponent testimony. Anyone wish to testify in support of LR371? All right. Any opponent testimony? Any neutral testimony? Senator McCoy, you waive. Okay. That ends the hearing on LR371. And we'll now open the hearing on LR381. Would you get Senator Fulton for us, please? Senator Fulton, I forgot to read into the record a letter of support for LR371 from the Nebraska Cattlemen, who would lose some of their subsidy payments I suspect (Exhibit 3). [LR371]

SENATOR FULTON: Hello. [LR381]

SENATOR AVERY: How are you, Senator? Welcome to the Government Committee, last day, last bill. [LR381]

SENATOR FULTON: I feel privileged, Mr. Chairman. [LR381]

SENATOR PRICE: Well, you should. [LR381]

SENATOR FULTON: Okay. This is LR381. Mr. Chairman, members of the committee, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and this is a resolution, LR381, which is intended to convey an intent by this body that a portion of J Street adjacent to the Capitol be renamed in honor of Colonel Harry F. Cunningham. Colonel Cunningham, as indicated by the resolution, was instrumental in the completion of the tower phase of this magnificent building, following the premature death of architect Bertram Goodhue. Although it may be accurately stated that others, both within and outside of Goodhue's firm, also made sizable and significant contributions to the Capitol's completion, Colonel Cunningham's contributions are remarkable. Not only was Cunningham an important contributor to our Capitol, but his legacy also extended to our university and the founding of its school of architecture. Given Colonel Cunningham's noted contributions to the Capitol, the university, and thereby the city of Lincoln, it is entirely legitimate to complete the cycle of naming those avenues that end at our doorstep and it is, I propose, fitting that we do so in honor of Colonel Cunningham. The end. [LR381]

SENATOR AVERY: Thank you. Thank you. I see a Cunningham in the room so we'll probably hear from him. Any questions from the committee? Senator Sullivan. [LR381]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator Fulton. Do you have any idea if the Lincoln City Council is aware of this? [LR381]

SENATOR FULTON: I am assuming an awareness. We got a letter which you may have received from the, oh, what is it? I can't remember now. Maybe you received it already--the Lincoln environs...no wait a minute. Here it is, the Capitol Environs Commission. And my understanding is that a copy of it was forwarded to the mayor's

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office anyway. And they have a recommendation of language for the resolution that they are proposing, which I would be fine with. [LR381]

SENATOR SULLIVAN: So they're in favor...the Capitol Environs project is in favor of this? [LR381]

SENATOR FULTON: Not necessarily my resolution, but they have recommended language which is similar. Their concern had to do with the fact that...well, I'll just tell you. Maybe we'll just enter this into the record--challenges of changing addresses of residents and businesses. They have not...I am proposing an idea that hasn't been vetted through the regular process. And so there's some concern that, hey, whoa, whoa, whoa, wait a minute. I think that's what I'm reading here anyway. And so they are proposing that something lesser be done. [LR381]

SENATOR AVERY: But you're only proposing intent. [LR381]

SENATOR FULTON: What's that? [LR381]

SENATOR AVERY: You're only suggesting intent. [LR381]

SENATOR FULTON: Correct. [LR381]

SENATOR AVERY: Yeah. Senator Pahls. [LR381]

SENATOR PAHLS: I know in Omaha we just renamed a street after Fahey, but probably there weren't an awful lot of individuals living on that street. Will this take in an awful lot of different addresses? I mean if you know. [LR381]

SENATOR FULTON: It depends how far one would want to stretch it. We don't go into that here in the resolution. My thought is that there is basically a block and then J Street jogs over and goes forever. I'd say do the block and so we'd be talking about I think there are one or two buildings. [LR381]

SENATOR PAHLS: Oh, so it's not...you're not talking... [LR381]

SENATOR FULTON: No. [LR381]

SENATOR PAHLS: Okay, thank you. [LR381]

SENATOR FULTON: That's what I'd envision. But again, this is just a recommend...we don't have any power to do this. It's just an intention, a suggestion. [LR381]

SENATOR PAHLS: Thank you. [LR381]

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SENATOR AVERY: Senator Price. [LR381]

SENATOR PRICE: Thank you, Chairman Avery. Obviously I have a fondness for the building and what Bertram Goodhue had and Mr. Cunningham, and I don't want to detract from it. But isn't there a Cunningham Street in Lincoln? [LR381]

SENATOR FULTON: You ask these questions, Senator. I don't know. [LR381]

SENATOR PRICE: There's no Cunningham? I thought... [LR381]

SENATOR AVERY: No, I don't think so. [LR381]

SENATOR PRICE: I stand...I sit corrected because I was thinking of the University of Illinois in Urbana-Champaign. Their main street is Cunningham so I apologize. [LR381]

SENATOR FULTON: Oh, is that right? [LR381]

SENATOR PRICE: Now I know why it was sticking in my head. [LR381]

SENATOR AVERY: Any other questions? Don't see any. Thank you. [LR381]

SENATOR FULTON: It's a nice tie that you two gentlemen have, by the way. [LR381]

SENATOR KARPISEK: Oh, yes, thank you. [LR381]

SENATOR PAHLS: They shop at the same place. [LR381]

SENATOR KARPISEK: It's red Friday. [LR381]

SENATOR AVERY: Proponent testimony. Now here is a Cunningham. [LR381]

ANDY CUNNINGHAM: (Exhibit 1) And I have copies. Good afternoon. It's the last hearing of the last day. Chairman Avery and members of the committee, I'm Andrew Cunningham, spelled C-u-n-n-i-n-g-h-a-m. I also go by Andy, and I'm the grandson of Colonel Harry F. Cunningham. I'm here first of all to express my appreciation and that of the Cunningham family to Senator Fulton, appreciate that, and to his loyal aide, Josh Shasserre, for proposing the idea. I'd also like to offer some impressions from the family's perspective. I have fond memories of Grand-pere, as I called him, from my early boyhood, even though we only saw each other on brief visits occasioned by long travel and I was only eight when he died. Warmly entertaining in person, he was also very thoughtful with birthday and Christmas cards and gifts. More to the point for today's occasion, he was and remains indelibly associated in my mind with our magnificent

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Capitol and our wonderful capital city. Harry Cunningham's intimate connection with the tower on the plains is in fact the reason three subsequent generations of Cunninghams have taken root here. Harry began his love for Lincoln in 1926 at about age 38 during extended train trips from New York as Bertram Grosvenor Goodhue's successor firm's supervising architect for the ongoing design and construction of the new State Capitol. Four years later, the University of Nebraska invited him to form and head its new department of architecture. Apparently, Chancellor E. A. Burnett and Dean Olin Ferguson of the college of engineering were attracted by the same unique artistic and project development and oversight gifts that had brought him to the attention of Goodhue's successor partners. So with the Capitol on its way to completion, Cunningham accepted the university's offer and settled in Lincoln in 1930 with his second wife Adele and his two sons, Francis, who is my father, and Joe. Initially he taught virtually every course in the new department. Aesthetics and architectural history were his forte. In a few short years, he inspired a generation of Nebraska architects. Professor Harry left Lincoln in 1934 to resume private practice in Washington, D.C., where he had lived as a boy and had started in his profession as a draftsman. With the advent of World War II came a return to active duty as a colonel in the U.S. Army, followed by postwar service in the Pentagon until his retirement in 1948. Now 60, he returned definitively to Lincoln, teaching a few courses, obtaining two degrees in political science, his only degrees in point of fact, and involving himself once again in Lincoln's social and civic life. He died in 1959. He's buried in Wyuka Cemetery in Soldiers' Circle, while Adele, whom he had met in France after serving in the first war, lies in the adjoining widows' area. For additional information on Cunningham's life, I've attached a brief chronology focusing on his connection to Lincoln and overlooking his architectural contributions elsewhere. I should also note that the text of LR381 bears correcting on two points. First, Harry was not a partner of Goodhue's successor firm. Second, the notable doors he designed are the Indian doors to the Warner Chamber, that's the original Senate Chamber, not the doors to the Norris Chamber. I'm sure many of you have come across a framed architectural drawing of the tower. Perhaps you've also seen a cross-section of the top of the tower featuring the dome and the memorial chamber. What you may not have noticed is the authorship of those drawings. Invariably the entries in the cartouches are HFC. Incidentally, the originals, along with Harry's painting of those Indian doors, are kept in the Capitol archives in the basement of this building where they can be enjoyed by appointment. In closing, please know that my father Francis, who died in 1999, and my Uncle Joe, who died in 2007, would be so pleased with this resolution and with today's hearing. Should the Legislature adopt LR381, allow me to suggest forwarding the official copy to my son Nathaniel, one of the colonel's great-grandsons, and as the most suitable descendant residing in Lincoln. After all, it was his serendipitous presence at an architectural lecture earlier this year that helped spawn the resolution. Besides, I think the colonel would want the document in the hands of the younger generation. Thank you for your kind attention. [LR381]

SENATOR AVERY: Thank you. Committee have questions? Good to see you. [LR381]

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ANDY CUNNINGHAM: Good to be here. [LR381]

SENATOR AVERY: He's a constituent of mine, by the way, and I'm glad about that. All right. Any proponent testimony, additional proponent testimony? Any opponent testimony? Neutral testimony? (See also Exhibit 2) Senator. Senator Fulton waives closing. That ends the hearing on LR381 and the hearing for today and the hearing for this session. [LR381]