

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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COMMITTEE ON APPROPRIATIONS
February 28, 2005
LB 746

The Committee on Appropriations met at 1:30 p.m. on Monday, February 28, 2005, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 746. Senators present: Don Pederson, Chairperson; Lowen Kruse, Vice Chairperson; Chris Beutler; Jim Cudaback; Pat Engel; Lavon Heidemann; Marian Price; John Synowiecki; and Nancy Thompson. Senators absent: None.

SENATOR KRUSE: My name is Lowen Kruse and our Chairman Don Pederson is in the...at that seat, so he will be taking this place shortly. We have Senator Lavon Heidemann over here; and Senator Jim Cudaback over here from the mighty city of Riverdale in southeast Nebraska; Pat Engel hails from Sioux City; Nancy Thompson is from Papillion and other places like that.

SENATOR D. PEDERSON: La Vista,

SENATOR KRUSE: La Vista, the town that Omaha respects. Yes. And Chris Beutler is from Lincoln. We do ask that you silence your pagers and that you sign in as you come to do any testimony which might be appropriate to this bill or to anything else that comes before us. With that, we will proceed. The first item of the agenda is LB 746 and Senator Pederson is the sponsor.

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SENATOR D. PEDERSON: Good afternoon, Senator Kruse and members of the Appropriations Committee. My name is Don Pederson, P-e-d-e-r-s-o-n, representing District 42. Legal Aid of Nebraska is a private entity, not a governmental agency, and has provided civil legal aid to low-income Nebraskans for over 40 years. It is a nonprofit 501(c)(3) organization. It has 27 attorneys and 14 paralegals. They currently provide free legal services, civil services, to one-eighth of the population of Nebraska--over 225,000 Nebraskans. The focus of their advocacy is moving families to self-sufficiency, and Legal Aid of Nebraska helps the court system provide access to the civil justice system for all residents. As you may know, the administration of justice is more efficient if

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people appearing in court have an attorney. Without legal aid, people go directly to the courts unassisted, which causes congestion and expense. During 2004, Legal Aid handled 15,810 calls for assistance and closed nearly 10,000 cases, affecting a total of over 50,000 people. Moving clients to self-sufficiency and off of the state-supported programs, Legal Aid not only solves their legal civil problems but turns consumers into taxpayers and reduces the burden on other citizens of Nebraska. Legal Aid offices are currently located in Omaha, Lincoln, Grand Island, North Platte, Scottsbluff, Norfolk, and Bancroft. They provide services across the state, and if necessary, contracts with other law firms at discounted rates to assist people who are residents far from their offices. Cases include landlord tenant disputes, property ownership conflicts, domestic relationship, divorce actions, child custody, mental health, and immigration issues, Social Security, and financial matters. Every Nebraskan pays the cost associated with civil litigation of low-income citizens such as the cost of unemployment and family discord. An economic impact study by the University of Nebraska at Omaha shows that for every dollar spent on legal aid by Nebraskans, nearly \$4 are returned to the state's economy. During 2003 that amounted to \$9,935,436. LB 746 creates the Civil Legal Service Fund to be used to provide civil legal service to eligible low-income persons. Low-income Nebraskans are identified as earning less than 125 percent of the federal poverty guidelines. For a single person, this equates to \$11,638 per year or below; for a family of four, \$23,563 per year or below. Under LB 746, the State Court Administrator shall distribute the funds in the form of grants. Any money in that fund at the end of the calendar year shall be distributed in the following calendar year. The State Court Administrator shall establish guidelines for submission of grants to provide legal services. LB 746 defines a civil legal service provider and specifies that an independent certified public accountant shall annually audit the account of each grant recipient. You will note that the bill, as drafted, has no dollar amount indicated, as we left it to the discretion of the Appropriations Committee to determine the correct amount to be appropriated. At one time, Legal Aid received most of its funding from the federal government. Now, only about one-fourth of it comes from National Legal Service Corporation, which is funded by Congress. Currently,

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Legal Aid of Nebraska receives funding from law firms, foundations, corporations, and private individuals. Federal funds for Legal Aid are projected to be 5 percent less for '05-07; thus, they will begin to serve fewer people unless additional funding can be obtained. I want to assure you that 87 percent of every dollar that goes to direct services, only 13 percent of each budget goes to overhead. On the average, each case costs about \$682. The average hourly rate is \$52. Rural and urban areas are equally served, and services are equitably distributed across the state based on the poverty population in each county. Nebraska is one of 25 states that does not provide state-appropriated funds for Legal Aid. Thank you, and I would be glad to answer any questions you may have. Incidentally, in respect to immigration due to federal funds received, they are allowed only to assist legal immigrants, not illegal immigrants. And I do have a handout that I would ask Tim, our faithful page, to distribute to you, and I would like to note that the top one is from the former Chief Justice of the Nebraska Supreme Court, Norman Krivosha, who is strongly endorsing this program. (Exhibit 1) And you will see a number of letters from individuals who have recognized the benefit and the need of civil aid for the indigent of our state and how it ultimately provides for their benefit and protection. So with that I will close and ask if you would have any questions?

SENATOR KRUSE: All right. Thank you, Senator. Senator Engel.

SENATOR ENGEL: Senator Pederson, as far as providing these folks for illegal immigrants, are you proposing we do that?

SENATOR D. PEDERSON: No. I say that's the one thing we don't do. We can't serve illegal immigrants with this program--only legal.

SENATOR ENGEL: And then secondly, as far as when these attorneys are appointed, is there...who sets the fee that they can charge?

SENATOR D. PEDERSON: I would like to direct you to the attention of Doug German, who is the administrator for that program and I think he can explain any questions you may

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have.

SENATOR ENGEL: Then I get one more and then I'm done.

SENATOR D. PEDERSON: Okay.

SENATOR ENGEL: The 5 percent federal funds that we're not receiving, do you know what that amounts to, how many dollars?

SENATOR D. PEDERSON: I think Doug may have an idea of what that would amount to. I don't know.

SENATOR ENGEL: Thank you very much.

SENATOR D. PEDERSON: He'll testify in just a few moments.

SENATOR ENGEL: Thank you.

SENATOR KRUSE: Okay, thank you. Are there others...

SENATOR D. PEDERSON: Have I handed off all the questions?

SENATOR KRUSE: Are there other questions? Senator Beutler.

SENATOR BEUTLER: Don, I am very much in favor of doing this. And just one thought that occurred to me and I would ask you about it. The criteria in the bill seemed to be structured such that Legal Aid basically would be the only organization that would qualify. Is there any value to setting the criteria in such a way that perhaps retired lawyers could be engaged in this?

SENATOR D. PEDERSON: I would defer that question to Mr. German, too. I would note that the Nebraska Bar Association is one of the contributors to funds for this association, so...and I know that the bar association does have matters that they do assign in this respect, generally for no fee at all, but on a pro bono basis. This is a little different kind of a situation that we're talking about and I think that Mr. German can explain how they function in their organization and then you can see how that fits in what your concerns are.

SENATOR BEUTLER: Okay.

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SENATOR D. PEDERSON: Incidentally, I would tell you that we have talked with the Court Administrator's Office and this can be funded without any particular difficulty on their part the way this is set up because, as Senator Beutler has noted, it primarily goes to one entity. And then subsequently there would be an audited report that would be submitted and put in the file, so it would complete the package as far as they are concerned with a minimal amount of financial effort on the part of the Court Administrator's Office.

SENATOR KRUSE: Thank you. Are there other questions? I would note that Senator John Synowiecki has joined us. John is from Omaha. If not, thank you. Are there other proponents? Let me take a show of hands, how many are here as proponents? And how many as opponents? And how many here neutral? Okay. We have several proponents, and if you can avoid repeating each other it would be helpful. Okay, please proceed.

DOUG GERMAN: (Exhibit 2) Thank you. Chairman Pederson and members of the committee, my name is Doug German, spelled G-e-r-m-a-n, and I'm the executive director of Legal Aid of Nebraska. Senator Pederson stole a lot of my thunder, but some repetition may be in order. I began working with Legal Aid, worked for Legal Aid for two years right out of law school. And then I went out into the rural end of the state and practiced in a private law firm for 30 years. I am a very firm believer in the rule of law and in our justice system. And so in 2000, I took on this project with one of the goals to make sure that everybody in Nebraska had an opportunity to have access to our justice system. Our law firm is, in fact, the law firm for one-eighth of the population of this state--225,000 people. Now, the stunning thing about that number is that everybody in this room probably has somebody in their family, as least their extended family, that has either used Legal Aid or has tried to use Legal Aid and was turned away. And I say that because our present level of resources allows us serve only 24 percent of those people who qualify and need assistance. Essentially, the others go without and do not have access to our system. This bill is about economic development. Legal Aid takes people from dependency to self-sufficiency, from being tax consumers to taxpayers, and from being

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unemployable to employed. It also...Legal Aid saves the state money. Let me give you an example. You folks appropriate a lot of money towards different efforts, towards economic development and the general welfare of this state. Legal Aid of Nebraska leverages your dollars, makes them more efficient and more effective. A person cannot move to self-sufficiency, cannot move into the work force unless they first have their legal issues resolved. In the same way, Legal Aid assists private companies, employers, and communities because for the very same reason, people cannot get to work, stay to work, and pay taxes unless their legal issues are resolved. Legal Aid is also a part of the economic engine in this state. We did do this study that Senator Pederson referred to where the University of Omaha shows that for every dollar that Nebraskans invest in Legal Aid of Nebraska, there is a \$5 return. Now the materials I gave you reflects \$1 to \$4, but last week we had that study updated. It's now \$1 to \$5; an excellent investment and an excellent return. This is also a bill about the rule of law and an open and democratic society because everybody in this room, all of us, are a part of a social contract where we have said, if you will lay down your six-guns, if you'll stop trying to resolve matters in the middle of the street, in exchange we will make the promise to you that you have access to our justice system. And we are failing in that promise. And there are two major consequences of that. Number one, people begin to take matters into their own hand, including violence, more often than not domestic violence. The other thing that happens is that people simply drop out of the system. They no longer trust the system. And they become a burden unto themselves and a burden unto you and me and society in general. Now, why is Legal Aid asking for funding from the Legislature? In the '80s and the '90s, Congress sent government home. They said let's get it out of Washington; let's do what there has to be done locally. And I'm asking you to have the state respond to that challenge with regard to access to justice. Nebraska is one of 25 states that does not provide state appropriations for this very important work. We, last year, lost \$600,000 in revenue, and cut our ability to serve by 13 percent. And what I'm asking of you is that you fund this bill at a minimum of \$600,000 per year to make up that gap. It will be a very sound investment in the future of this state and in economic development in this state. I want to thank you very much, and with that I will answer

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questions.

SENATOR KRUSE: Are there questions? Senator Beutler.

SENATOR BEUTLER: Doug, good to see you. Your annual budget now is about, what?

DOUG GERMAN: \$4.1 million.

SENATOR BEUTLER: \$4.1 million. And how much of that comes from lawyers, law firms, or law-related foundations?

DOUG GERMAN: We just went through a campaign where the lawyers in this state pledged to contribute three-quarters of a million dollars over the next three years.

SENATOR BEUTLER: \$250,000 a year?

DOUG GERMAN: Right. In addition to that, however, through our private attorney involvement project, attorneys do contract work for us at a discounted rate. And when you take into account what that discount is, it's another \$50,000 of contribution of market value each year. So add that up; it's about \$300,000 a year.

SENATOR BEUTLER: Okay. Is there any way of assuring that by passing state funding to you that we don't discourage the bar from continuing to be generous to the effort? I mean, we're not going to be...

DOUG GERMAN: I don't know of any particular...

SENATOR BEUTLER: ...substituting funds...

DOUG GERMAN: Yeah.

SENATOR BEUTLER: ...here, are we?

DOUG GERMAN: No. We have developed within the firm and we're going to continue to develop a very strong resource development effort. And we will not stop in that regard at all. And every three years we do a traditional bar campaign, so that bar campaign will keep on going.

SENATOR BEUTLER: Okay. So you have the bar campaign and

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the lawyers, and then everything else comes from the federal government at this time?

DOUG GERMAN: No. At one time this work was funded 100 percent by the federal government. That goes back to the '80s and '90s that I referred to. And now only provide... That funding was drastically cut back almost in half or more.

SENATOR BEUTLER: So of the \$4.1 million, about how much of it federal funding?

DOUG GERMAN: One million. About 24 percent.

SENATOR BEUTLER: Twenty-four percent.

DOUG GERMAN: And...

SENATOR BEUTLER: And the rest comes from...you charge fees.

DOUG GERMAN: No. This is all...

SENATOR BEUTLER: No fees at all?

DOUG GERMAN: No fees at all. It either comes from corporations. We have some corporations who contribute, the attorneys that we've talked about, foundations. We have contracts with some agencies to fee for...

SENATOR BEUTLER: So except for the federal donation, everything else is voluntary.

DOUG GERMAN: Everything is voluntary. What I spend my time doing as executive director is raising money. The only thing that comes in the door as a sure thing, and that's not even a sure thing...I shouldn't even say that...we have to compete for that federal money. Every couple of years we have to reapply and we have to compete and we have to jump over a good number of hurdles in order to qualify for that money so there is none of our funds are a sure bet--absolutely not a single dollar.

SENATOR BEUTLER: Okay. Thank you.

SENATOR KRUSE: Other questions?

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SENATOR D. PEDERSON: I have a question.

SENATOR KRUSE: Yes, Senator Pederson.

SENATOR D. PEDERSON: For clarification, Doug, we have an organization now that we fund which is called Public Advocacy, James Mowbray's fund. Can you describe how your entity separates from that entity.

DOUG GERMAN: Okay. And before I forget it, if you don't mind, Senator, you indicated that the bar association, State Bar Association, funds this in some way. There is no direct funding from the Nebraska State Bar Association. However, the State Bar does have a volunteer lawyer project where they recruit attorneys to take cases what they call pro bono, for free, and so some work gets done in that fashion. Back to your question. There is a surcharge on filing fees in the court system, and some of that surcharge goes to the Commission on Public Advocacy. And they, the commissioners there, each year, through a competitive process, dole out that money and it is pretty much of a shot-gun approach at the present time. It goes through I don't know how many different entities but I'm going to guess over 15, maybe even 20 different entities. And what distinguishes us from the rest of those entities is most of them are very specialized in the piece of this work that they pick up. We are the elephant in the middle of the living room and what we do is the traditional basic legal aid that provides the client the three basic things: an income, shelter, and security. And we're statewide. And what this money is intended to be for is to increase the capacity to do that particular work.

SENATOR D. PEDERSON: Thank you.

SENATOR KRUSE: Thank you. Senator Synowiecki.

SENATOR SYNOWIECKI: Doug, relative to the criteria under Section 4 for the grant distribution criteria, particularly (c) and (e), "have offices located throughout the state," and an agency that "distributes its resources equitably throughout the state."

DOUG GERMAN: Yes.

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SENATOR SYNOWIECKI: There is a lot of wonderful programs throughout our state that are locally run, and these nonprofit organizations do not have a statewide presence. I think Senator Beutler kind of hit on this. This would essentially preclude those organizations from applying for these funds, these two requirements, (c) and (e)?

DOUG GERMAN: It could, yes. The reason why those are in there is Legal Aid of Nebraska used to be made up of three different legal aid programs. They were merged in 2000. And one of the controversies there was, if we merge will this evolve like other kinds of projects have evolved where the money ends up in the urban areas, and the rural part of the state is shortchanged? And that was addressed very strongly and a very strong commitment was made by everybody involved, and it's been a strong policy of mine, to make sure that this is statewide. And we are a statewide law firm; we have offices from Scottsbluff to Omaha. And we regrade our distribution resources every year to make sure that those resources are equitably distributed across the state. If you live in "Bucktail," Nebraska, you've got as much chance of getting access to us as if you are in downtown Omaha. And we think that's a very important aspect of this work.

SENATOR SYNOWIECKI: Are there programs such as yours though that are totally and entirely disconnected from your program that are locally driven, both in the urban areas and the rural areas?

DOUG GERMAN: There is no other program that does exactly what we do. I can mention some that would do part of what we do. There is the Nebraska College of Law that has a clinic and they take a handful of cases every year as educational work with their students. Creighton School of Law also has a clinic. And they have a more expansive approach and they are not statewide; they are concentrated in the Omaha area. They do take a lot more cases than the College of Law here does. You've got Appleseed that takes a handful of cases every year. They are considered impact cases, class actions perhaps. There are entities that address the immigration issue and they have as part of their mission to take on the illegal immigrant, if possible. But, again, they are specialized and they are fairly localized

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compared to what we do. Have I answered your question?

SENATOR SYNOWIECKI: You answered it, and don't you think perhaps they should have...those kinds of groups that you spoke to should have some...? The criteria, as it sets out now, they can't even apply for a grant of this program.

DOUG GERMAN: Right. And it was designed...I'll be real frank with you, it was designed for that purpose. The design has two purposes to it that I would point out. One, you must be receiving funds from the Legal Services Corporation because that ensures a number of things. It ensures that you have the capacity, you have the accountability, you have the history, you have the ability to provide this service. It's a...to get that money, you have to jump over some considerable hurdles, and by the time you've done that you are qualified to carry this out. Back to your main point, we've lost \$600,000. The Commission on Public Advocacy has, over time, spread its money more and more over a broader group of people, and so we can no longer get any additional funds from there. That fund has peaked out and it's being spread out over more people; good causes, but it brings no more money to us. And this bill is designed very specifically to increase the capacity of what we do. It's a rifle shot. The commission is a shot-gun approach that funds a number of different legal entities. This is a rifle shot to go right to the basic legal aid function.

SENATOR SYNOWIECKI: Thank you.

SENATOR KRUSE: I don't see other questions. Thank you for your testimony.

DOUG GERMAN: Thank you.

SENATOR KRUSE: Next proponent. I would invite all those who intend to testify to come join us in the front row and to pass along the sign-up sheet among yourselves there so that we can have that kind of a record which is very helpful to our transcriber. I think we're ready to go.

JIM GORDON: Thank you, Chairman Pederson, Vice Chairman Kruse, members of the Appropriations Committee. My name is Jim Gordon, G-o-r-d-o-n. I happen to be the president and chair of the board of Legal Aid of Nebraska and I have been

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since this merger in May of 2000. Prior to that and for 31 years I've been an attorney in private practice in the city of Lincoln. During my professional career I've had the opportunity, I think the honor and the privilege, to be involved in not-for-profit organizations locally, statewide, nationally, and even internationally, and so I come to you on behalf of Legal Aid of Nebraska with some experience in the not-for-profit world, although my goal in life is to continue to make a profit to pay the rent, so to speak. Let me explain briefly what Legal Aid of Nebraska actually does in a nutshell. The kinds of cases that we handle for the people whom we serve are the bread-and-butter cases that ensure income, shelter, and security for those to whom we provide our civil legal services. We don't do criminal work; we don't do a number of the things that have already been advised to you that we don't do. But what we do is to specialize in the bread-and-butter kinds of cases that people need to have handled. In doing so, we do help our courts to provide access to the civil justice system for all residents of the state of Nebraska. That's our charge; that's our mission; that's what we believe we have to do; and that's what we strive to do. As has been pointed out, our client list would number in excess of 220,000 people, and unfortunately we can't reach them all, but eventually we would like to be able to and this is a start. And we help the courts by making sure the people who appear before them who would not otherwise have attorneys, have attorneys provided by Legal Aid of Nebraska. That's important because more than 75 percent of the cases that come to us, the legal issues that come to us, are resolved without even going to court, so those that don't get resolved and are going to be in court, it seems to us helpful to the courts and we think that the courts would understand and suggest to us, as well, that is helpful to have attorneys representing clients in those actions. You also need to know that what the law firms of this state do to help Legal Aid of Nebraska. It was pointed out I believe by Mr. German that our statewide law firms, across the state from Omaha to Lincoln to greater Nebraska, have now pledged, committed to three-quarters of a million dollars--in essence, \$750,000 over the next three years, which is a considerable increase in what it was that we had done before. But that is some indication of what the private attorneys in the state of Nebraska are doing. In addition, the attorneys across the state continually provide what is in effect a contribution to Legal Aid of Nebraska by

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performing services under contract to Legal Aid of Nebraska at a deeply discounted rate. My hourly rate is anywhere from \$175 to \$225 an hour. If I were to take the case on behalf of Legal Aid of Nebraska as a private attorney involved, a representative of a client, I would probably give that service away if I possibly could. But in any event because the Legal Aid of Nebraska is required by Legal Services Corporation to pay a certain amount to attorneys who are not attorneys of Legal Aid of Nebraska, that amount would be at a minimum rate. We believe, and we think it important that you note, that Legal Aid of Nebraska is probably the only statewide law firm where they are serving indigent clients or serving paying. We have offices spread across the state. Our 20-member board of directors charged with the governance of Legal Aid of Nebraska, of them one-third are client-eligible members, and they come from across the state, as do the other two-thirds who are attorney members. We also ask all of our own board members to make contributions annually. Obviously, the client-eligible folks probably are able to not pay very much, but we ask that our board be 100 percent committed to what it is that we do, and I believe that we are 100 percent committed financially and mission oriented to that cause. I'd like to make two other points that have perhaps not been made, or not stressed in any event. The first point is that Legal Aid of Nebraska serves rural and urban areas equally. Our resources are equitably distributed across the entire state based on the poverty population of each county, so that if one county has twice as many indigents are determined by the federal poverty guidelines, they should get twice the resources of the state with less or half as many do. And also persons living in areas of the state at long distances from a Legal Aid office are served by attorneys from local firms on the contract basis to which I referred earlier. So even though we might not have the geographic reach to get all the way out to all areas of the state, we have attorneys who are contracting with Legal Aid of Nebraska to provide those services at no cost to the client even though they are not near one of our offices. The second point is that Legal Aid does not take business away from other law firms. I think that the point has been made that Legal Aid of Nebraska takes those cases which other attorneys will not take or do not take. Our clients cannot afford to pay private attorneys like myself. And only with representation by Legal Aid of Nebraska, they

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don't have to; they get those services provided at no charge. With those points made and I am sure it will be stressed by others, I would answer any questions that the committee has and thank you for the opportunity of appearing here today.

SENATOR KRUSE: Do you have questions for Mr. Gordon? Lavon.

SENATOR HEIDEMANN: We've heard that this aid is taken around the state. Is there any information that we can get that shows us, like per county, or something like that, a breakdown?

JIM GORDON: I think I saw you reading our annual report and I think there are some breakdowns in there. But if you need specific information, we do have it. I don't have it with me today. But, yes, it is available by county, by case type, by number of clients, by a number of different breakdowns.

SENATOR HEIDEMANN: I would like that. I didn't see it in here, but if it's in here I'll look again.

DOUG GERMAN: What was the request again?

SENATOR HEIDEMANN: The breakdown in like aid to counties or the clients served down to county size. Would you have something like that?

DOUG GERMAN: Yes, we would. We can get that to you.

SENATOR HEIDEMANN: I would love to see that.

JIM GORDON: As chairman of the board, I'll ask our executive director to provide that to you, Senator.

SENATOR KRUSE: Okay. If you could get that to Senator Heidemann, it would be appreciated. Senator Thompson.

SENATOR THOMPSON: I just...this occurred to me with the previous testifier so I'm just asking you because you happen to be sitting here at the time.

JIM GORDON: I'll try to answer it.

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SENATOR THOMPSON: Did you participate in the drafting of this bill?

JIM GORDON: I did not.

SENATOR THOMPSON: And I assume you've read it?

JIM GORDON: I have.

SENATOR THOMPSON: Are you...do you have any concerns about, from a constitutional perspective, of directing funds to a specific entity as it's written?

JIM GORDON: No. No. And the reason I don't is because ours is the only entity that can provide statewide service throughout the entire state to all of the potential clientele which is 125 percent of the federal poverty guidelines.

SENATOR THOMPSON: Well, I understand that, but I am kind of getting to Senator Synowiecki's question here. If you've written...and anybody who has been in these hearings before know I have the United Way standard of the things that we do as an Appropriations Committee. And if we're being asked to specific...which I understand...I mean, this has nothing to do with what you do or why you do it or all the good things you do. This is more to deal with the drafting of this bill to get to that issue. And I know that it's written so that no other entity can qualify for it. I'm just...I just want, for the record, since you are donating \$150 to \$175 an hour here today...

JIM GORDON: (Laugh)

SENATOR THOMPSON: ...as an attorney, the issue that we have whenever we have any kind of bill like this, of cutting it too closely to make it so that only one group can apply for this.

JIM GORDON: Let me answer your question. First of all, I don't think it's written to exclude anyone. I think it's written to include Legal Aid of Nebraska and any other entity that might meet those requirements. The other thing, I read all the legislation that's introduced...and I don't

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read it, I look at all the legislation that's introduced...and you do the same thing constantly. You refer to legislation that only applies to...

SENATOR THOMPSON: Well, I don't mean...I'm just asking you a question for this specific bill.

JIM GORDON: I understand, but you asked me if it is unconstitutional. The reason I don't think it's unconstitutional is for the reason that if, for instance, you describe a bill that applies only to a city of less than 200,000, or, I'm sorry, less than 300,000 and more than 200,000, and that can only apply to Lincoln. You haven't said Lincoln, Nebraska, Lincoln in Lincoln, Lancaster County, Nebraska, but...

SENATOR THOMPSON: Well, except...all right. This is a nongovernment entity.

JIM GORDON: I agree.

SENATOR THOMPSON: So...cities, counties, I mean, take all that out...take that to...I only...I had two meetings in my office this morning already with people who have groups that they want funded out of our appropriations process.

JIM GORDON: Um-hum.

SENATOR THOMPSON: So when you...I'm only getting to the drafting of this bill. For example, if you have offices located throughout the state, and there may be a way to get to Senator Synowiecki's issues and also shave off any problems that might be constitutional by not...I mean, by the specifics here.

JIM GORDON: But, I think the...

SENATOR THOMPSON: And that's the question that I have of you is the drafting. Your position is that we aren't on the edge of the constitutional issue.

JIM GORDON: No. And for the record that's just been handed to me that there is no problem...

SENATOR THOMPSON: It's always nice to have (inaudible).

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JIM GORDON: ...because it is open to competition each time with Legal Services Corporation, so any other entity in addition to Legal Aid of Nebraska could make application to Legal Services Corporation.

SENATOR THOMPSON: No, I understand it, but the way the bill is written there isn't any other entity from the previous testifier that would qualify, is that what you're...?

JIM GORDON: There could be other entities.

SENATOR THOMPSON: If they developed...

JIM GORDON: If they developed.

SENATOR THOMPSON: ...from heretofore. But as of right now this would be the only one.

JIM GORDON: Correct.

SENATOR THOMPSON: Okay. That's all I have.

SENATOR KRUSE: Thank you. Senator Synowiecki.

SENATOR SYNOWIECKI: Yeah, just to follow up. This bill, LB 746, sets up a grant process. The fact is these grants won't be competitive. Why don't we just have a direct appropriation to Legal Services of Nebraska instead of going through this so-called grant application and grant process that won't even be competitive...

JIM GORDON: It may not be...

SENATOR SYNOWIECKI: ...as a practical matter.

JIM GORDON: I may not be competitive as we sit here today, but next year it could conceivably be competitive. In fact, when we had the merger in 2000, the reason that we had it was because Legal Services Corporation said it would...it must be a statewide entity. Prior to that there were three entities, Legal Services Southeast Nebraska, Western Nebraska Legal Services, and Omaha Legal Aid. Had we not merged, any one of the those three or any other entity out there that wanted to go statewide could have competed with

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what is not Legal Aid of Nebraska for that money.

SENATOR SYNOWIECKI: But as it stands now, none of them would have been eligible for these grants.

JIM GORDON: Any one of them would have been eligible had they decided to go statewide.

SENATOR SYNOWIECKI: Oh.

JIM GORDON: Right now, there...

SENATOR SYNOWIECKI: So as it stands now, who all, in your mind, would apply for these grants as the criteria is currently laid out?

JIM GORDON: Right now?

SENATOR SYNOWIECKI: Who would be eligible?

JIM GORDON: There would be no other than Legal Aid of Nebraska...

SENATOR SYNOWIECKI: Thank you.

JIM GORDON: ...right now.

SENATOR KRUSE: Okay. Thank you, Mr. Gordon.

JIM GORDON: Thank you.

SENATOR KRUSE: Oh, pardon me. Senator Beutler.

SENATOR BEUTLER: Jim, just one question and I am just throwing this out for a reaction, but would there be any value in adding another criteria indicating that the proportion or the allocation of funding from private sources in the latest year of operation of this entity should be at least X percent private funding?

JIM GORDON: For our...

SENATOR BEUTLER: I'm trying to think of a way of this money being additional money that gets to whoever rather than it being substitute money for efforts being made by lawyers

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today.

JIM GORDON: If I understand your question correctly, you are asking me whether there would be value in having some additional requirement that a percentage of our budget come from private funding? Yes, I think there would be value in that because that's what we strive to do in any event. The question would be what the percentage should be, and I don't know the answer to that.

SENATOR BEUTLER: Yeah. Okay. Thank you.

SENATOR KRUSE: Thank you, Mr. Gordon.

JIM GORDON: Thank you.

SENATOR KRUSE: Next proponent. We have a long ways to go this afternoon so I'll say what is rather obvious, but if you can avoid repeating testimony we already have it would be appreciated. Welcome.

DAVE MUSSMANN: Yes. Afternoon. My name is Dave Mussmann, that's M-u-s-s-m-a-n-n. I'm a farmer and I have some cattle. I'm here in support of Legal Aid of Nebraska. Because of Legal Aid of Nebraska I wouldn't be here. I'm not talking here today; I'm talking permanently. My back was against the wall. And at the lowest point in my life I seen the mediator magazine and looked it up and there was a hotline number. I called that number. They helped me get going; helped me get on track. It was a long process. It wasn't an easy process; it was a long, hard track. But because of them I've got a second chance. It wasn't a second chance due to bankruptcy; it wasn't a second chance that I had to have a bank write down my notes; nothing like that. What they did is they gave me the tools to do what had to be done. Now I can probably raise corn as good as anybody. I can probably pull a calf as quick as anybody can. But my business skills are a little bit shy. And because of this program I was able to go into the bank and talk to them at an equal level. And my back was against the wall and they were down on me. I was going down for the count. And they said, well, we have to advise you that you have this service available to you. And I said, oh, I already made an appointment. They instantly backed off. And it gave me some breathing room and I am just here to

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support it, because the system does work. I'm not going to say it works for every person that applies to it because it takes a lot of effort on your own part. But they give you the tools. And without those tools, I would have been down. There is no question about it. And I'm not talking I'm a huge operator; I own and operate 1,200 acres. And usually in a given year I'll take in between \$400,000 and \$500,000. So in my community I'm not the smallest operator, but nor am I the biggest. But because of this program, I'm still in business. I'm still paying my taxes. And that's what I...my comments here, and if anybody has any questions, please ask.

SENATOR KRUSE: Thank you, sir, for a welcome testimony. Are there questions for Mr. Mussmann? I see none. Thank you for coming.

DAVE MUSSMANN: Um-hum, thank you.

SENATOR KRUSE: Next proponent.

MICHAEL MCGILL: My name is Michael McGill. I'm from Omaha. I'm the general counsel for Girls and Boys Town. I'm a board member of Legal Aid of Nebraska. I'll be very brief because some of the points that I had have already been covered. The reason I came down here today is because I believe in this bill; I believe in the Legal Aid Society. I think most of you probably are familiar with Legal Aid and the fact that they do a superb job in working with their clients. If you are a low-income person and you have a legal problem, if you don't have access to the Legal Aid Society, then you are in trouble. You are either going to default on the particular matter or you are going to represent yourself, what we call pro se. And pro se, in my opinion, having seen it, I was nine years as a district judge in Omaha, and if you come pro se on a matter before the courts or outside the courts, you would do better to call it "no say" rather than pro se. The one statistic that I want to reiterate here that in my opinion is deplorable, it is a shocking statistic, is the fact that only 24 percent of the low-income people in our state are able to having representation. And so you do the math on that and you do the other side of it, and that says that over 100,000 people do not have legal services. So when we talk about the good life in Nebraska, for most of us it's a great life, but if

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you are a low-income person your options are very limited and if you do not have legal representation I don't think the good life applies if you are a low-income person in our state. So for these reasons I ask that approve this bill. I would be happy to answer any questions you might have.

SENATOR KRUSE: Thank you. Are there questions for Mr. McGill? I see none. Thank you for coming.

MICHAEL MCGILL: Thank you very much.

SENATOR KRUSE: Next proponent.

CAROL MAXEY: Good afternoon. My name is Carol Maxey, and the reason I'm here...I'm here just to...

SENATOR KRUSE: Would you spell your last name, please?

CAROL MAXEY: Yes. M-a-x-e-y.

SENATOR KRUSE: Thank you.

CAROL MAXEY: And I'm here to support the bill, LB 746, and it's because like a lot of the gentlemen before me said, I'm one of those 240,000 people--I'm one. And really I could not afford to try to get an attorney to do to help me. And just like not too long ago, to make a long story short, I have a baby...her mom had go to prison...and I wanted to get guardianship, and I had nowhere. I had called a lot of other places and nobody would help me, so I would like to (inaudible), so I seen the number on the TV for the 800 number and I called. And they took the information and they said they would call me back, and they did. And I got guardianship of this little girl that I was trying to get. And I had no other...I had no means of paying one attorney and I was, you know, there was just nothing I can do. And I'm sorry if I'm crying but really they helped me so much, the lawyer that I had, I went (inaudible) and talked with her, and after the day was over I went and I thanked her because I really, really appreciated that she took the time out and how she did and took the case for me and helped me out. And there are a lot of people like me. We can't afford attorneys. We cannot. There is just no way we could do it. And without the Legal Aid program, we would be messed up. We would.

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SENATOR KRUSE: Thank you very much for your personal story.

CAROL MAXEY: You're welcome. You're very welcome.

SENATOR KRUSE: Just hang on. Are there questions for Ms. Maxey? I see none. Thank you so much for coming to tell your story.

CAROL MAXEY: Thank you very much.

SENATOR KRUSE: Next proponent.

BILL MUELLER: Senator, Senator Kruse, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska State Bar Association in support of LB 746. The bar association has been a strong supporter of legislation that you've heard about today that does create a fund of money that is administered through a grant process through the Commission on Public Advocacy. That money comes from filing fee surcharges. We were active in that legislation. There is a continuing tremendous need for civil legal services. You heard about the private bar campaign that raises money in Lincoln and Omaha and greater Nebraska. I've served on the Lincoln committee the last two campaigns, and have called on my fellow lawyers to solicit money for legal services. We are doing better. I don't know that we'll ever do well enough. In addition to that, the bar association has a volunteer lawyers program where we act as a referral agency for people who need legal services and lawyers volunteer their services for eligible clients. The bar raises money that funds this program. We support the bill. We, too, did not draft the bill so we're not here saying that legal services should get all the money or they shouldn't get any of the money. We need more money for civil legal services and we'll do anything we can to support that. Be happy to answer any questions you may have.

SENATOR KRUSE: Okay. Thank you, Bill. Are there questions? I see none.

BILL MUELLER: Thank you.

SENATOR KRUSE: Thank you for coming with your testimony. Other proponents. Do we have opponents to this bill?

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Anybody in a neutral position?

RICHARD HEDRICK: I am Richard Hedrick, H-e-d-r-i-c-k. As I understand LB 746, it is for those that are low-income. As I'm not low-income, I will address what I think they should do. I think they are needed for low-income, but then there are other people that in the pickle, in the middle, I guess you could say. I believe that the money could be spent better in the teaching pro se individuals in helping themselves. As an old song teaches, teach a person to fish rather than giving a fish to a hungry person. I would call this a "save the judge" bill. I have learned from Bush and company; Bush gets a lot of mileage by naming things. The inheritance tax was named "death tax" and everybody that's for it, against it. In reality, the bill should be called "how not to be stupid at trial." I will relate to my recent experience in the court. The city of Lincoln filed against me for some \$10,000. I counter sued Lincoln to recover property the city took. This ended in court as two actions. The first trial I was the defendant. Before going to trial I read what I should do at trial, checked out "Going to Trial in a Nutshell," and read some other books on how to. The trial...at the trial, the jury found in my favor. The second trial I was not prepared and I was the plaintiff. And as the judge related, it is a lot harder to be a plaintiff at a trial than a defendant. I had not reread what I had before. I did not realize I had forgotten what I had previously read, and as a plaintiff I needed to know more. And as a result, I lost the case. As I understand more people are going pro se, judges need help from pro se people that do not know where to sit. The valuable time that they are taking in these trials are not right. Pro se individuals could be schooled before they go to trial and they could get maybe a...get together by reading a Web site or they could go through dry runs on trials to help them out. I could say that I had "buck fever" at trial. "Buck fever" is when you can hit the target but you go out to hunting, why, you can't hit the target. Thank you. Any questions?

SENATOR KRUSE: Thank you. Are there questions for Mr. Hedrick? I see none. Thank you for coming to testify. Are there others in a neutral position? I see none. You are welcome to close, Senator Pederson.

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SENATOR D. PEDERSON: Thank you. I think it's interesting as you hear the people who are directly involved in this program and the people who have received aid from a program like this that it is necessary that we have something like this. It is good policy for the state of Nebraska to have something like this. And I understand the concern that under the guidelines that are written in this bill that Legal Aid of Nebraska is the only one currently doing these services. But that is not to exclude someone else from doing it. However, people have not been cueing up to perform services for the poor. And this is a going organization that is doing a very good job, and I think we should consider it in that light because obviously there is a big need in our state for this kind of service. I have certainly appreciated the response of the bar association and the private citizens that have joined in to help provide this kind of service. I would urge that we go forward with something of this nature and leave it up to the discretion of the committee from which I shall recuse myself from the discussion as to the amount that's involved. That's up to the committee and I would have an interest in this because it's my proposal. I would only call your attention to one more thing. I don't know that you'll ever see a bill where the cointroducers are Don Pederson, Kermit Brashear, and Ernie Chambers. Thank you.

SENATOR KRUSE: (Laugh) Thank you, Senator. Any further questions for...? All right, this completes...closes our hearing for LB 746.